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## **ROTORUA DISTRICT PLAN**

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### **Proposed Plan Change 2 Pukehāngi Heights**

### **S42A PLANNING REPORT**

**Hearing Date: 17 February 2020**

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## 1. INTRODUCTION

### PURPOSE OF REPORT

- 1.1 This report provides an analysis of submissions and further submissions received on Proposed Plan Change 2 – Pukehāngi Heights – to the Rotorua District Plan (District Plan). It is intended to assist the hearings commissioners in their consideration of submissions and evidence presented at the hearing. It is also intended to assist the hearings commissioners to prepare their further evaluation of the costs, benefits, efficiency and effectiveness of the plan change (section 32AA evaluation).

### QUALIFICATIONS AND EXPERIENCE

- 1.2 This report has been prepared by:
- Kate Dahm, Team Lead (RMA Policy), Rotorua Lakes Council
  - Craig Batchelar, Planner, Partner, Boffa Miskell Ltd
  - Kim Smith, Senior Policy Advisor (RMA Policy), Rotorua Lakes Council.
- 1.3 A summary of the experience of the authors and their involvement in this plan change is as follows:

#### **Kate Dahm**

I have led the plan change for the Council since 2017. I undertook the majority of consultation with stakeholders and commissioned key inputs on behalf of Council, including the initial evaluation (section 32) report and supporting documents.

I am the Team Lead for RMA Policy at Rotorua Lakes Council and have held that position since 2017.

I have a Bachelor of Resource and Environmental Planning (Hons) from Massey University (1997).

I have 18 years planning experience, predominantly in local government (Kāpiti, Ruapehu and now Rotorua; and in the UK: Harringay, Islington, Oxford, and Reigate and Banstead).

Sections of this report:

- Section 2 Background
- Section 3 Process
- Section 6 Submissions on Strategic Issues:
  - Demand for Residential Land and Affordable Housing
- Section 7 Evaluation of Submissions on District Plan Objectives:
  - Archaeological Sites
- Section 8 Evaluation of Submissions on Provisions, Zoning and Structure Plan:
  - Culture, Archaeology and Heritage
  - Inclusion of Additional Land for Medium Density Residential
  - Activity Status
  - Pre-Intensification Subdivision
  - Non-Notification Provisions
- Section 9 Submissions Relating to Process

**Craig Batchelar**

My full name is Craig Barry Batchelar.

I hold the position of Planner at Boffa Miskell Limited. I am a Partner in the firm. I am currently the national Technical Leader for the company's Planning discipline and Te Hihiri (Māori cultural advisory) discipline.

My planning qualification is Bachelor of Regional Planning (1st Class Hons) obtained from Massey University in 1984. I have been a full member of the New Zealand Planning Institute since 1988.

I have worked in the planning profession for 35 years in central and local government and the private sector.

From 1989 to 2000, I was employed by Tauranga City Council as a planner in a variety of roles including management of the Council's Environmental Services Group from 1995 to 2000.

From 2000 to 2004 I was self-employed as a planning consultant. My projects included an engagement as Technical Director for the western Bay of Plenty subregional "SmartGrowth" initiative during 2000-2003. Part of this assignment included natural hazard susceptibility mapping as an input to the development of a subregional settlement pattern (Spatial Plan).

Since joining Boffa Miskell Ltd in 2004, I have assisted both local government and private sector clients with a wide range of regional and district policy and plan development, structure planning, private plan changes, and resource consents.

I have provided planning consultancy services to the Rotorua District Council in several capacities, including spatial planning. I have been part of the Project Team for Plan Change 2 since 2017, providing strategy advice, attending meetings with various stakeholders and Mana Whenua, and drafting and review of reports and plan provisions on assigned areas.

Sections of this report:

- Section 6 Evaluation of Submissions on Strategic Issues:
  - Lake Rotorua Nutrient Management
- Section 7 Evaluation of Submissions on District Plan Objectives:
  - Lake Rotorua Nutrient Management
  - Water Quality and Stormwater
- Section 8 Evaluation of Submissions on Provisions, Zoning and Structure Plan:
  - Lake Rotorua Nutrient Management
  - Flooding and Stormwater
  - Water Quality and Stormwater
  - Wastewater
  - Construction Effects

**Kim Smith**

I joined the project team during the preparation for the hearing; considering and responding to submissions and commissioning further expert advice. I have been employed as a policy advisor for local authorities for fifteen years, primarily in the area of resource management. I have a Bachelor of Laws and Bachelor of Science (Geography) from Victoria University of Wellington (2004).

Sections of this report:

- Section 4 Late Submissions
- Section 5 Hearings Panel Evaluation Requirements
- Section 8 Evaluation of Submissions on Provisions, Zoning and Structure Plan:
  - Landscape and Amenity
  - Transport and the Road Network
  - Electricity Network
  - Schools
  - Reverse Sensitivity Effects
  - Other
- Section 9 Other Matters

- 1.4 We, the authors, confirm that we have read and that we understand the code of conduct for expert witnesses contained within the Environment Court Practice Note 2014 and that we agree to comply with it. We can confirm that we have considered the material facts that we are aware of that might alter or detract from the opinions expressed here. We also confirm that the opinions that we have expressed in our evidence are our own, unless we have specifically stated that we have relied on others in forming our opinion. However, we note that we may amend our opinion and subsequent recommendation in whole or in part as a result of any evidence, information or other matters that are raised during the course of the hearing that we are not aware of at the time of writing this report.

## REPORT FORMAT

- 1.5 The format of this report is as follows:

**Section 2:** Provides background to the plan change, including:

- an explanation of what the plan change seeks to achieve;
- a description of the area affected by the plan change;
- an outline of the proposed changes; and
- an introduction to the streamlined planning process under which the plan change is progressed.

**Section 3:** Summarises of the process and steps involved in developing proposed plan change

**Section 4:** Addresses submissions received late and makes recommendations on whether the submission period should be extended to allow consideration of these submissions.

**Section 5:** Outlines the evaluation requirements for the hearings panel under the Minister's directions for the streamlined planning process and section 32 and 32AA of the Resource Management Act 1991 (RMA).

**Section 6:** Provides an evaluation of submissions on strategic issues underlying the plan change and recommendations on any changes in response to submissions.

**Section 7:** Provides an evaluation of submissions on District Plan objectives and recommendations on any changes in response to submissions.

**Section 8:** Provides an evaluation of submissions on provisions, zoning and the structure plan and recommendations on any changes in response to submissions.

**Section 9:** Provides additional recommendations on minor changes outside the matters raised in submissions

**Section 10:** Sets out the overall conclusions and recommendations on the plan change.

- 1.6 Annotated text of the plan showing the proposed plan change and further changes in response to submissions is provided in Appendix One.
- 1.7 The recommended changes to the zoning and recommended structure plan are provided in Appendix Two.

## 2. BACKGROUND

### WHAT THE PROPOSED PLAN CHANGE SEEKS TO ACHIEVE

- 2.1 The underlying purpose of the proposed plan change is to enable residential and rural residential development to occur within the Pukehāngi Heights Development Area. This is in the context of the Council's recognition of the need for additional residentially zoned land for Rotorua.
- 2.2 In broad terms, the plan change seeks to enable residential development to occur on two distinct upper and lower terraces, and large lot rural residential development on the north facing escarpment located between the two terraces. Two small scale local centres are also proposed to provide limited commercial services that are easily accessible by walking. Re-vegetation or partial re-vegetation is sought in parts of the development area.

### THE PLAN CHANGE AREA

- 2.3 The Pukehāngi Heights Development Area (the plan change area) is located to the south west of Pukehāngi Road and Matipo Avenue, adjacent to existing residential development to the north east of Pukehāngi Road. The area is situated on the lower slopes of the Rotorua Caldera Rim, approximately 315m to 380m above sea level and broadly comprises two terraces associated with historic lake levels with an escarpment between and a steep escarpment backdrop.
- 2.4 The total area is approximately 160 hectares and is in two parts, separated by the Parklands development.
- 2.5 The area is also described in three blocks in this report and the structure plan, according to ownership:
- The Sumner Block to the north
  - The Hunt Block south of Parklands development (Area B)
  - The Te Arawa Group Holdings (TAGH) Block to the south (Area A)





*Figure 1 Pukehāngi Heights Development Area*

- 2.6 The residential development yield from the Development Area is estimated to be within the range of 750 – 900 units. Actual yield will depend on several factors including the final allocation of land to stormwater management and lot sizes that are provided.
- 2.7 Landowners undertook preliminary designs to inform the structure planning work with yields estimated at 750 units based on relatively conventional suburban layouts (9-10 lots/ha).
- 2.8 The Ministers Target Yield of 790 is reasonably well aligned with these plans and is realistic. Additional yield could be easily obtained with some additional smaller lots or a medium density precinct development.
- 2.9 The maximum yield, applying the minimum lot area for low density and medium density is shown on the structure plan, is much larger:
- Residential: 1260 (16.5 Lots/ha)
  - Rural Residential: 100
  - Total: 1360
- 2.10 This yield is unlikely given the location, slope and aspect of the development, and divergence from the current market typology. Yields approaching this level are being achieved on flat grades at Papamoa, where high land prices have forced smaller sizes to achieve affordable section prices.

2.11 Yield will also be impacted by an increase in stormwater management areas addressed later in this report.

2.12 At this stage, the most likely upper yield at full development for planning purposes is assessed as:

- Residential: 800 (11 Lots/ha)
- Rural Residential: 100
- Total: 900

2.13 This takes into account the location, slope and aspect of the development, and take up of medium density opportunities.

2.14 It is noted that a subdivision consent has been granted in relation to a part of the Sumner Block located near the Parklands development.

## **OUTLINE OF THE PROPOSED CHANGES**

2.15 The plan change includes the following changes to the District Plan:

- **Objectives and Policies**

New place-based objectives and policies to address landscape, urban design, cultural landscape, and natural hazard risk management issues specific to the Pukehāngi Heights Development Area. These supplement the general objectives and policies for the Residential 1 Zone and Rural 2 Zone.

- **Structure Plan**

A Pukehāngi Heights Development Area Structure Plan is proposed to guide the future development of the land in relation to landscape management, urban design, protection and enhancement of cultural values, access and connectivity (including active transport modes), and stormwater infrastructure.

The Structure Plan identifies:

- the upper and lower terraces;
- the mid-site escarpment and upper escarpment;
- the Escarpment Transition Areas – these are areas with an underlying residential zoning, but specific provisions in recognition that these areas are more visually sensitive;
- archaeological sites and the Pukehāngi Pā.

Also identified on the Structure Plan are indicative features, the exact location or size of which may alter to some extent when the sites come to be developed. These include areas for stormwater detention and recreation, medium density development, community, retail and commercial areas, primary and additional roads, overland flow paths, walkways, cycleways and bus stops.

- **Operative and Proposed Zonings**

Zoning of land within the plan change area:

- Under the Operative District Plan:

- the lower terrace and parts of the mid-site escarpment are zoned Future General Residential;
- much of the mid-site escarpment and upper terrace are zoned Future Rural Lifestyle;
- the exception to this is the mid-site escarpment across the Te Arawa Group Holdings Block is currently zoned General Residential.
- The plan change proposes the:
  - rezoning of the Lower and Upper Terraces to General Residential (Residential 1),
  - rezoning mid-site escarpment zoned Rural Lifestyle (Rural 2).
- The zoning of the following areas remains unchanged:
  - the southern slopes of the Te Arawa Group Holdings block, near Great West Road, remains as Rural 2 Zone;
  - the upper escarpment (above the 385m contour) remains as the Rural 1 Zone.

The Twin Oaks Development Plan notation is also removed from the Te Arawa Group Holdings Ltd. land block, along with the association provisions in the District Plan. The Development Plan provisions anticipated a retirement facility with up to 120 residential units, village facilities and a 30-bed hospital.

- **Land Use and Subdivision Rules**

New provisions to address landscape, urban design, cultural landscape, and natural hazard risk and traffic management issues specific to the Pukehāngi Heights Development Area are added to supplement the general provisions for the Residential 1 Zone, Rural 1 Zone and Rural 2 Zone. This includes provisions relating to:

- Mitigating effects of development on the landscape and visual values of the Lake Rotorua caldera;
- Requiring a Stormwater Management Plan and Natural Hazard Risk Assessment as part of any subdivision consent application;
- Facilitating small scale convenience retail and childcare at walkable centres adjacent to Pukehāngi Road;
- Facilitating small medium density housing areas adjacent to the walkable centres and open space;
- Protecting and enhancing identified and future cultural heritage sites and values.

Resource consent notification rules are also proposed so that where subdivision and development proposals meet the proposed standards, applications for resource consent will not be notified to the public or affected parties.

## STREAMLINED PLANNING PROCESS

- 2.16 In September 2019 Rotorua Lakes Council applied to the Minister for the Environment to use the streamlined planning process for Plan Change 2. This was approved by the Minister through the gazettal of a notice directions to the Council on 14 January 2020 (notice number 2020-go106).<sup>1</sup>
- 2.17 The Minister for the Environment approved the use of the streamlined planning process for this plan change on the basis that it will allow urban growth issues to be responded to in a timely way, and is proportionate to the complexity and significance of the planning issue.
- 2.18 The notice of directions gazetted by the Minister sets out the steps to be undertaken in processing the plan change and the timeframes for these steps. It also sets out some additional expectations of the Minister covering matters such as appointment of members of the hearings panel.
- 2.19 The Minister for the Environment subsequently approved an extension to the timeframes set out in the Direction<sup>2</sup>.
- 2.20 An important difference between the streamlined planning process and the standard plan change process is that the decision cannot be appealed to the Environment Court. There are also additional timeframes imposed on the Council to ensure the plan change progresses in a timely manner.

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<sup>1</sup> Ministry for the Environment, 14 January 2020. Resource Management Notice 2019. *Notice prepared by the Minister for the Environment for Rotorua Lakes Council*. Ministry for the Environment, Wellington. Link to report [here](#).

<sup>2</sup> Ministry for the Environment, 22 June 2020. Amended Notice 2019. *Notice prepared by the Minister for the Environment for Rotorua Lakes Council*. Ministry for the Environment, Wellington. Link to notice [here](#).

### 3. PROCESS

3.1 The following is a summary of the process and steps involved in developing the proposed plan change. The process is intended to meet the steps in the Minister’s direction for the streamlined planning process and the plan change provisions of the RMA that continue to apply to the streamlined planning process (refer to section 80B, RMA).

Plan Change Steps	Comment
<b>Joint Management Agreement processes under Treaty settlement legislation</b>	No applicable joint management agreements.
<b>Mana Whakahono a Rohe</b> (clause 1A, Schedule 1, RMA)	No applicable Mana Whakahono a Rohe.
<b>Pre-Notification Consultation</b> (clause 3, Schedule 1, RMA)	<p>Prior to notification of the plan change Council undertook consultation as detailed below.</p> <p><i>a. Landowners</i> Council has worked with the land owners since 2017 to develop the plan change.</p> <p><i>b. Statutory Parties (clause 3(1)(a)):</i></p> <ul style="list-style-type: none"> <li>Minister for the Environment</li> <li>Ministers of the crown who may be affected: <ul style="list-style-type: none"> <li>Minister of Housing and Urban Development</li> <li>Minister of Transport</li> <li>Minister of Health</li> <li>Minister of Education</li> <li>Minister of Civil Defence</li> </ul> </li> <li>Bay of Plenty Regional Council</li> <li>Tangata whenua of the area who may be affected, through iwi authorities: <ul style="list-style-type: none"> <li>Ngāti Kea Ngāti Tuarā</li> <li>Komiti nui o Ngāti Whakaue</li> <li>Ngāti Rangiwehewehi and Ngāti Raukawa were also contacted. Ngāti Rangiwehewehi confirmed they defer to Ngāti Kea Ngāti Tuarā who hold mana whenua status.</li> </ul> </li> </ul> <p><i>c. Other Parties (clause 3(2)):</i></p> <ul style="list-style-type: none"> <li>Parklands Estate - presentation outlining plan change.</li> <li>Residents between the Parklands Development and the Sumner Block - presentation outlining plan change.</li> <li>Matipo Ave Residents - presentation outlining plan change and meetings with the Matipo Ave Residents Incorporated Society (MARIS).</li> <li>Residents in surrounding area – letters/emails to 1,000 surrounding residents informing of the plan change and inviting them to a public drop in session.</li> </ul> <p>A summary of the feedback received is set out in the initial plan change evaluation (section 32) report.</p>

Plan Change Steps	Comment
<b>Public Notification for Submissions</b> (clause 5, Schedule 1, RMA; step 1 Minister's directions)	<p>The Minister's directions required the plan change to be publically notified for submissions no later than 10 days after the gazettal of the notice of directions (that is, by 28 January 2020). Notification on the Council's website and the Rotorua Daily Post occurred on 21 January 2020. Key documentation associated with the plan change was also made available on Council's website.</p> <p>The statement of expectations set out in the Minister's notice include an expectation that the following parties would be served notice of the proposed plan change when notified:</p> <ul style="list-style-type: none"> <li>• Bay of Plenty Regional Council</li> <li>• Ngāti Kea Ngāti Tuarā</li> <li>• Ngāti Whakauae</li> <li>• Ngāti Rangiwewehi</li> <li>• Ngāti Raukawa</li> <li>• Te Arawa Lakes Trust</li> <li>• Rotorua Lakes Strategy Group</li> </ul> <p>These parties notice were served notice on 21 January 2020.</p>
<b>Submissions</b> (clause 6, Schedule 1, RMA; step 2 Minister's directions)	<p>The Minister's directions required submissions to be received no later than 20 working days after public notification. The submission period ended on 20 February.</p> <p>Forty-seven submissions were lodged. Two of these submissions were received after the closing date, which is addressed in section 4 of this report.</p>
<b>Public Notice of Submissions &amp; Opportunity for Further Submissions</b> (clause 7, Schedule 1, RMA; step 3 Minister's directions)	<p>The Minister required public notice of the submissions received to be given no later than 10 working days after the close of the public submissions period (that is, by 5 March 2020). Public notice on the Council's website occurred on 5 March 2020. A copy of the notice and information on the further submission process was sent to all submitters.</p>
<b>Further Submissions</b> (clause 8 and 8A, Schedule 1, RMA; step 4 Minister's directions)	<p>The Minister required further submissions to be received no later than 10 working days after public notice was given. The further submission period ended 19 March 2020.</p> <p>Eight further submissions were lodged. Two were received after the closing date, which is addressed in section 4 of this report.</p>
<b>Dispute Resolution (if appropriate)</b> (clause 8AA, Schedule 1, RMA; step 6 Minister's directions)	<p>The Minister's directions allow for Council to use the pre-hearing meeting or mediation processes set out in clause 8AA if considered appropriate (either following a request or on the initiative of the Council).</p>
<b>Hearing</b> (clause 8B, Schedule 1, RMA; step 6 Minister's directions)	<p>The Minister required that the public hearing in accordance with clause 8B be commenced no later than 139 working days after the close of further submissions (that is, by 2 October 2020).</p>

#### 4. LATE SUBMISSIONS

- 4.1 The period for submissions on Plan Change 2 closed on 20 February 2020 and two submissions were received outside this timeframe:
- A submission by G and H Bell was lodged on 2 March 2020. G and H Bell explained that they were extremely busy for family and business reasons but thought the proximity of their house to the plan change area meant their submission warranted consideration.
  - A submission by Unison was lodged on 5 March 2020.
- 4.2 The period for further submissions closed 19 March 2020. Three further submissions were received outside this timeframe:
- A further submission by the Ministry of Education was lodged on 20 March 2020.
  - A further submission by the Hunt Family, Te Arawa Group Holdings Limited (TAGH) and Paul Sumner (Sunny Downs Farm) (the Land Owners) was received on 31 July 2020. The submission outlines that since the close of further submissions, the land owners became aware of a change in the way nitrogen management at the time of subdivision is proposed to be treated by the councils. The change in calculation method may result in a significant shortfall which will need to be addressed via land use changes and/or financial measures.
- 4.3 Section 37 of the RMA provides the Council authority to waive a time period specified in the RMA or in regulations. In this case of this submission and further submission period, timeframes are set in the Minister's direction. Clause 81 of Schedule 1 confirms that if a time limit for serving a document is set in a direction on a streamlined planning process, section 37 still applies to permit Council to waive a failure of a person to comply with the time period.
- 4.4 Under section 37A Council cannot waive compliance with a time limit under section 37 unless it has taken into account:
- (a) The interests of any person who, in its opinion, may be directly affected by the extension; and*
  - (b) The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement, or plan; and*
  - (c) The Council's duty to avoid unreasonable delay.*
- 4.5 Council has provided a general delegation in its delegation manual to commissioners / hearings panels to 'waive procedural defects relating to the time/method of service' and 'extend an applicable statutory time period' under sections 37 and 37A.<sup>3</sup>
- 4.6 It is recommended that the hearings panel waive the failure of G and H Bell and Unison to comply with the submission period. While these submissions were lodged some days late, the Council was still in the process of summarising submissions and was able to include the late submissions in the summary. Therefore no delay or prejudice to other parties was caused. It is also agreed that the

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<sup>3</sup> Rotorua Lakes Council, 1 December 2017. Delegations under the Resource Management Act 1991, (RDC-597299).

proximity of the Bell's home to the plan change area (the Bell's house is within the plan change area) suggests Council should allow consideration of the submission to ensure adequate consideration of the effects of the plan change.

- 4.7 It is recommended that the hearings panel also waive the failure of the Ministry of Education and the Land Owners to comply with the period for further submissions. The further submission from the Ministry of Education was received the day after the closing date and caused no unreasonable delay. The further submission from the Land Owners addressed the potential for nitrogen management provisions in the plan change. The parties who may be affected by the time extension include those who submitted on water quality. The further submission was been received prior to the completion of the Council's Hearing report, which will ensure submitters have adequate time to review. It is also considered accepting the submission may enable a more robust assessment of the nitrogen provisions recommended in this report.



## 5. HEARINGS PANEL EVALUATION REQUIREMENTS

### *Minister's directions*

- 5.1 Under the Minister's directions the hearings panel is required to prepare a draft report to the Minister, setting out how submissions have been considered and the changes (if any) recommended to the proposed plan change. This draft report must:
- include how the hearing panel gave particular regard to the initial plan change evaluation (section 32) report and any additional report prepared under section 32AA (as may be relevant); and
  - be prepared having regard to any report recording the results of pre-hearing meetings with submitters (prepared under clause 8AA(5) of the Schedule 1).
- 5.2 The hearings panel's draft report is to be circulated to the Council, submitters and further submitters to allow comments on minor or technical errors or omissions. Comments cannot be made on the recommendations to the Minister or the reasons for the recommendations.
- 5.3 The hearings panel then finalises the report and provides it to the Minister, who will make the final decision on the plan change.

### *Section 32 and 32AA evaluation requirements*

- 5.4 An evaluation of the matters in section 32 was prepared when the plan change was notified. Section 32AA requires that a further evaluation is only required for any further changes made to the plan change since this plan change was completed. This further evaluation must be in terms of the requirements of sections 32 (1) to (4) and be undertaken at a level of detail that corresponds to the scale and significance of the changes.
- 5.5 The evaluation of plan changes required under sections 32 and 32AA has two parts:

#### *1. Evaluating the appropriateness of objectives*

This plan change proposes a new set of place-based objectives but also seeks to implement existing objectives of the District Plan. In respect of any further changes considered to the objectives the evaluation report must examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. Implicit in the evaluation of appropriateness is consideration of other reasonably practicable options for achieve the purpose of the Act.

The purpose is set out in section 5 of the Act and is 'to promote the sustainable management of natural and physical resources'. Sustainable management means:

*managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment'.*

The purpose of the RMA is given further elaboration by the remaining sections in Part 2: In achieving the purpose of the RMA, councils also need to recognise and provide for the matters of

national importance identified in section 6; have particular regard to other matters referred to in section 7; and take into account the principles of the Treaty of Waitangi under section 8.

District Plans must also give effect to the Bay of Plenty Regional Policy Statement and any relevant national policy statement (section 75(3)). For this plan change, the National Policy Statement on Urban Development (2020) is relevant. The Supreme Court's decision in the *King Salmon case*<sup>4</sup> clarifies that these higher order planning documents are intended to give substance to Part 2 of the RMA and provide the basis for decision-making on district plans. Giving effect to higher order planning documents is acting in accordance with Part 2; and there is no need to refer back to Part 2 unless specific situations apply (the documents do not 'cover the field', there is uncertainty as to the meaning of the higher order planning documents or for procedural guidance in terms of the Treaty).

Under section 74(2A) planning documents lodged with the Council by iwi authorities must also be taken into account when changing a district plan and therefore also inform the consideration of the appropriateness of objectives.

2. *Evaluating the appropriateness of the provisions to achieve the objectives.*

For changes to policies and methods of the District Plan the appropriateness of the changes and other alternatives must also be considered. This appropriateness is to be evaluated by examining:

- Effectiveness (section 32(1)(b)(ii)), which is considered to mean the extent to which the intended objectives will be achieved by implementing the provisions.
- The costs and benefits from the environmental, economic, social and cultural effects anticipated from implementing the provisions (section 32(2)(a)). This is to include consideration of potential impacts on economic growth and employment (section 32(1)(b)). If practicable, benefits and costs should be quantified (section 32(2)(b)).
- Efficiency (section 32(1)(b)(ii)). The most efficient option will be the one that can achieve the outcome at least overall or net cost, taking into account all the costs and benefits identified.
- The risks of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions (section 32(2)(c)).

*How this report assists the hearings panel to undertake the evaluation*

5.6 This report is intended to assist the hearings panel to prepare its report to the Minister addressing the consideration of submissions and evaluation required under sections 32 and 32AA of the RMA.

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<sup>4</sup> Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited and Ors, 17 April 2014. NZSC 38 Decision, 1 NZLR 593.

- Section 5 considers submissions relating to strategic issues underlying the plan change, namely 1) demand for residential land and affordable housing in Rotorua city and 2) Lake Rotorua nutrient management.
  - Section 6 considers submissions relating to specific objectives of the District Plan. The appropriateness of changes sought by submitters is considered with reference to the higher order planning documents and iwi management plans in terms of section 32.
  - Section 7 considers submissions relating to the proposed provisions (policies and rules), zoning and structure plan, which seek to give effect to the objectives. Submissions are considered in groups by subject matter. The appropriateness of any further changes recommended is evaluated in terms of section 32 matters.
  - Section 8 considers submissions relating to the process.
- 5.7 The evaluation uses the submission point numbers assigned in the summary of submissions / further submissions available on the Council's website. Copies of the full submissions and further submissions are also available on the Council's website.

## 6. EVALUATION OF SUBMISSIONS ON STRATEGIC ISSUES

6.1 This section provides an evaluation of submissions on strategic issues underlying the plan change.

### DEMAND FOR RESIDENTIAL LAND AND AFFORDABLE HOUSING

#### **Background**

6.2 The underlying purpose of the proposed plan change is to enable residential and rural residential development to occur within the Pukehāngi Heights Development Area.

6.3 The context to Council seeking to enable residential growth in this location by notifying Plan Change 2 was:

- Population in the Rotorua had increased in recent years. Statistics NZ estimates the usual resident population for the district increased by 6,700 (9.8%) in the six years from 2013 to 2019, from 68,400 to 75,100.<sup>5</sup>
- The rate of increase of household growth has been faster than population increase due to the aging population and decreasing household size. Statistics NZ has not produced a recent estimate of the number of households in Rotorua (the most recent is 2013). However, using the above population estimates and the average household size of 2.6 estimated for 2013 and 2.5 projected for 2019, we can estimate that households increased by 3,700 (14%) over the six years from 2013 to 2019.
- The increase in households due to population growth and declining household size came at a time of growth in visitor accommodation within private houses (such as Airbnb), putting further pressure on the housing stock.
- Rotorua Lakes Council produced a spatial plan in 2018 to help guide how the city and district will grow, develop and change over the next 30+ years. The spatial plan identifies that the increase in population has put pressure on the housing market because there are not enough new homes being built for the number of additional people living in the district. 'Although we have a large amount of land available for homes, this land is not being developed for various reasons, such as the lack of infrastructure available or because land is in multiple ownership, which can complicate decision making'. Pukehāngi is identified as an area that could be developed in the short term to provide housing. This plan change to enable development is identified as an action to meet housing needs.
- The National Policy Statement on Urban Development Capacity (2016)<sup>6</sup> directs decision-makers to put greater emphasis on enabling change and development when making decisions about urban development; provide sufficient urban development capacity to support housing and business growth; and ensure that planning processes facilitate urban development. The relevant

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<sup>5</sup> Statistics New Zealand, Data extracted 29 March 2020. *Subnational population estimates (TA, SA2), by age and sex, at 30 June 1996, 2001, 2006-2013, 2018-2019 (2019 boundaries)*. Link to website [here](#).

<sup>6</sup> Ministry for the Environment, 2020. Introductory guide to the National Policy Statement on Urban Development 2020. Ministry for the Environment, Wellington.

policies are provided in the initial plan change evaluation (section 32) report (refer to section 7.4).

- The Rotorua Housing Accord was signed in August 2017. The purpose of the accord is to provide a basis for the collaboration between the Minister of Business, Innovation and Employment and the Council ‘to support an increase in housing supply and affordability in Rotorua’. The Accord identified the completion of the Spatial Plan, plan changes to facilitate development and enhanced consenting processes along with housing targets. The agreed housing supply targets are set out in the table below, along with the actual number of sections and dwellings achieved over the same time periods.

Housing Supply	Baselines (financial years)				Aspirational Targets (financial years)			
	2013/14	2014/15	2015/15	2015/16	2017/18	2018/19	2019/20	2020/21
TARGET: Sections					200	250	300	300
ACTUAL: Sections	31	78	35	172	159	306	148	x
TARGET: Dwellings					150	200	250	300
ACTUAL: Dwellings	64	75	118	117	153	186	170	x

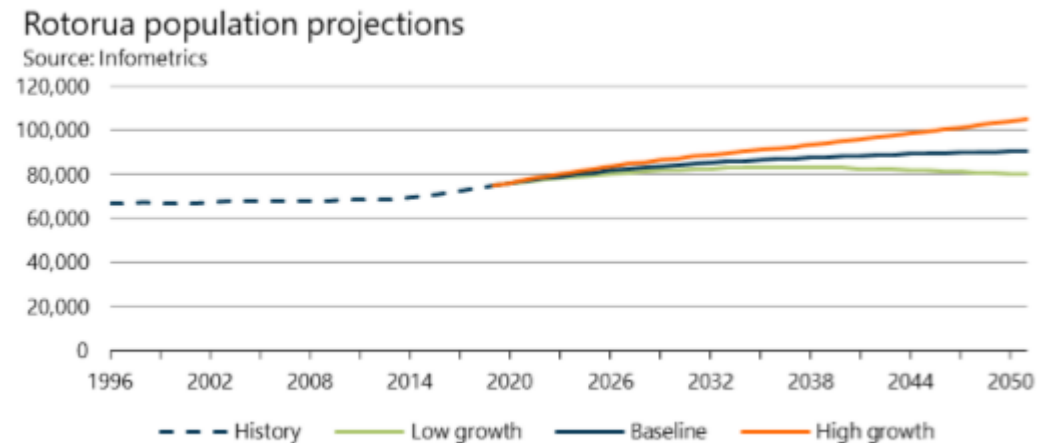
#### *Since Notification of the Plan Change*

- 6.4 In February 2020, Ministers Woods announced a Place Based Assessment for Rotorua’s Housing problem. This involves the Ministry of Housing and Urban Development, Te Arawa and Council working together to better understand the housing and urban issues in Rotorua.
- 6.5 In March 2020, Infometrics provided employment, population, household and visitor projections<sup>7</sup> for the District. The projections did not take into account the effects of Covid 19. The population projections included high growth, baseline and low growth projections as follows:
- Baseline: 76,200 in 2020 to 90,800 in 2051 (14,600 increase)

<sup>7</sup> Infometrics, April 2020. Rotorua District Employment, Population, Household and Visitor Projections for Rotorua Lakes Council (Draft). *Report for Rotorua Lakes Council*. Link to report [here](#)

- Low growth: 76,200 in 2020 to 80,000 in 2051 (3,900 increase)
- High growth: 76,200 in 2020 to 105,200 in 2051 (28,900 increase)

Figure 13



6.6 Household projections were also provided as follows:

- Baseline: 29,000 in 2020 to 37,000 in 2051 (8,000 increase)
- Low growth: 29,000 in 2020 to 32,300 in 2051 (3,300 increase)
- High growth: 29,000 in 2020 to 43,000 in 2051 (14,000 increase)

6.7 The report also identified that the growth in households was projected to be dominated by one person households and couple households without children.

6.8 Following this, Infometrics also produced a report on the impacts of Covid-19 on the Rotorua Economy<sup>8</sup>. The report forecast that:

- the Rotorua economy would contract 7.8% over the year to March 2021;
- the recession would result in job losses with employment expected to decline by 10.5% or just over 3,700 jobs through to March 2021;
- the report stated that ‘the next couple of years are going to be difficult, particularly for vulnerable, low-income households in which Rotorua’s Māori and Pasifika populations are over-represented;

In relation to construction:

- the authors expect the residential construction in Rotorua to fall to its lowest level since their data series began.

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<sup>8</sup> Infometrics, April 2020. Economic Impacts of Covid-19 on the Rotorua Economy – Early Estimates Report. *Report for Rotorua Lakes Council*. Link to report [here](#).

- identifies Kainga Ora’s residential build programme as potentially providing a boost to residential construction.
- identifies non-residential construction as more positive.
- identifies the Council’s \$210m bid to Crown Infrastructure Partners as having the potential to further boost non-residential construction.

- 6.9 The report identifies ‘some thoughts on recovery’ including the possibility that recessionary conditions may give rise to increased levels of domestic migration.
- 6.10 The Infometrics Report was written in April when there was significant uncertainty. However, the report has been referenced here in recognition that Covid 19 and the associated government interventions will have an effect on growth and development.
- 6.11 In June, the draft Housing Strategy: *He Papakāinga, He Hāpori Taurikura Te Poupou Rautaki: Homes and Thriving Communities Strategic framework* was approved for public consultation. The Strategy estimates that there are currently a shortage of approximately 1500-1750 homes in Rotorua. One of the key work streams relates to facilitate Papakāinga housing lead by Te Arawa and Te Puni Kokiri.
- 6.12 In July, \$55m of funding was announced for intersection upgrades along Te Ngae Road and stormwater infrastructure from the COVID Response and Recovery Fund. The funding is intended to provide employment and support housing development on Ngāti Whakaue Tribal Lands land on Wharenui Road (eastern side of Rotorua).
- 6.13 Under the National Policy Statement for Urban Development Capacity, Rotorua was identified as a medium growth area; while under the National Policy Statement for Urban Development, Rotorua is identified as a Tier 2 Council. Housing demand assessment have not been completed under either NPS.

### **Submissions**

- 6.14 The joint submission by landowners the Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm) concurs that there is a need to provide an improved supply of land for housing; and that the Pukehāngi Heights Development Area has the potential to accommodate a significant part of the projected future demand for housing in Rotorua. The submission states that although there is a relatively large amount of zoned land already available for homes, this land is not being developed for several reasons, such as a lack of infrastructure capacity or because the land is in multiple ownership, which can complicate decision-making. These landowners agree, subject to appropriate ‘checks and balances’, that the Pukehāngi Heights Development Area as identified in the Spatial Plan can accommodate residential development in the short term (submission 28.0). Te Arawa Group Holdings Limited’s individual submission is also in line with the joint submission (submission 20.0).
- 6.15 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana are concerned that Council has not prioritised affordable housing for tangata whenua. They consider that advancing this plan change before making the district plan changes needed for tangata whenua housing is a breach of article three of the Treaty. Furthermore, they consider that while this development will increase housing supply in Rotorua, it will not reduce the gap between Māori and non-Māori home ownership but widen that gap (submissions 8.0, 8.1, 23.0, 23.1, 24.0, 24.1, 25.0 and 25.1).

- 6.16 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust appreciate there is an accommodation shortage in Rotorua and that the Pukehāngi Heights Development is an opportunity to provide new homes. However, the rūnanga considers it is difficult to understand how this development will actually work towards addressing the factors Council has identified as significant community needs: pressure on housing stock from holiday rental accommodation and growing homelessness. The rūnanga is concerned about the availability of affordable rental accommodation and states it is unaware of any particular strategies Council will use to address this in the Pukehāngi development. They would like to see developers required to make provision for affordable housing within the subdivision (submission 22.2).
- 6.17 Utuhina Valley Farm seek that additional information be provided to justify why low cost housing is not provided (submission 21.0). The Hunt Family's further submission opposes this submission in part, stating that the provisions for medium density and semi-detached sections, by reducing the land area required for development, reduce the cost of development (further submission 6.35).
- 6.18 Rotorua Lakes Council's submission seeks that consideration is given to ways to achieve the Minister's direction, which includes the following in the statement of expectations (submission 43.0):
- The recommended Plan Change 2: Pukehāngi Heights should provide sufficient development capacity for a minimum housing yield of approximately 790 dwellings, comprising a mix of densities and typologies that will meet demand, while recognising the constraints that apply to the land that is subject to the rezoning.*
- 6.19 The Hunt Family state they do not fully support the Council's submission as it is unclear what is sought. In principle, the Hunt Family agrees that consideration does need to be given to ensure sufficient development for a minimum housing yield of approximately 790 dwellings but states the Council's submission does not offer up any suggestions or ways to achieve the Minister's direction (further submission 6.24).
- 6.20 M Reesby opposes the plan change and states there is no need to warrant building in this area of Rotorua. She states there are available sections in Homedale Street, Rotorua (Submission 1.0).
- 6.21 Her submission is opposed by Te Arawa Group Holdings Limited and the Hunt Family. They are of the view that there is a need to provide an improved supply of land for housing consistent with the national policy statement and Housing Accord; that the Pukehāngi Heights Development Area has the potential to accommodate a significant part of the projected future demand; and that there are appropriate checks and balances (further submission 2.1 and 6.21).

### **Planning Framework**

#### *National Policy Statement on Urban Development 2020*

- 6.22 The intent of this new national policy statement, as explained in the Ministry guidance,<sup>9</sup> is to ensure regional policy statements and district plans provide adequate opportunity for land development for

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<sup>9</sup> Ministry for the Environment, 2020. Introductory guide to the National Policy Statement on Urban Development 2020. Ministry for the Environment, Wellington.



business and housing to meet community needs. The national policy statement is designed to improve the responsiveness and competitiveness of land and development markets.

- 6.23 Objective 2 is: Planning decisions improve housing affordability by supporting competitive land and development markets.
- 6.24 Policies in the national policy statement that express the intent for plans to provide sufficient opportunities for urban development to assist improve housing affordability include:
- Policy 2 - requires Council, at all times, to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.
  - Policy 8 - requires that council decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.
- 6.25 The national policy statement includes many implementation actions to support Council's planning to achieve these policies, such as monitoring of housing demand and capacity requirements; the setting of housing bottom lines in district plans; and the requirement to develop Future Development Strategies to identify where development will occur and the infrastructure required.
- 6.26 These actions have yet to be implemented, but in the meantime the policy intent to provide urban development opportunities to respond to growth remains important to decisions associated with this plan change.

#### *Regional Policy Statement*

- 6.27 The most relevant regional policy statement objectives and policies to the strategic issue of this plan change of demand for residential land and affordable housing are:

##### **Objective 23**

*A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth.*

##### **Policy UG 17B Urban growth management outside of the western Bay of Plenty subregion**

*Manage the growth of urban areas located outside of the western Bay of Plenty sub-region in a manner consistent with sound resource management principles, including:*

- (a) The efficient development and use of the finite land resource;*
- (b) Setting defined limits of urban development; and*
- (c) Providing for the efficient, planned and co-ordinated use and development of infrastructure.*

#### *District Plan*

- 6.28 The most relevant district plan objectives and policies are:

##### **Objective 1.3.5**

*Sufficient and suitable land zoned for future urban development that provides the residents of Rotorua with a range of lifestyle and development choices.*

**Policy 1.3.5.1** *Ensure that development in the areas identified for new growth is carried out in a manner that meets the community's needs and avoids, remedies or mitigates adverse environmental effects.*

**Objective 12.3.1**

*Sufficient land area suited for future urban and economic development that provides the residents of Rotorua with a range of lifestyle and development choices.*

**Policy 12.3.1.1** *Identify areas within the district to meet future demand for residential development.*

Other

- 6.29 It is also noted that the Rotorua Spatial Plan, a non-statutory document adopted in 2018 to assist planning for how the city and district will grow, develop and change, signals urban expansion in the general area of the plan change.

**Evaluation**

- 6.30 The joint submission of the Land Owners (28.0) and Te Arawa Group Holdings (20.0) relating to improved housing supply is accepted.
- 6.31 A number of submitters have raised concerns regarding affordable housing and housing supply. As outlined above, Council is actively pursuing a strategy, alongside Te Arawa and central government, to address housing issues in Rotorua. The plan change area will provide additional land for housing, and provisions have been included to encourage medium density development with the intention that this may result in more affordable housing. However, the wider Council Strategy, as discussed above, is specifically focused on addressing the existing housing challenges that the District is currently experiencing.
- 6.32 RLC's submission which seeks consideration of ways to achieve the Minister's Direction relating to yield. The Statement of Expectations in the Minister's Direction states the following:
- The Minister for the Environment's expectations for Rotorua District Council, are that in undertaking the streamlined planning process as directed:*
- the recommended Plan Change 2: Pukehāngi Heights should provide sufficient development capacity for a minimum housing yield of approximately 790 dwellings, comprising a mix of densities and typologies that will meet demand, while recognising the constraints that apply to the land that is subject to the rezoning.*
- 6.33 The technical guidance provided by the Ministry for the Environment on the Streamlined Planning Process states that a Local Authority must have regard to a Statement of Expectations while managing and carrying out the SPP<sup>10</sup>. When the proposed planning instrument is submitted to the Minister a summary document needs to be included showing how the Local Authority has had regard to the Statement of Expectations.
- 6.34 No specific recommendations are made in relation to this submission point. However, it may be worth considering in light of other submissions, e.g. Freedom Villages.
- 6.35 In relation to the submission from M Reesby, the information from a range of sources, outlined above, indicates the existing shortage of housing. Further, and as raised by the further submitters,

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<sup>10</sup> Ministry for the Environment, March 2018. Pg 18, Technical Guide: Streamlined Planning Process under the Resource Management Act 1991. Ministry for the Environment, Wellington. Link to report [here](#).

Council is also required under the NPS UD 'to provide at least sufficient development capacity to meet expected demand for housing ... over the short term, medium term and long term'.

**Recommendation**

- 6.36 It is recommended that Submissions 28.0 (The Land Owners), 20.0 (Te Arawa Group Holdings) are accepted.
- 6.37 It is recommended that Further Submissions 2.1 (Te Arawa Group Holdings Ltd) and 6.21 (Hunt Family) are accepted.
- 6.38 It is recommended that Submissions 8.0 and 8.1 (Ngawhainga Kiriona-Winiata), 23.0 and 23.1 (Renee Pureti Kiriona), 24.0 and 24.1 (Ngaire Khan), 25.0 and 25.1 (Huiarangi), 22.2 (Ngāti Kearoa Ngāti Tuarā), and 21.0 (Utuhina Valley Farm) are accepted in part.
- 6.39 It is recommended that Further Submission 6.24 (Hunt Family) is accepted in part.
- 6.40 It is recommended that Submission 1.0 (M Reesby) is rejected.
- 6.41 Submission 43 (Rotorua Lakes Council) is noted.

**LAKE ROTORUA NUTRIENT MANAGEMENT**

**Background**

- 6.42 Nutrient management is a complex multi-agency issue that encompasses resource, asset and financial management considerations.
- 6.43 A Background Report<sup>11</sup> has been prepared to support the further evaluation of submissions on Nutrient Management. This report provides a summary of relevant provisions of:
- Vision and Strategy for Rotorua Lakes;
  - Regional Policy Statement;
  - Regional Natural Resources Plan;
  - Non-regulatory District Strategies;
  - Operative District Plan;
  - Nitrogen Accounting MOU;
  - Rotorua Wastewater Treatment Plant Upgrade;
  - Nitrogen Offsetting issues and options.

**Submissions**

- 6.44 BOPRC raises concerns that potential increases in nutrient levels to Lake Rotorua as a result of the land use change from rural to urban have not been adequately assessed and managed through the plan change. BOPRC submit:

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<sup>11</sup> C. Batchelar, Boffa Miskell, 19 August 2020. Plan Change 2 – Nutrient Management. *Background Report Prepared for Rotorua Lakes Council.*

- The Regional Natural Resources Plan provisions within Proposed Plan Change 10 are designed to achieve the rural properties' contribution to nitrogen reduction but Plan Change 10 provisions only apply to large parcels (greater than 5 hectares) and will not apply to properties subdivided and developed as a result of Plan Change 2.
- Objective 13.3.1 in the existing provisions of the District Plan requires that subdivisions enable land use change that results in reductions in nutrient losses. It is not sufficient that the land use change results in discharge allocations of the parent rural lots.
- A comprehensive assessment [of the impacts of land use change on nitrogen losses] is needed. It cannot be assumed that the land use change will reduce nutrient losses.

- 6.45 BOPRC seek that the options evaluation is revisited with respect to nutrient management and that an assessment of land use suitability, water quality and nutrient management effects is undertaken by a suitably qualified person/s in enough detail to confirm that the yield and potential household units can be accommodated within the nutrient discharge allocation for the parent land (submission 44.7). BOPRC also seeks changes to the provisions of the plan change to address nutrient management, which are addressed later in this report See Section 8.
- 6.46 The further submission by the Hunt Family supports the BOPRC submission in part, agreeing that a comprehensive assessment should be completed prior to rezoning so there are no issues for future developments (further submission 6.8, 6.9).
- 6.47 Te Arawa Lakes Trust and Ngāti Whakaue - Te Kōmiro o te Utuhina submit that Lake Rotorua water quality should be of primary concern in considering the plan change and that the plan change should not proceed without robust modelling to demonstrate that nutrient flows within the catchment will be reduced (submissions 10.3, 10.5 and 42.5). This is supported by Te Arawa Group Holdings Limited (further submission 2.5), the Bay of Plenty Regional Council (BOPRC) (further submission 7.9) and the Hunt Family (further submission 6.33).
- 6.48 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana also are concerned that the Utuhina flows into Te Rotorua nui a Kahumatamomoe (Lake Rotorua), which they state is already under threat from current stormwater runoff and the proposal to discharge treated sewage from the city (submissions 8.5, 23.5, 24.5 and 25.5).
- 6.49 Utuhina Valley Farm understands that the existing Rotorua District Council wastewater treatment plant cannot sustain the additional dwellings. It seeks that development not be undertaken until the additional load is addressed (submission 21.4). This is supported by the Hunt Family, which seeks an assessment by an expert to support the plan change (further submission 6.41).
- 6.50 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust also has reservations that wastewater has been adequately addressed (submission 22.3).

### ***Planning Framework***

- 6.51 Plan Change 2 makes no specific provision for nutrient management. Management of nutrient effects from the Pukehāngi Heights Development Area is assumed to follow the general subdivision and development provisions of the Operative District Plan, informed by other processes including a Memorandum of Understanding between Council, BOPRC and Te Arawa Lakes Trust for Wastewater Treatment Plan Nitrogen Accounting (MOU).

- 6.52 The District Plan provides a broad mandate for this intervention through the general subdivision assessment criteria for infrastructure provision and consideration of the *“the extent to which the proposal will avoid, remedy, or mitigate effects on water quality”* to subdivision and land use applications.
- 6.53 Current Council practice is that all subdivisions that result in conversion of rural land to urban use are assessed against Nitrogen Management Plan (NMP) allocations in consultation with the BOPRC. Consent notices conditions are imposed to ensure that nitrogen loss impacts from development remain within NMP allocations. This is addressed in the Plan Provisions in Section 8.

**Evaluation**

- 6.54 The Section 32 Evaluation identifies that the change in land use at Pukehāngi Heights, including an allowance for the additional load on the Council’s wastewater treatment plant, would need to be within the limits established in the Nitrogen Management Plans for the rural parent lots. If not, landowners would have options available to them including reducing stock numbers where farming operations are present, revegetation or reducing the number of dwellings.
- 6.55 The BOPRC submission seeks confirmation that the yield and potential household units can be accommodated within the nutrient discharge allocation for the parent land.
- 6.56 Nitrogen (N) losses from urban development within the Pukehāngi Heights Development Area were calculated in accordance with a formula in the MoU at the time the plan change was prepared, taking into account the expected development yield and the form of development shown on the structure plan. This indicated that the Pukehāngi Heights Development Area was likely to be well within the limits established in the Nitrogen Management Plans for the rural parent lots once when fully developed.
- 6.57 The N loss calculations were updated to reflect structure plan changes (e.g. increased yield sought by the Minister for the Environment, increased areas set aside for stormwater management, amended road layout). These calculations initially confirmed the earlier assessment that proposed urbanisation at Pukehāngi was likely to be within the defined Nitrogen Management Plan allocations for the rural properties.
- 6.58 Recent advice from BOPRC is that the calculations under the MoU formula do not appropriately address land attenuation factors in accounting for Wastewater Treatment Plant losses. The MOU partners are currently working to resolve this matter through a review of the MOU. However, when a probable attenuation factor is included in the calculations, it is likely that N losses from the proposed urbanisation at Pukehāngi Heights are likely to exceed the defined Nitrogen Discharge Allocations for the rural properties.
- 6.59 Increasing nitrogen losses to Lake Rotorua is not an acceptable outcome, being contrary to the RPS, Regional Plans and District Plan and the Wastewater Treatment Plant discharge consents held by Council.
- 6.60 Additional N losses could be mitigated through one or more of the following measures:
- Reducing the yield of houses;
  - Providing areas to be retired within the development or on any balance rural land (tree planting/plantation forestry);

- Accepting a shortfall and the cumulative impact this will have on the Wastewater Treatment Plant mass discharge limit;
- Offsetting the shortfall from a bank of nitrogen reserves.

6.61 The first three of these measures are not appropriate in the longer term.

6.62 There is a need to increase the supply of land for housing and reducing yield would be contrary to this. Retiring land within the development has a direct positive benefit, but benefits are likely to be small and having many small pockets of retired land that would require protection, monitoring and maintenance and would be inefficient.

6.63 Accepting a shortfall and the cumulative impact this will have on the Wastewater Treatment Plant mass discharge limit will ultimately lead to a limit on connections in order to operate within the terms of its discharge consent and will impede development. While there is some “head room” available for the next 5-10 years depending on growth areas, this is not a prudent medium to long term approach.

6.64 Given the broad objectives of increasing the supply of land for affordable housing and making effective and efficient use of infrastructure assets, establishing a Council managed reserve of nitrogen credits is preferred by Council advisers. The 2021 review of the Long Term Plan will consider this issue comprehensively. The LTP is likely to include proposals for creating and funding a nitrogen reserve for the purpose of offsetting nitrogen losses from urban development.

6.65 A nitrogen reserve could be created by purchasing and de-intensifying land (e.g. conversion from dairy to dry stock) or by purchasing nitrogen from other landowners once a nitrogen trading scheme is in place. Funding for this reserve could be from rates, user fees or development/financial contributions.

6.66 Notably, this is a strategic issue for all new development within the Rotorua Lake catchment (i.e. greenfield, infill and business), not just development at Pukehāngi. This is an issue that will need to be addressed regardless of Plan Change 2. If not addressed in a timely manner, the Council will ultimately be faced with curtailing new connections to the Wastewater Treatment Plant in order to operate within the terms of its discharge consent.

6.67 For the Pukehāngi Heights Development Area, submitters are seeking recognition of this issue and appropriate provisions in the District Plan. Given the strategic significance of this issue, it is appropriate to include objective, policies and rules in Plan Change 2, albeit that this issue needs to be addressed for the whole urban area.

### ***Recommendations***

6.68 Recommendations on nutrient management objectives, policies and rules are addressed in Section 7 (Objectives) and Section 8 (District Plan Provisions).

## 7. EVALUATION OF SUBMISSIONS ON DISTRICT PLAN OBJECTIVES

- 7.1 This section provides background to the objectives sought to be achieved by this plan change and evaluates submissions seeking changes to the objectives.
- 7.2 The appropriateness of the changes sought by submitters to achieve the purpose of the RMA in terms of section 32 is evaluated against the National Policy Statements; Bay of Plenty Regional Policy Statement and iwi management plans.

### **Background**

- 7.3 The plan change intends to implement operative objectives of the District Plan, but also to include additional objectives to ensure specific place-based outcomes are achieved.
- 7.4 Relevant existing objectives include those relating to urban growth, infrastructure, water quality, reverse sensitivity and natural hazards included in the 'Matters of National and Strategic Importance', 'Iwi Cultural and Historic Heritage and Economic Resources' and 'Future Growth Area' sections of the District Plan. Given the number of relevant objectives involved, these are not quoted here in full, but are detailed in section 8 of this report where relevant to the submissions on provision so the plan change.
- 7.5 The proposed place-based objectives to be included in Appendix 5 'Development Plans, Development Areas and Structure Plans' are:

#### **Objective 1: Pukehāngi Heights Development Area – Landscape Values**

*Maintain the valued landscape character and amenity values associated with the wider caldera rim while enabling development that is consistent with the principles of the Pukehāngi Heights Development Area Structure Plan and visually integrates with surrounding land uses.*

#### **Objective 2: Pukehāngi Heights Development Area – Integrated Urban Design**

*The environmental quality, character and amenity, and cultural values of the Pukehāngi Heights Development Area are developed and then maintained and enhanced through appropriate urban planning and design.*

#### **Objective 3: Pukehāngi Heights Development Area – Flood Hazard Risk Management**

*Ensure that development within the Pukehāngi Heights Development Area achieves and maintains a low level of flood hazard risk within the Development Area, and that risk is not increased for urban areas in the downstream catchment.*

#### **Objective 4: Pukehāngi Heights Development Area – Landslide and Liquefaction Hazard Risk Management**

*Ensure that development within the Pukehāngi Heights Development Area achieves and maintains a low level of landslide and liquefaction hazard risk within the Development Area, and surrounding area.*

- 7.6 These proposed objectives were assessed against the National Policy Statement on Urban Development Capacity (2016), Bay of Plenty Regional Policy Statement and iwi management plans in the initial plan change evaluation (section 32) report (refer to section 7.0).

### **Submissions**

- 7.7 Five submitters seek changes to the objectives:
- Heritage NZ Pouhere Taonga (HNZPT) - seeks specific place-based objectives for the management of archaeological sites. This is supported by Te Arawa Group Holdings Limited.

- Te Arawa Lakes Trust - seeks expansion of Objective 2.
- Ngāti Whakaue - Te Kōmiro o te Utuhina - seeks objectives for Lake Rotorua nutrient management and expansion of Objective 2.
- Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust – seeks that the National Policy Statement on Freshwater Management is given effect.
- Freedom Villages – seeks new policies/objectives to reflect their submission to extend the medium density development area and enable a retirement village as a permitted activity. This is considered best addressed under section 8 of this report.

#### *Archaeological Sites*

- 7.8 HNZPT seeks that the objectives are amended to include consideration of protection of archaeological sites. This is sought to support the reference to archaeological sites within the rules and performance standards. HNZPT notes that while archaeological sites are discussed in the proposed introductory text to the plan change provisions, there is no mention of archaeological sites within the proposed objectives or policies. It seeks a cascade of consideration throughout the provisions to ensure a robust consideration for minimising any adverse effects on archaeological sites within the plan change area. HNZPT does note that there is some consideration within existing Objective 13.3.11 (submission 9.0).
- 7.9 This submission is supported in part by Te Arawa Group Holdings Limited. The company notes there are already provisions in the District Plan but sees no issue with further provisions and seeks that the Council consider the issue (further submission 2.2).

#### *Lake Rotorua Nutrient Management*

- 7.10 Ngāti Whakaue - Te Kōmiro o te Utuhina note the plan change includes no objectives aimed at ensuring the protection and/or enhancement of Lake Rotorua water quality, which is a taonga to Ngāti Whakaue (submission 42.5).

#### *Water Quality and Stormwater*

- 7.11 Te Arawa Lakes Trust supports low impact stormwater design as set out in policy 2.3 but is concerned that the policy sits under an objective that does not protect environmental quality outside of the structure plan area. It seeks that Objective 2 be expanded to apply to the wider area in general and downstream sites in particular (submission 10.4). Te Kōmiro o Te Utuhina also seeks expansion of Objective 2 to include surrounding areas and downstream water quality improvements (submission 42.4).
- 7.12 The Hunt Family support the intent of the Te Arawa Lakes Trust submission to expand Objective 2 but do not think this can be achieved in the scope of the plan change. It states the same intent can be achieved by requiring stormwater to be appropriately stored, managed and treated on-site, which is already provided for through the existing provisions, specifically Policy 2.3, Objective 3 and Policy 3.1 (further submission 6.32).
- 7.13 Te Arawa Group Holdings Limited also support submission 10.4 in part, seeking comprehensive modelling to provide certainty (further submission 2.6).
- 7.14 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust is concerned about water quality with increased contamination of stormwater from streets. It has reservations that these issues have been addressed and seeks Council recognise and provide for the National Policy Statement for Freshwater



Management 2014. The rūnanga specifically refer to the objective setting process in the national policy statement (submission 22.3).

### **Evaluation**

- 7.15 In relation to HNZPT submission, the approach taken in the plan change has been to avoid duplicating provisions if they are appropriately dealt with elsewhere. The Subdivision Chapter of the District Plan includes the following Objective: *Identify and protect the district's cultural landscapes, built features and cultural and archaeological sites* (Obj 13.3.11), while Chapter 2 of the District Plan: *Section 6 Matters* includes the following Objective: *Protect cultural heritage features (Māori and European) from different eras and of themes that contribute to, and that are representative of Rotorua's evolving history.* (Obj 2.3.8).
- 7.16 It is not considered that another Objectives is required. However, it is agreed that the specific policy (Policy 2.9) should be strengthened (see section 8).

### **Recommendations**

- 7.17 Further Submission 2.2 (Te Arawa Group Holdings Ltd) be accepted.
- 7.18 Submission 9.0 (HNZPT) be accepted in part.

### **LAKE ROTORUA NUTRIENT MANAGEMENT**

- 7.19 Ngāti Whakaue - Te Kōmiro o te Utuhina note the plan change includes no objectives aimed at ensuring the protection and/or enhancement of Lake Rotorua water quality, which is a taonga to Ngāti Whakaue (submission 42.5).

### **Planning Framework**

- 7.20 Plan Change 2 has no locality specific objectives aimed at ensuring the protection and/or enhancement of Lake Rotorua water quality. However, Plan Change 2 must be considered in the context of the District Plan as whole.
- 7.21 Water quality<sup>12</sup>, and more specifically nutrient discharges to lakes, is identified as one of the Matters of National and Strategic Importance in the District Plan:

*"The degradation of water quality within the Rotorua waterbodies and the restoration, protection and enhancement of the health and well-being of the Rotorua waterbodies, the Waikato River and their margins is an important issue for the district to address. The District Plan has a role in this through managing the effects of land use. This role is complementary to the regional councils' role of controlling nutrient discharge from land use activities and undertaking remedial works. Through the implementation of each of these roles, subsequent biodiversity, habitat and ecological functions of the waterbodies will also be maintained, helping to enhance the natural character managed under Part 2 – Section 6 Matters."*

...

*Te Arawa Lakes Trust, Rotorua District Council, and the Bay of Plenty Regional Council work collaboratively to ensure the on-going management, restoration, and rehabilitation of the health of*

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<sup>12</sup> 1.2 Key Environmental Issues 1.2.1 Water Quality and the Amenity of Lakeside Environments

*the Rotorua waterbodies. Joint Management Agreements have also been established under the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010. These cover the Waikato River and intend to implement the Waikato River Vision and Strategy (Te Ture Whaimana o Te Awa o Waikato). Similar mechanisms are being developed for the Kaituna River.*

*Our district's lakes, rivers and streams are of great cultural, historic and heritage value. Rotorua District Council, Bay of Plenty Regional Council, and Te Arawa Lakes Trust are working with other partners on a range of initiatives such as the Oturoa Agreement to mitigate the effects of nutrient runoff from pastoral farming, sewage leachate from residential areas and other inputs from the commercial and industrial sectors. There is a focus on the Lake Rotorua Catchment.*

*The District Plan has a role in contributing to the enhancement of water quality through managing the effects of land use and enabling land use change.*

- 7.22 Water quality is recognised as a “key environmental issue” in the subdivision chapter of the District Plan<sup>13</sup>.
- 7.23 “Primary agriculture” is identified as a significant source of nutrient discharges that affect the lakes. While controlling discharge to water is recognised primarily as a regional council function, the district plan controls land use and subdivision. Incentives to encourage land use change from high nutrient output agriculture to lower nutrient output activities are encouraged by District Plan objectives and policies. Additional rural subdivision rights are given where it can be demonstrated there will be land use change that will result in sustainable positive effects on lake water quality.
- 7.24 Water quality is recognised as a “key environmental issue” when considering the location and design of infrastructure<sup>14</sup>.
- 7.25 The operative District Plan contains several objectives that seek the protection and/or enhancement of water quality.

**Objective 1.3.1**

*The enhancement of water quality and management of Rotorua's water bodies and the lake and riverside environments to improve the environmental, cultural, social and economic well-being of Rotorua.*

**Policy 1.3.1.2**

*Enable the continued use and development within lake and river side settlements whilst maintaining amenity values and enhancing water quality of water bodies and their margins.*

**Policy 1.3.1.3**

*Manage subdivision, use and development where the proposal will contribute to the improvement of lake water quality within Lake Rotorua.*

**Objective 13.3.1**

*Subdivision enables definitive land use change which results in significant reductions in nutrient losses, thereby contributing to water quality improvements in the lakes, rivers, streams, wetlands and other water bodies within the District.*

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<sup>13</sup> 13.2.1 Subdivision and Water Quality

<sup>14</sup> 15.2 Key Environmental Issue 15.2.1 Location and Design of Infrastructure

**Policy 13.3.1.1**

*Provide additional subdivision opportunities to incentivise definitive land use changes which result in significant reductions in nutrient losses in the Lake Rotorua groundwater catchment<sup>15</sup>.*

**Objective 13.3.2**

*Subdivision layout and design contributes to improvements in water quality through the management of riparian margins, stormwater treatment, and wastewater treatment.*

**Policy 13.3.2.1**

*Ensure subdivision design avoids remedies or mitigates the adverse cumulative effects on water quality from storm water and on site wastewater treatment systems including through the use of low impact design.*

**Objective 13.3.5**

*Adequate infrastructure and services are provided to each site to accommodate the potential development.*

**Policy 13.3.5.1**

*Require that connections to the public reticulated water supply, stormwater and sanitary sewerage systems are made at time of subdivision wherever a reticulated system is available.*

**Objective 13.3.8**

*Maintain and enhance the district's productive capacity of rural land, amenity, biodiversity, landscape, ecological values and character through subdivision and development.*

**Policy 13.3.8.1**

*Subdivision layout and design retains natural landforms and processes on the site and surrounding land and avoids or mitigates alterations to landform, waterways and ecosystems.*

**Policy 13.3.8.6**

*Subdivision and subsequent development minimise adverse effects on vegetation that contribute to amenity and enhance the landscape of the surrounding area by promoting the revegetation of areas with appropriate indigenous vegetation where positive benefits can be achieved for the purpose of:*

...

- o Assisting in improving the quality of water by reducing nutrients that eventually enter the streams, rivers, wetlands and lakes*

...

**Objective 13.3.15**

*Subdivision occurs in a manner that integrates safely and efficiently with existing strategic infrastructure.*

**Policy 13.3.15.1**

*Avoid subdivision which results in significant adverse effects on established strategic infrastructure.*

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<sup>15</sup> Policy 13.3.1.1 is effectively repeated in Policy 13.3.1.3

### **Evaluation**

- 7.26 While the objectives are generally appropriate, the related policies provide reasonable guidance on water quality but very limited guidance in relation to urban nutrient loss management. A change to district wide objectives and policies would be appropriate to address this, but this is beyond the scope of Plan Change 2.
- 7.27 Taking this into consideration, a locality specific objective is appropriate to give context to policies and rules.
- 7.28 An issue requiring resolution is to determine whether a “significant reduction” in N losses must be achieved for each development or whether a “no net increase” for each development will be sufficient. The District Plan seeks a “significant reduction in nutrient losses” through subdivision. However, this objective needs to be considered in the context of the catchment wide strategy for N loss reduction under the RPS, Integrated Framework and Regional Plan Change 10. In this context, a “no net increase” target for urban subdivision will contribute in the manner anticipated by the regional policy framework to achieve a significant overall reduction.

### **Recommendations**

- 7.29 Accept the submission by Ngāti Whakaue - Te Kōmiro o te Utuhina (42.5)
- 7.30 Add the following to the “General Principles” in the Introduction A5.2A.1:
- Development that is designed within nutrient management limits and demonstrates no net increase in nitrogen entering Lake Rotorua.*
- 7.31 Add the following to A5.2A.2 Objectives and Policies:
- Objective 5: Pukehāngi Heights Development Area – Nutrient Management*
- Development within the Pukehāngi Heights Development Area results in no net increase in nutrient losses thereby contributing to water quality improvements in Lake Rotorua.*

## **WATER QUALITY AND STORMWATER**

- 7.32 Te Arawa Lakes Trust supports low impact stormwater design as set out in policy 2.3 but is concerned that the policy sits under an objective that does not protect environmental quality outside of the structure plan area. It seeks that Objective 2 be expanded to apply to the wider area in general and downstream sites in particular (submission 10.4). Te Kōmiro o Te Utuhina also seeks expansion of Objective 2 to include surrounding areas and downstream water quality improvements (submission 42.4).
- 7.33 The Hunt Family support the intent of the Te Arawa Lakes Trust submission to expand Objective 2 but do not think this can be achieved in the scope of the plan change. It states the same intent can be achieved by requiring stormwater to be appropriately stored, managed and treated on-site, which is already provided for through the existing provisions, specifically Policy 2.3, Objective 3 and Policy 3.1 (further submission 6.32).
- 7.34 Te Arawa Group Holdings Limited also support submission 10.4 in part, seeking comprehensive modelling to provide certainty (further submission 2.6).

- 7.35 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust is concerned about water quality with increased contamination of stormwater from streets. It has reservations that these issues have been addressed and seeks Council recognise and provide for the National Policy Statement for Freshwater Management 2014. The rūnanga specifically refer to the objective setting process in the national policy statement (submission 22.3).

**Planning Framework**

- 7.36 The development principles for Pukehāngi Heights includes the integration of low impact design stormwater management with development. This is encompassed as a policy with under Integrated Urban Design Objective 2.
- 7.37 Plan Change 2 is not a standalone document. Protection of environmental quality in the wider area in general and downstream sites in particular is addressed under the District Plan general objectives for water quality management. Objectives and Policies are set out above in the evaluation of Nutrient Management submissions:

Objective 13.3.2 is particularly relevant:

*“Subdivision layout and design contributes to improvements in water quality through the management of riparian margins, stormwater treatment, and wastewater treatment.”*

As is its related Policy 13.3.2.1

*Ensure subdivision design avoids remedies or mitigates the adverse cumulative effects on water quality from storm water and on site wastewater treatment systems including through the use of low impact design.*

- 7.38 Also relevant are the provisions of the Natural Resources Regional Plan which is the primary regulatory instrument for the management of water quality.

**Evaluation**

- 7.39 In overview, there is sufficient objective guidance already within the operative District Plan and Regional Plan, coupled with the Urban Design Integration Objective and associated stormwater management policy to ensure low impact design principles are adhered to within the Pukehāngi Heights Development Area, and that offsite effects are addressed.

**Recommendations**

- 7.40 Reject submissions by Te Arawa Lakes Trust (10.4) Hunt Family (6.2) Te Arawa Group Holdings Limited (2.6) and Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust (22.3).
- 7.41 Make no Change to water quality objectives

## 8. EVALUATION OF SUBMISSIONS ON PROVISIONS, ZONING AND STRUCTURE PLAN

- 8.1 This section evaluates submissions seeking changes to the provisions of the plan change, that is, the text of the plan change including its policies and rules, as well as the proposed zoning and structure plan.
- 8.2 The evaluation considers the appropriateness of the changes sought by submitters to achieve the objectives as well as other reasonable alternatives to meet their concerns. The evaluation is based on the requirements of section 32: efficiency and effectiveness, costs and benefits, and the risks of acting or not acting if there is insufficient information.
- 8.3 Relevant parts of the Planning Framework - National Policy Statements, the Bay of Plenty Regional Policy Statement and iwi management plans - are also summarised.

### LANDSCAPE AND AMENITY

#### **Background**

- 8.4 The Pukehāngi Heights Development Area is located on the lower slopes of the Rotorua Caldera Rim. The land form of the Pukehāngi Heights Development Area broadly comprises a lower terrace rising from Pukehāngi Road; a steep mid-site escarpment; a broad upper terrace extending northwest/southeast with intervening valleys; and a steep escarpment backdrop above the upper terrace.
- 8.5 The landscape values of the Caldera Rim were assessed by Boffa Miskell in a 2012 report (the 2012 Caldera Rim Report).<sup>16</sup> The report also provides guidance on how to integrate growth and land use change into the landscape. The report recommends that above the RL385 contour, rural or natural character values should be maintained. Below this contour, the landscape is less sensitive to land use change but still contains important character and amenity values.
- 8.6 A specific landscape and visual effects assessment was also undertaken by Boffa Miskell for the plan change (the 2019 Landscape and Visual Effects Assessment).<sup>17</sup> Based on this assessment the initial plan change evaluation (section 32) report states:
- The lower and upper terraces can generally be developed for residential use with moderate-low landscape and visual effects. Development on the more prominent escarpment edges requires careful design to mitigate localised visual effects.
  - The mid-site escarpment, being more prominent and visually sensitive, is better suited to much lower density development in clusters with a strong green corridor of native vegetation banding along and across much of this area. This will help to ensure that the development integrates well with the adjoining Parklands development. Those areas of the escarpment closer to Matipo Avenue can be less vegetated with a more open space, rural character.

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<sup>16</sup> Boffa Miskell Limited, October 2012. Rotorua Caldera Rim – Caldera Rim Rural Character Design Guideline. *Report prepared by Boffa Miskell Limited for Rotorua Lakes Council.*

<sup>17</sup> Boffa Miskell Limited, 22 February 2019. Pukehāngi Heights Development Area Structure Plan: Landscape & Visual Effects Assessment. *Report prepared by Boffa Miskell Limited for Rotorua Lakes Council.*

- 8.7 The plan change seeks to give effect to these landscape and visual outcomes, as well as enhance ecological values and protect the amenity of residents, through its zoning and associated policies, rules and performance standards:

*Lower Terrace*

- Residential 1 Zone on the lower terrace with policies to enable low density development as well as medium density development within the defined locations (Policy 1.1 and 1.2).
- Policy 2.1 for medium density development to include: amenity planting to reduce the dominance of the built environment; diversity in the built form; quality outdoor spaces and privacy. Development in the identified medium density development areas requires resource consent to enable Council to consider whether the objectives, policies, principles and performance standards have been met. Relevant performance standards include:
  - Reduced minimum net site area of 200m<sup>2</sup> per dwelling.
  - Increased maximum height of 9m (compared to the usual 7.5m for most buildings/structures in the Residential 1 Zone).
  - Minimum outdoor recreation and amenity space requirements.
  - Requirement for an urban design assessment against the development objectives and matters of discretion.
- A transition area on the lower terrace within the Residential 1 Zone where additional Policy 1.3 applies to promote planting, avoidance of visually obtrusive buildings and retaining structures. This is implemented through additional performance standards for land use:
  - Maximum reflectivity of 37% for external walls and roofs.
  - Maximum height of 2m for retaining walls and a requirement for screening or use of low visibility materials (maximum 25% reflectivity).In addition, a landscape assessment is required as a performance standard for subdivision and it is anticipated that additional conditions may be imposed and registered on the title through consent notices.

*Mid-Site Escarpment*

- Rural 2 Zone on the mid-site escarpment to enable large lot residential development and partial revegetation (Policy 1.4).
- Policy 1.5 to maintain and enhance landscape values by: providing a visual character dominated by areas or re-vegetation near Parklands and transitioning through to open space near Matipo Avenue and Paradise Valley Road; reducing the visibility of development; clustering built development; avoiding urbanised boundary lot fencing; locating buildings away from the more visible escarpment edges; and avoiding earthworks. Ecological restoration and enhancement is also sought through the partial re-vegetation (Policy 2.2).
- Land use and subdivision performance standards apply to achieve these policies:
  - Requirement for a landscape plan and visual assessment to be provided with subdivision.
  - Maximum reflectivity of external walls, roofs and joinery of 37%.
  - Screening of fences and retaining walls or construction with low visibility materials (maximum 25% reflectivity if painted).
  - Reduced maximum height for buildings/structures of 6m (instead of usual 7.5m).
  - Maximum building site coverage standard of 400m<sup>2</sup>.

It is also expected that planting conditions will be imposed on subdivisions.

*Upper Terrace*

- Residential 1 Zone on the upper terrace to enable low density development.
- Identification of a transition area on the upper terrace near the mid-site escarpment where Policy 1.6 applies to manage visual impacts (separation between buildings, use or recessive colours, controls on building height, use of planting to mitigate visual effects). Performance standards for land use include:
  - Maximum height of 6m for buildings/structures.
  - Maximum reflectivity of 37% for external walls, roofs and joinery.
  - Requirement to screen fences and retaining walls or construct with low visibility materials (maximum 25% reflectivity).

Again, it is anticipated that additional requirements may be identified at subdivision and applied with consent notices following consideration of the landscape assessments.

*Upper Escarpment*

- Rural 2 Zone on the upper escarpment above the RL385m contour.
- Policy 1.7 to avoid development above this contour.
- Buildings are a non-complying activity.
- Subdivision performance standards promote re-vegetation through requirement to submit a planting plan when a subdivision on the upper terrace and adjoining the upper escarpment is proposed.

*General*

- Minimum outdoor living space requirements for the Residential 1 Zone, rather than just relying on the site coverage standards.
- Policy 1.9 to provide a visual transition from the indigenous bush character of Parklands to the landscape character of the surrounding area. This policy can be addressed through planting conditions imposed on subdivisions.
- Policy 2.5 to address street character - seeks minimising of road widths; wide vegetated berms; reduced building setbacks to promote the safe use of streets and social spaces; and visually permeable fencing. This is implemented with performance standards for land use activities:
  - Smaller minimum front yards for the Residential 1 zone of 3m instead of 5m; front yards of at least 4.5m for garage doors/carports.
  - Maximum fence/wall heights for the front boundary of 1.6m with a requirement that any fencing above 1.2m shall be visually permeable.
- Reduced other yards (side and rear) for the Residential 1 Zone.
- Subdivision performance standards that address minimum lot widths for solar access.

***Submissions***

- 8.8 M Reesby, who lives on Pukehāngi Road, is concerned about losing rural views and loss of amenity due to increased noise and traffic and seeks that the plan change not go ahead (submission 1.0 and 1.1). Her further submission notes:
- Loss of rural views, which will devalue her property (further submission 1.1).



- Loss of quiet enjoyment from increased traffic noise (further submissions 1.2 and 1.5).
  - Cutting into the hill will ruin the landscape, hill and scenery and create visual pollution (further submission 1.7).
- 8.9 J Revell, who also lives on Pukehāngi Road, adjacent to land included in the plan change and Parklands Estate, states she is in general agreement with the proposal and in particular the green belts separating the residential areas (submission 41.0). J Revell also submits that she considers Rotorua’s high caldera areas should be vegetation areas with houses subject to 37% reflectivity rules, as in the Lakes A Rural Zones. She states the end of Matipo Avenue is a bad example of reflectivity and Parklands is a good example (submission 41.0).
- 8.10 Pukehāngi Parklands Estate Inc is concerned about residential lots right up to their border and a walking track beside it. The society seeks that a planting buffer zone of 15-20 metres running up the boundary line between any residential lot and the edge of Parklands. It states this is consistent with requirements on farmers and rural owners by councils and central government and would be in keeping with the planting in Parklands (submission 4.1). This is opposed by the Hunt Family that state (further submission 6.22):
- Many of the lots within Parklands Estate that adjoin the structure plan area already have extensive planting along their boundaries abutting the structure plan area.
  - Dwellings within Parklands Estate are generally no closer than 7.5m from the boundary with the structure plan area. The setback, combined with the 7.5m yard for Rural 2 Zone or the 2.5m yard for the Residential 1 Zone are appropriate separation distances.
  - 15m-20m of planting is onerous and would significantly reduce the buildable area.
  - CPTED principles promote passive surveillance – screening is not consistent.
- 8.11 Pukehāngi Parklands Estate Inc. also submits that it is difficult to determine density, lot placements, setbacks and so forth from the current information. The society seeks that before the next stage of approval of the plan change Council provide ‘to scale’ plans with lot structures overlaid so that they can make an informed decision. It also seeks height restrictions to prevent the blocking of views to be covenanted on titles (submission 4.3). This is opposed by the Hunt Family, who state ‘to scale’ plans cannot be provided at this stage of the process (re-zoning) and building height limits are imposed under the District Plan rules and any additional restrictions should be at the discretion of the developer (further submission 6.23).
- 8.12 Landowners within Parklands Estate, W Derrick, L Harvey, M Shasha and the Johnston Family Trust submit that the plan change does not achieve the aim of the 2012 Rotorua Caldera Rim Rural Character Design Guideline. They consider too much weight has been given to the area as a ‘future growth’ area. They seek that the plan change is withdrawn or more conservative controls consistent with those for Parklands. They provide the following table comparing the standards (submissions 27.0, 27.1, 29.0, 29.1, 30.0, 30.1, 31.0 and 31.1).

Standard	Parklands	Plan Change 2 (Residential 1 Area*)	Comment
Site Specification / Density	34 private lots with a large "balance area" that extends to front Pukehāngi Road.	450m <sup>2</sup> / dwelling, with provision for semi-detached dwellings at 250m <sup>2</sup> and (on the lower terrace) defined medium density housing areas at 200m <sup>2</sup> / dwellings. Note: all of these density allowances apply to that part of Plan Change 2 fronting Pukehāngi Road (the Lower	The average dwelling density for Parklands is 1 / 7832m <sup>2</sup> (minimum site size approx. 3,000m <sup>2</sup> ).  The average estimated density for Plan Change 2 is 790 dwellings over 160ha = 1 / 2025m <sup>2</sup> , i.e. almost 4 times the Parklands density.
Building Location (NB also determines yards)	Defined Building Platform	No defined building platforms. A landscape assessment is required only for the Escarpment Transition Areas.	Parklands has been developed with defined building platforms across the entire area (throughout the terraces and escarpment landscape features).
Height	5m (Area A); 7.5m (Area B)	7.5m (9m for medium density development)	Plan Change 2 allows an extra 2.5m height allowed in comparable areas. It is noted that a 7.5m height applies across Rotorua's residential areas – the fact that a 5m height applies for 70% of the Parkland's area is therefore significant in respect of what has been considered to be necessary to respect this landscape.
Roof Design	60% roof gable or hip	N/A	Plan Change 2 has no standards for roof design
Site Coverage	400m <sup>2</sup> ; Area B requires building form broken up where over 250m <sup>2</sup> , with other controls on two-storey buildings		The minimum-sized site in Parklands is about 3,000m <sup>2</sup> . The 400m <sup>2</sup> allowance represents a 13% coverage allowance – it is generally much less than this as most sites are much larger than this (the submitter's site is 5252m <sup>2</sup> )
Reflectivity	Walls up to 37%, roofs 25%	Managed in Escarpment Management Areas only – 37% for walls and roofs, 25% for fences and retaining walls	Plan Change 2 has lesser standards for reflectivity.
Landscaping / Revegetation	A comprehensive set of landscaping / revegetation requirements (see comment on outcome described above)	Mitigation planting required only in the upper escarpment and escarpment transition areas.	Plan Change 2 envisages mitigation planting in limited areas, relying in those areas on landscape assessments to detail what that mitigation planting will entail.

8.13 The Hunt family oppose the submission of the Johnston Family Trust, L Harvey, M Shasha and W Derrick. The Hunt Family state the plan change should not be withdrawn as this would be contrary to the Rotorua Housing Accord and the National Policy Statement for Urban Development Capacity and

would worsen the current lack of greenfields land (further submission 6.16). The Hunt Family point out that (further submission 6.17, 6.18, 6.20, 6.44):

- The proposed Rural 2 zone is below the RL385 contour for which there are no specific protections in the District Plan.
- Boffa Miskell has concluded the lower and upper terraces can generally be developed for residential use with moderate-low landscape and visual effects (but that development on the more prominent escarpment edges requires careful design).
- The plan change includes various landscape protection provisions that provide confidence that the effects of future development on landscape and amenity will be thoroughly considered and assessed through the consent process.

8.14 Utuhina Valley Farms seek the following in relation to landscape, ecological and amenity concerns:

- That no development be provided for on the caldera rim (submission 21.0).
- Any high / medium density development is confined to the areas shown in the [structure plan] and that the Rural 2 Zone areas should either be left undeveloped or planted consistent with the adjacent Parklands planting or the lot sized increased significantly from what is proposed; with the exception of the mid-site escarpment and transition area within the Te Arawa Group Holdings Land that is close to the built up area of Matipo Avenue (submission 21.2).
- Planting is consistent with Pukehāngi Parklands Development (submission 21.3).
- The reflectivity requirement of 37% be imposed on all land within the plan change (submission 21.14).
- The current Residential 1 Zone performance standards for setbacks, outdoor living areas be adopted for the plan change. It notes these have been reduced in the plan change and submits there will be confusion and inconsistency and amenity will be compromised (submission 21.10)

Utuhina Valley Farm also seek changes to the standards for lot sizes in the mid-site escarpment area but their relief sought requires clarification (submission 21.13). The Hunt Family states that an averaging approach provides for greater choice in section sizes and design whilst balancing landscape, character and amenity values (further submission 6.38).

8.15 The Hunt Family's further submission makes the following points in response to Utuhina Valley Farm:

- It is unrealistic and non-specific to require no development on the caldera rim. The caldera rim has been divided into separate landscape areas of less sensitive and sensitive. There is already development on the caldera rim e.g. Matipo Heights, Springfield, Baxendale, Tihi-o-tonga. The landscape assessment for the plan change supports the development subject to controls to address key landscape matters (further submission 6.34).
- It does not support the Rural 2 Zone area being left as either undeveloped or planted or for lot sizes to be significantly increased. It considers the provisions are consistent with the landscape assessment (further submission 6.40).
- There is no reason to adhere to 37% reflectivity on the less visually prominent areas e.g. the lower contours of the site that are not on the visually prominent escarpments (further submission 6.39).
- The performance standards for the plan change area have been developed with advice from professionals from urban design, planning and landscape fields on a 'place based' basis and recognise that the existing Residential 1 Zone performance standards do not respond to

preferences for smaller sections and more efficient use of residential land (further submission 6.35).

- 8.16 G and H Bell, who own a property surrounded by the Hunt Farm, are concerned about the visual impact of the subdivision on their property and seek:
- Some control of planted areas in front of their home with regard to heights and species (submission 46.3).
  - Significant planting be undertaken to protect their privacy, visual outlook and screening from neighbours (submission 46.0).
- 8.17 G and H Bell also seek the following in relation to the plan change more generally:
- Protection of the natural vista of the caldera, for example through house colours, minimising streetlight glare (submission 46.4).
  - Special amenity provisions placed on the subdivision such as wider roads and dimmed street lighting to make the subdivision more aesthetically pleasing (submission 46.3).

### **Planning Framework**

#### *National Policy Statement on Urban Development 2020*

- 8.18 As explained above in section 6 of this report, the intent of the new national policy statement, is to ensure regional policy statements and district plans provide adequate opportunity for land development for business and housing to meet community needs.<sup>18</sup> This intent to provide urban development opportunities to respond to growth remains important to decisions this plan change and whether to manage the effects of urban development in a way that restricts opportunities for urban development.
- 8.19 Important to the issues raised in this section of the report with regards to amenity values, Policy 6 states:
- When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*
- a) *the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
  - b) *that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes: (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and (ii) are not, of themselves, an adverse effect*
  - c) *the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*
  - d) *any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*
  - e) ....
- 8.20 While parts of the plan change area have been identified in the District Plan as future growth areas, this occurred before the national policy statement. Nonetheless, the acknowledgement that the

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<sup>18</sup> Ministry for the Environment, 2020. *Introductory guide to the National Policy Statement on Urban Development 2020*. Ministry for the Environment, Wellington.

planning of the future urban form may involve changes to an area that detract from some amenity values but may have positive impacts on other amenity values through the provision of housing; and the requirement to give regard to contribution to development capacity, are important.

#### *Regional Policy Statement*

- 8.21 The landscape provisions of the Regional Policy Statement concentrates on outstanding natural landscapes and features and no relevant provisions are identified. However, the Regional Policy Statement does contain objectives and policies on urban form and urban design of some relevance to submissions addressing amenity concerns:

##### **Objective 23**

*A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth.*

##### **Policy UG 8B: Implementing high quality urban design and live-work-play principles.**

*Demonstrate adherence to the New Zealand Urban Design Protocol (March 2005) key urban design qualities. In achieving this, territorial authorities shall implement the region's "high quality urban design" and "live-work-play" principles as outlined in Appendix B, and additionally appropriate social infrastructure necessary to cater for an aging population, and include appropriate policies, methods and other techniques in their district plans and strategies.*

*This policy shall not apply to land use change (such as rural-residential or lifestyle development) within the rural catchments of the Rotorua lakes where such change will result in a significant reduction in nutrient losses from existing rural land uses.*

#### *District Plan*

- 8.22 Relevant landscape and amenity objectives for evaluating the changes sought by submitters include objective 12.3.4, which addresses the potential impact of future growth on amenity values associated with the Rotorua caldera landscape and adjacent zones. This and the related policies are:

##### **Objective 12.3.4**

*The amenity values associated with the Rotorua caldera landscape and adjacent zones is maintained when subdivision and development occurs.*

**Policy 12.3.4.1** *Ensure that any development in the future development areas does not have an adverse impact on the caldera landscape.*

**Policy 12.3.4.2** *Manage development to ensure it will not unduly conflict with existing activities on adjoining properties, compromise future urban development potential or give rise to adverse effects on the amenity of the caldera.*

**Policy 12.3.4.3** *Ensure subdivision and development is designed in a manner that is cognisant of the amenity values associated with the Rotorua caldera and differences in amenity values within adjacent zones.*

- 8.23 Objective 12.3.1, addressing the need to provide for growth and development choice are also relevant to the consideration of the landscape and amenity provisions, as well as many of the other provisions for this plan change:

##### **Objective 12.3.1**

*Sufficient land area suited for future urban and economic development that provides for the residents of Rotorua with a range of lifestyle and development choices.*

8.24 Also applicable to the rural zoned part of the plan change area are the following objectives and policies for character, amenity values and the landscape of the Rotorua Caldera.

**Objective 9.3.3**

*The character and amenity values of the rural environment are maintained and enhanced.*

**Policy 9.3.3.1** *Ensure land use change does not create adverse effects on rural character and amenity values.*

**Policy 9.3.3.2** *Enable activities that enhance the rural character and amenity in the rural zone, including:*

- *Diverse land uses*
- *Maintaining the diverse landscape types*
- *A low density of buildings and generous separation distances between dwellings and other buildings*
- *Buildings that are subordinate to the surrounding landscape*
- *An open vegetated landscape*
- *No continuous ribbons of residential development along roads*
- *Low levels of artificial light*
- *Unobtrusive and limited signage*
- *Minimal earthworks or changes to landform associated with new subdivision, use or development*
- *No continuous ribbons of residential development along roads*
- *Low levels of artificial light*
- *Unobtrusive and limited signage*
- *Minimal earthworks or changes to landform associated with new subdivision, use or development*

**Objective 9.3.6**

*The rural character of the sensitive landscape area of the Rotorua caldera is maintained to provide a visual setting to the lake, its margins and the urban area of Rotorua.*

**Policy 9.3.6.1** *Maintain the distinctive natural landscape feature of the sensitive rural area in the Rotorua caldera through:*

- *Confining buildings predominantly to lake terraces*
- *Minimising the visual effects associated with new subdivision, use and development*
- *Limiting earthworks associated with new subdivision*
- *Integrating buildings into the landscape by making use of indigenous vegetation and existing topographical features*

**Policy 9.3.6.2** *Ensure that subdivision, use and development within the sensitive landscape area is consistent with the design guidance of the Boffa Miskell Ltd report 'Rotorua Caldera Rim – Caldera Rim Rural Character Design Guideline, September 2012' in order to protect and enhance the natural landscape of the caldera as a setting for the lake, its margins and the urban areas of Rotorua.*

**Policy 9.3.6.3** *Manage the effects of activities within the sensitive landscape area in the Rotorua caldera to ensure that its character and amenity is maintained by:*

- *Avoiding subdivision, use and development that may lead to significant landscape and visual adverse effects through the design and location of buildings, roads and infrastructure*
- *Providing for limited subdivision use and development within the sensitive landscape area*
- *Promoting subdivision use and development in areas that are screened from public view by existing development, landscape features or natural topography*

- *Ensuring that the intensity and scale of proposed subdivision or land use in the sensitive landscape area does not create adverse cumulative effects*

8.25 A number of amenity objectives and policies for residential zones are also relevant, which address matters such as daylight, privacy, outdoor space, residential character. These are supplemented by the proposed objectives 1 and 2 for the plan change area:

**Objective 1: Pukehāngi Heights Development Area – Landscape Values**

*Maintain the valued landscape character and amenity values associated with the wider caldera rim while enabling development that is consistent with the principles of the Pukehāngi Heights Development Area Structure Plan and visually integrates with surrounding land uses.*

**Objective 2: Pukehāngi Heights Development Area – Integrated Urban Design**

*The environmental quality, character, amenity and cultural values of the Pukehāngi Heights Development Area are developed and then maintained and enhanced through appropriate urban planning and design.*

**Evaluation**

*Loss of rural outlook*

- 8.26 In responding to M Reesby's submission on the loss of rural outlook, reference is made to the Boffa Miskell 2019 Landscape and Visual Assessment. Boffa Miskell acknowledges that the proposal introduces a distinct land-use change within the landscape, which in turn presents a recognisable change in the visual outlook towards the site. Boffa Miskell conclude that a moderate landscape change is anticipated to occur due to this distinct land-use change and introduction of built form across a large extent. However, it is also found that through the planning provisions the development will integrate into the receiving environment so that the potential *adverse* landscape effects will be low to moderate.
- 8.27 These planning provisions, which align densities to the visual sensitivity of the landform features and promote planting to soften the impact of the buildings and integrate the development with Parklands, may be of little comfort to the residents directly opposite on Pukehāngi Road. For these residents, the loss of pastoral landscape on the lower terrace and mid-site escarpment will present a significant change; and this is acknowledged in the Landscape and Visual Assessment. However, it is not considered that this change in visual outlook needs to be addressed in the plan change. There are no objectives to protect this rural outlook for the immediate neighbours.
- 8.28 Further advice was also sought on the submissions on this matter from Rebecca Ryder, Landscape Architect for Boffa Miskell.<sup>19</sup> Consistent with assessment above, Ms Ryder advised:
- There will be an immediate loss of rural amenity attributed with the site, however at a broader scale the character of the caldera rim feature will be maintained. The change in character will occur as a result of the proposed plan change, however this is not in itself inappropriate in my opinion give the context of the site and its placement adjoining the existing urban development.*

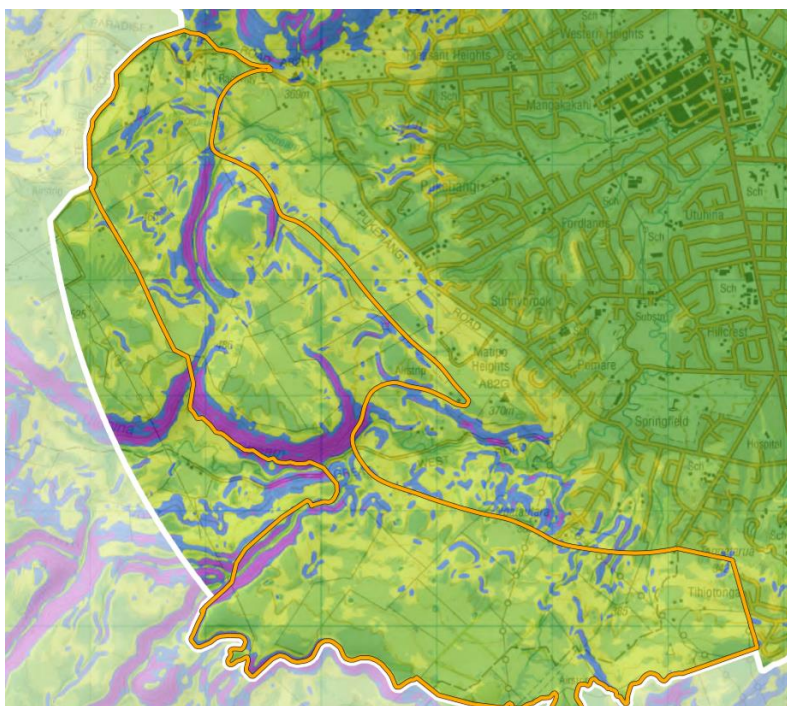
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<sup>19</sup> Rebecca Ryder, 26 June 2020, Pukehāngi Plan Change – Landscape Provisions Technical Advice. *Letter to Kim Smith, Rotorua Lakes Council.*

*The broader urban and rural landscape character and the interface have been considered and integrated into the proposed plan change.*

*Development on the caldera rim*

- 8.29 It is agreed with the Hunt Family that the Utuhina Valley Farm’s submission seeking no development on the caldera rim lacks specificity. The plan change area lies within the caldera rim as identified in the Boffa Miskell 2012 Caldera Rim Report. However, Boffa Miskell found that the visually prominent landform does not include all of the elevated land of the caldera rim. Boffa Miskell mark the boundary between more sensitive and less sensitive areas in Pukehāngi Heights at approximately the 385m contour. The area proposed for development under the plan change provisions is, therefore, in the less sensitive area.
- 8.30 While Boffa Miskell acknowledged the less sensitive areas of the caldera rim still have important amenity values, they consider they have greater ability to accommodate change due to existing vegetation cover, lower visibility from public viewpoints and the undulating topography. Boffa Miskell considered that the lower slopes of [Pukehāngi Heights] have some ability to create connections with the surrounding residential development, however above the RL385m contour the rural character of the site should be maintained.



*Figure 2 Pukehāngi Sensitive Rural Area, 2012 Caldera Rim Report (yellow boundary)*

- 8.31 The 2019 Boffa Miskell Landscape and Visual Effects Assessment, specifically addressing the plan change area, found that confining development beneath the RL385 contour ensures the protection of the recognised broader representation of the caldera rim landscape and feature. Boffa Miskell noted that the proposed built form is consistent in geographical extent and location to that of other existing development within the caldera, including residential areas within Tihi-o-Tonga, Springfield and Lynmore, which are all located in similar proximity to the caldera rim as that of the proposed development area. It was also noted that the objectives and policies relating to the protection of the caldera rim in rural zones are limited to the area identified as sensitive.



8.32 It is considered that the development provided for in the plan change is consistent with the advice for protection of the caldera rim and will not have an adverse effect on the caldera landscape. As noted above, additional advice was also received from Ms Ryder from Boffa Miskell after the submission period that supports this position: While there will be an immediate loss of rural amenity attributed with the site, at a broader scale, the character of the caldera rim feature will be maintained.

*Appropriateness of development density*

8.33 Several submitters question the development density provided in the plan change.

- Submitters from Parklands Estate, who seek rejection of the plan change or similar development standards to the Parklands Estate, note the average estimated density for the plan change area is over four times higher than in Parklands.
- Utuhina Valley Farm seeks no development or substantially larger lots on the mid-site escarpment (except close to Matipo Avenue); and that the Residential 1 Zone provisions for setbacks are not reduced and remain consistent with the remainder of the zone.

8.34 It is not considered that the plan change should provide yields similar to Parklands Estate. With the introduction of the National Policy Statement for Urban Development 2020 and the recognition of the housing shortage in Rotorua, the planning context has changed. It is considered that more efficient use of the land and infrastructure can be achieved below the 385m contour without adverse effects on the caldera landscape and meeting the character and amenity objectives and policies for the rural zone and residential zones and promoting objective 12.3.1 regarding growth and development choice.

8.35 With respect to the mid-site escarpment, the 2019 Landscape and Visual Assessment supports the proposal for lower density development on this more sensitive area. The authors consider that the provisions that addressing size, scale, form, colour and density of the built form will ensure the visual prominence of the built form is mitigated. Vegetation would mature alongside the development phases, nestling built form into the visual landscape.

8.36 With respect to the Residential 1 Zone, it is agreed with the Hunt Family that the plan change, through reduced yards as well as provision for semi-detached units and medium density development, assists to better respond to preferences for smaller sections and more efficient use of residential land, development choice and objective 12.3.1 than the existing Residential 1 Zone provisions.

*Reflectivity*

8.37 The following reflectivity performance standards are proposed under the plan change for the Escarpment Transition Areas and the Mid-Site Escarpment:

- 37% for external walls, roofs and (in Escarpment Transition Area 2 and the Mid-Site Escarpment) joinery;
- 25% for painted unscreened retaining walls

8.38 The landowners within Parklands Estate, which seek that that the Parklands Estate standards apply to the plan change area, note that reflectivity standards of 37% for walls and 25% for roofs apply across the entire Parklands Estate.

8.39 Ms Ryder was asked for advice in responding to this submission point.<sup>20</sup> In her view, reflectivity for roofs could be reduced to 25% for the more visually prominent areas (the transition areas and the Mid-Site Escarpment) and 37% retained for walls and joinery. It is considered the performance standards should be amended accordingly. She did not consider it necessary to impose reflectivity restrictions on the lower terrace.

#### *Earthworks*

8.40 In response to M Reesby's concern about the visual impact of earthworks it is noted that the plan change includes the following protections against adverse visual effects in the more prominent escarpments and transition areas of the terraces:

- A requirement for landscape and visual assessment to support subdivision.
- Policy 1.5 (Mid-site-escarpment) that seeks building platforms located to minimise the need for extensive earthworks, as well as revegetation to minimise the visibility of roads and accessways.
- Performance standards for screening of retaining walls or construction with low visibility materials in the transition areas.
- A zoning pattern that follows the landform (denser development on the flatter terraces) to reduce the need for earthworks.

8.41 For the residential parts of the site, earthworks will be considered as part of the subdivision process.

8.42 It is considered that the plan change addresses the potential negative visual effects of earthworks more effectively than the existing provisions. No additional protections are considered necessary.

#### *Height and Views*

8.43 With respect to covenanting of height limits to prevent the blocking of views, which is sought by Pukehāngi Parklands Estate Inc, it is considered:

- The landscape concept plan and visual assessment required for subdivisions in the mid-site escarpment; and the landscape and visual assessment required for subdivision in the Transition Areas provides an opportunity to consider the visual effects including the effects on adjoining landowners.
- The blocking of views is more likely to be an issue in the mid-site escarpment where sites are elevated. Policy 1.4 seeks to allow view shafts from all identified building platforms in the mid-site escarpment, which will be considered in the assessment of planting plans / landscape concept plan and visual assessments. The proposed provisions also contain reduced building height limits for the mid-site escarpment.
- Land ownership is predominantly in large blocks, which provides potential to consider private covenants during the fragmentation of the land at subdivision.

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<sup>20</sup> Rebecca Ryder, 26 June 2020. Pukehāngi Plan Change – Landscape Provisions Technical Advice. *Letter to Kim Smith, Rotorua Lakes Council.*

- 8.44 Therefore, it is agreed with the Hunt Family that the covenanting of height restrictions to further prevent the blocking of views is a matter that should be left to the discretion of each developer.
- 8.45 In response to G and H Bell's concerns about plant heights near their home it is noted that the home and the surrounding development will be located in the mid-site escarpment. It is considered that the above Policy 1.4 is sufficient to ensure views are taken into account for planting plans in this area.
- 8.46 Ms Ryder's advice is also that further height restrictions are not required for the proposed plan change. She considers that the inclusion of 6m controls for the more sensitive parts of the plan change area, alongside a landscape and visual assessment is, at this stage, suitable for highlighting the sensitivities of the site alongside considering the visual effects at the time of subdivision. She considers the balancing of vegetation with built form and integration with the character of adjoining development has a suitable rule framework.

#### *Street lighting*

- 8.47 Ms Ryder, in response to the submission by G and H Bell seeking special conditions on street lighting, noted that street lighting in sensitive areas of the escarpment has the potential to introduce adverse visual effects in the evening.<sup>21</sup> Ms Ryder suggests an approach for sensitive parts of the plan change area is to ensure street lighting remains subservient to the building form and eventual vegetation heights within the area.
- 8.48 It is agreed with Ms Ryder that these effects can be addressed at subdivision stage through the landscape and visual assessments required in the performance standards. No changes to the plan change provisions are considered necessary.
- 8.49 It is also noted that Policy 9.3.3.2 seeks low levels of artificial light in rural zones, which will provide guidance to the landscape and visual assessment and the setting of conditions for street lighting at subdivision in the rural part of the plan change area.
- 8.50 It is also noted that the movement to LED lighting in the conditions for subdivision consents will help to promote an attractive street environment with reduced adverse effects on residents. LED lighting has the benefit of reduced light pollution with less unwanted spill into other neighbouring properties and into the night sky.<sup>22</sup>

#### *Roof Design*

- 8.51 It is not considered, in response to the Parklands Estate landowners, that the plan change should control roof design. Instead, design controls could potentially be included following the landscape and visual assessment required for subdivision if considered appropriate. This is consistent with the advice from Ms Ryder on the matters raised in submissions.<sup>23</sup>

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<sup>21</sup> Rebecca Ryder, 26 June 2020. Pukehāngi Plan Change – Landscape Provisions Technical Advice. *Letter to Kim Smith, Rotorua Lakes Council.*

<sup>22</sup> P Glennie, Thus Consulting for McKay, June 2019. Rotorua Lakes Council LED street lighting business case. *Report prepared for Rotorua Lakes Council.*

<sup>23</sup> Rebecca Ryder, 26 June 2020. Pukehāngi Plan Change – Landscape Provisions Technical Advice. *Letter to Kim Smith, Rotorua Lakes Council.*

### *Planting Buffer*

- 8.52 It is agreed with the Hunt Family that the planting buffer of 15-20m along the boundary between any residential lot and the edge of Parklands, which is sought by Pukehāngi Parklands Estate Inc, should not be included in the plan change for the reasons noted by the Hunt Family. In particular, there is already planting along the boundary abutting the plan change area and reasonable house setbacks; with the closest house approximately 7.5m-8m from the boundary.



*Figure 3 Boundaries between plan change area and Parklands Estate*

- 8.53 It is also not considered necessary to make any changes with respect to planting around the property of G and H Bell to screen future neighbours. The property is surrounded primarily by the mid-site escarpment. The policies and rules that promote revegetation and lower density development are considered sufficient.
- 8.54 However, it is considered that the structure plan should indicate provision for additional screening planting along the boundary with Parklands Estate adjacent to the proposed stormwater / recreation area. Existing planting along the boundary of these properties does not extend as far back as in other areas and the potential for active recreation presents the risk of increased adverse effects to the neighbouring Parklands properties (refer to the 'Other' section of this report).

### *Traffic Noise*

- 8.55 It is acknowledged that the development will increase traffic along Pukehāngi Road. However, Council staff are currently developing a proposal to reduce the speed to 50km/hour as part of a wider review of speed limits and expect to present this to Council to approve consultation later this year. If adopted, the speed reduction should help to reduce traffic noise.<sup>24</sup>

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<sup>24</sup> Comms. P. Dine, Infrastructure Capital Programmes Manager, June 2020.

*Additional specificity of development*

- 8.56 In response to aspects of the Pukehāngi Parklands Estate Inc. and Parklands Estate landowners' submissions that seek additional details on lot layouts, building platform locations and planting it is acknowledged that it is difficult to envisage future development in detail on the basis of the proposed performance standards and rules. However, lot layout, building platforms and planting details are customarily left to be determined at subdivision stage. While it is potentially feasible to direct such details through structure planning and performance standards similar to the Parklands Estate development plan, this would require significant additional research and work with landowners and is not considered an efficient use of resources. Undertaking the work now is likely to result in wasted effort as knowledge and development preferences change over time.

**Recommendation**

- 8.57 Further submissions 6.23, 6.34, 6.35, 6.39, 6.40 (Hunt Family) be accepted.
- 8.58 Submissions 4.1 (Pukehāngi Parklands Estate Inc.) 27.0, 27.1, 29.0, 29.1, 30.0, 30.1, 31.0 and 31.1 (W Derrick, L Harvey, M Shasha and the Johnston Family Trust), 41.0 (J Revell), 46.0, 46.3 and 46.4 (G and H Bell) and further submissions 1.1, 1.2 and 1.5 (M Reesby) and 6.17, 6.18, 6.20, 6.22, 6.40 (Hunt Family) be partly accepted.
- 8.59 Submissions 1.0, 1.1 (M Reesby), 4.3 (Pukehāngi Parklands Estate Inc.) 21.0, 21.2, 21.3, 21.10 and 21.14 (Utuhina Valley Farm) and further submissions 1.7 (M Reesby) be rejected.
- 8.60 (No recommendation is given in regards to submission 21.13 (Utuhina Valley Farm) and the related further submission 6.38 (Hunt Family) as the relief requires clarification).
- 8.61 Amend performance standards for reflectivity as follows:

**A5.2.3 Rules - Pukehāngi Heights Development Area - Residential 1**

...

**A5.2.3.3 Performance Standards - Land Use**

...

**7 Protection of Landscape Values in Escarpment Transition Area 1**

a. Reflectivity:

- i. The reflectivity value of external walls and ~~joinery-roofs~~ shall not exceed 37%.
- ii. The reflectivity value of roofs shall not exceed 25%

b. Fences and retaining walls:

- i. Retaining walls shall not exceed 2m in height; and
- ii. Retaining walls shall be screened with planting or constructed of low visibility materials such as, natural materials including stone and timber that weather naturally, or if painted, colours with a reflectivity value that shall not exceed 25%.

**8 Protection of Landscape Values in Escarpment Transition Area 2**

...

e. Reflectivity:

- i. The reflectivity value of external walls, ~~roofs~~ and joinery shall not exceed 37%.
- ii. The reflectivity value of roofs shall not exceed 25%

- f. Fences and retaining walls: Fencing or retaining walls (excluding front boundary fences) shall be screened with planting or constructed of low visibility materials such as, natural materials including stone and timber that weather naturally, or if painted, colours with a reflectivity value that shall not exceed 25%.

...

**A5.2.4 Rules - Pukehāngi Heights Development Area Mid Site Escarpment - Rural 2 Zone**

...

**6 Reflectivity**

- i. The reflectivity value of external walls, ~~roofs~~ and joinery shall not exceed 37%.*
- ii. The reflectivity value of roofs shall not exceed 25%.*

**7 Fencing or Retaining Walls**

*Fencing or retaining walls adjacent to the escarpment shall be screened with planting or constructed of low visibility materials such as, natural materials including stone and timber that weather naturally, or if painted, colours with a reflectivity value that shall not exceed 25%.*

- 8.62 Amend the structure plan to indicate provision for additional screening planting along the boundary with Parklands Estate adjacent to the proposed stormwater / recreation area.

**CULTURE, ARCHAEOLOGY AND HERITAGE**

**Background**

- 8.63 Council commissioned two reports in 2019 that are intended to assist understand the potential impacts of development on cultural values: a cultural impact assessment from Ngāti Kearoa Ngāti Tuarā supported by an archaeological assessment for the plan change area.<sup>25</sup>
- 8.64 The cultural impact assessment identifies that the development area lies within the traditional area of the Ngāti Kearoa Ngāti Tuarā and has, at different times, included other hapū of Te Arawa. Despite the lack of physical evidence, the strong cultural association with the area remains. The area is significant as a place of occupation for hundreds of years, as a meeting point between their ancestors' traditional homes of Horohoro, Tihi-o-Tonga, Tārewa and Patetere. Key cultural features include:
- Puketapu pā site;
  - Pukehāngi pā site in the neighbouring Parklands estate;
  - The north-facing slopes that were used extensively as mahinga kai.

A detailed list of sites was also made available to the Council in confidence, to be used for the plan change and to be made available on approval to resource consent applicants.

- 8.65 The cultural impact assessment states enduring relationships need to be recognised and provided for with significant sites and taonga. Iwi consider that landscape experts should carry out a further assessment taking into account the cultural impact assessment to inform the structure plan. The cultural impact assessment stresses that the focus should be on the broader assessment of cultural values rather than limited to where physical evidence remains.
- 8.66 It is also recommended that acknowledgement of the broader occupation of the lands by Ngāti Kearoa Ngāti Tuarā is provided, in ways agreed by Ngāti Kearoa Ngāti Tuarā. The assessment identifies that this could occur through the naming of reserves.

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<sup>25</sup> Te Rūnanga o Ngāti Kearoa Ngāti Tuarā, August 2019. An Assessment of the Cultural Impact of the Proposed Pukehāngi Heights Development. *Report prepared for Rotorua Lakes Council*; Phillips C., 2019. Assessment for Exploratory Archaeological Authority: Pukehāngi Heights. *Report prepared for Rotorua Lakes Council*.

- 8.67 The cultural impact assessment also states that the sites identified in the archaeological study should be clearly marked and protected, preferably by locating them within reserves with guaranteed access for Ngāti Kearoa Ngāti Tuarā.
- 8.68 Ngāti Kearoa Ngāti Tuarā overall position as set out in the assessment is that they cannot support the plan change but they acknowledge that they may be able to support the proposal when the concerns raised and recommendations are satisfactorily addressed.
- 8.69 The archaeological assessment identifies the broad natural terraces were likely to have been occupied and gardened by Māori (soils are well-drained and would have suited gardening). High points on the ground above, and between the two terraces, could have been used for storage and defence. A recorded pā site (Pukehāngi) is located a high point, overlooking the area. Early maps show the land was predominantly or totally cleared of bush, which must have been cut by Māori. Further bush felling would have occurred after European arrival. The assessment refers to traditional accounts of gardened areas in the vicinity.
- 8.70 In August 2020, an Addendum to the Archaeological Exploratory Investigation was received. This provided the results of radiocarbon dating of a piece of burnt wood from the archaeological site on the Te Arawa Group Holdings block (U16/186). The wood is estimated to have been burnt between 1500 and 1630 providing at least one date for Māori occupation of site U16/186.
- 8.71 The proposed plan change seeks to ensure protection of the cultural values in the following ways:
- A specific policy on cultural identity, landscapes and values (Policy 2.9):  
*Ensuring that subdivision, use and development expresses the cultural history and identity of Tangata Whenua, recognises the cultural landscape, and recognises and protects the values of cultural sites and areas within the Development Area by:*
    - Consulting with Tangata Whenua through the design and planning stages of development;
    - Expressing cultural identity through measures such as the inclusion of structures or art in public spaces, interpretation plaques, a cultural trail, place naming;
    - Recognising that the Development Area forms part of a wider cultural landscape for Ngāti Kea Ngāti Tuarā;
    - Identifying cultural sites and areas, and providing legal and practical access for Tangata Whenua;
    - Assessing the values and associations of identified cultural sites and areas, and the wider cultural landscape; and
    - Mitigating adverse effects on the values and associations of identified sites and areas.
  - Identification of the archaeological sites from the archaeological assessment in the structure plan.
  - Performance standards for subdivision in the Residential 1 Zone that require applications to (A5.2.3.4.10):
    - report on outcomes of consultation with Ngāti Kea Ngāti Tuarā.
    - identify measures to express cultural identity with the land, including incorporation of landmark features such as traditional or contemporary art into the street network; identification of street names that reflect cultural associations of tangata whenua.
    - identify measures to recognise the wider cultural landscape.

- identify how heritage values will be protected including how archaeological sites will be integrated into the developments and how impacts will be monitored.
- include proposals for provision of access by tangata whenua to any archaeological sites and the on-going management of these sites.
- include mechanisms, for example, cultural awareness training or pre-start meetings, to ensure contractors are aware of the potential for archaeological discoveries and the protocols to be followed.
- Similar performance standards for subdivision in the mid-site escarpment, but limited to where the subdivision includes an archaeological or cultural site identified on the structure plan.
- Restricted discretionary subdivision rules for sites that include a site of archaeological or cultural importance (A5.2.3.1.11)
- Pukehāngi Pa is also marked on the structure plan.

### ***Submissions***

- 8.72 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust state that the proposal for the development of Pukehāngi Heights will result in the land being completely and starkly alienated with substantial adverse effects on the cultural values of Ngāti Kearoa Ngāti Tuarā and other hapū of Te Arawa. To help mitigate these effects, the trust recommends that Council continue ongoing consultation and collaboration with Ngāti Kearoa Ngāti Tuarā, as part of the Pukehāngi development process, to inform decisions on land use, subdivision and development and taking into account the Iwi Environmental Management Plan. The rūnanga also seeks that Council acknowledge the Ngāti Kearoa Ngāti Tuarā history of, and relationship with, the Pukehāngi area through the plan change and development process. They are pleased that the Rotorua Lakes Council has now entered into discussions with Ngāti Kearoa Ngāti Tuarā to work toward a Memo of Understanding which formalises the relationship and ensures that the aspirations of both the iwi and Council are progressed in a collaborative and mutually beneficial manner.
- 8.73 In terms of the specifics of the plan change provisions, Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust note that Policy 2.9 only refers to cultural sites within the development area and seek that the policy be expanded to refer to include downstream areas affected by development such as cultural sites at Tarewa (submission 22.0).
- 8.74 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust also seeks that the performance standards for subdivision are expanded to include cultural sites identified by traditional stories despite no physical evidence remaining and archaeological sites uncovered (submission 22.0).
- 8.75 Ngāti Whakaue -Te Kōmiro o te Utuhina and Te Arawa Lakes Trust support the provisions included to address cultural impacts. They are pleased to see that the Council has responded to recommendations by adding an expanded tangata whenua consultation and engagement policy (Policy 2.9). However, they submit that development of the area may have cultural impacts on other iwi and hapū and seek that provisions be expanded to reference other iwi and hapū. In this regard, they seek amendments to the introduction and Policy 2.9 (submission 42.0 and 10.0, 10.1 and 10.3) and performance standards (submission 42.1 and 10.1). BOPRC supports the submission of Te Arawa Lakes Trust on these points (further submissions 7.1, 7.2 and 7.3).



- 8.76 Te Arawa Group Holdings Limited, as a Te Arawa entity, supports submission 10.0 to the extent that the Council ensures inclusive and meaningful consultation with tangata whenua (further submission 2.4). The Hunt Family also supports submission 10.0 in terms of expansion to other iwi and hapū (further submission 6.29).
- 8.77 Ngāti Whakaue -Te Kōmiro o te Utuhina and Te Arawa Lakes Trust seek that performance standards to address cultural impacts also be applied to land use applications (submission 42.1 and 10.1). This is also supported by the Hunt Family (further submission 6.30).
- 8.78 Ngāti Whakaue -Te Kōmiro o te Utuhina and Te Arawa Lakes Trust also seek amendments to Policy 2.9 to allow for a process for altering subdivision and development plans to accommodate the discovery of culturally significant sites within the area. They submit this could be achieved by amending the last bullet point to refer to ‘mitigating, remedying or avoiding adverse effects on discovered, as well as already identified, cultural sites and areas (submission 42.2 and 10.2).
- 8.79 In addition, Ngāti Whakaue -Te Kōmiro o te Utuhina and Te Arawa Lakes Trust seek that sites be labelled on the structure plan as archaeological **and cultural** sites (submission 42.1 and 10.1).
- 8.80 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana seek that Council address concerns of Ngāti Kearoa Ngāti Tuarā as outlined in their cultural impact assessment. They consider that if the development proceeds it will be to the detriment of waahi tapu, waahi tupuna and their cultural values (submissions 8.2, 23.2, 24.2 and 25.2).
- 8.81 HNZPT seeks amendments to the policies to create a cascade of provisions that support the rules and performance standards relating to archaeological sites (submission 9.0). This submission is supported in part by Te Arawa Group Holdings Limited. The company notes there are already provisions in the District Plan but sees no issue with further policies but seeks that the Council consider the issue (further submission 2.2).
- 8.82 HNZPT also seeks that the rule framework be improved to provide greater certainty and clarity regarding the archaeological and cultural sites that are to be considered under the provisions and how they will be protected. It submits it is unclear within the proposed provisions if consideration is constrained to those sites already scheduled, those identified in the archaeological report and cultural impact report or if there is scope for newly identified sites to be protected within the development process. HNZPT consider the varying language used to reference sites through the rules and performance standards creates further uncertainty, for example:
- Residential 1 Zone rules refer to subdivision as a restricted discretionary activity ‘where the site includes a site of archaeological or cultural importance’
  - Performance standards refer to ‘any archaeological site’
  - In the Rural 2 Zone consideration of archaeological and cultural sites appears to be limited to those sites identified on the structure plan.
- HNZPT notes that the structure plan could be used to assist in providing for the protection of archaeological and cultural sites, which could include marking areas where development is inappropriate (submission 9.2).
- 8.83 Te Arawa Group Holdings and The Hunt Family support submission 9.2 to the extent that clarity be provided as to the sites protected (further submission 2.3, 6.11 and 6.13).

- 8.84 HNZPT seeks that the performance standards at A5.2.4.4.6 and any similar provisions are amended to include consultation with HNZPT. It submits that management and protection of archaeological site processes should be discussed and developed in consultation with HNZPT to ensure that any proposed works do not trigger the need for an archaeological authority (submission 9.1). This is supported by the Hunt Family (further submission 6.12).
- 8.85 HNZPT also seek an advice note within appendix 5 that an HNZPT archaeological authority is required should an archaeological site, recorded or unrecorded be damaged or destroyed (submission 9.3). This is supported by the Hunt Family (further submission 6.14).
- 8.86 M Reesby opposes the plan change (submission 1.1). Her further submission notes that impacts on cultural values are one of her concerns; she notes the area is a war area with bodies in the land (further submission 1.3).
- 8.87 Pukehāngi Parklands Estate Inc submit that they have no intention of ever granting access to private land for a walkway to provide a link for a caldera rim walkway (submission 4.4).
- 8.88 J van der Waals provided a marked up structure plan showing the area currently occupied by a phoenix palm where the original homestead (1919) was located. She seeks that the London plane tree (which provided shade for the stockyards) and row of Lawson cypress trees opposite Malfroy and Pukehāngi Roads intersection be protected and/or incorporated into the new development. She also seeks that the shearing shed and surrounding outbuildings are saved to preserve the heritage and history of the area for future generations (submission 45.0).

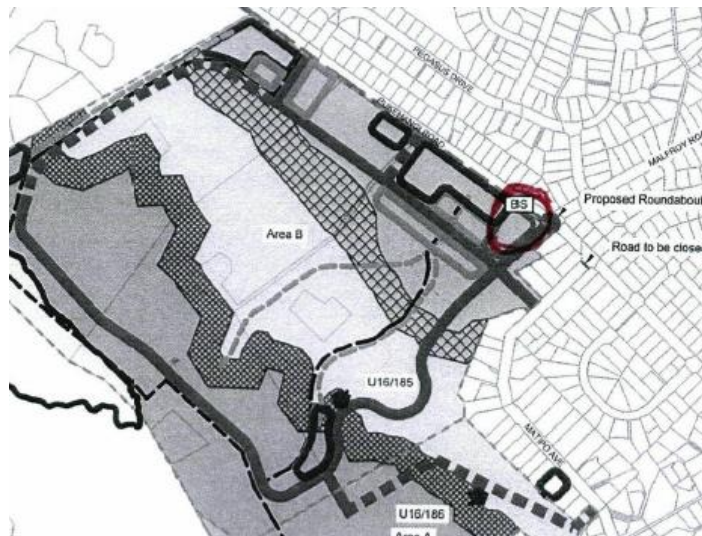


Figure 4 Marked up structure plan showing location of original homestead

- 8.89 The Hunt Family oppose the submission by J van der Waals. The family state that protection of the trees listed would adversely affect the ability to provide for community retail/commercial uses and the row of cypress must be removed to provide for the proposed roundabout and the safe entry/egress into the proposed primary road connection. While they agree the shearing shed and surrounding buildings are iconic, they do not support their preservation or protection, stating the buildings (further submission 6.15):
- are derelict, hazardous and not salvageable
  - located in areas indicated for stormwater attenuation / recreation or community retail and commercial uses.

- 8.90 G and H Bell also seek that the woolshed remain as a historical building, which they describe as part of a beautiful farmscape that they look down on (submission 46.4).
- 8.91 K and J Rogers state they are in full support of the plan change as long as cultural and environmental concerns are fully addressed and seek that Council respect cultural requirements (submissions 2.0 and 2.1).
- 8.92 Submissions on the future walkways indicated in the structure plan are addressed under the heading 'Other'.

#### **Other Comments Received**

- 8.93 Ngāti Kearoa Ngāti Tuarā have confirmed that they are wanting references to the Cultural Impact Assessment removed from the plan change text<sup>26</sup>.

#### **Planning Framework**

##### *Bay of Plenty Regional Policy Statement*

- 8.94 The relevant policies of the Regional Policy Statement include the following:

**Policy IW 2B:** *Recognising matters of significance to Māori Proposals which may affect the relationship of Māori and their culture and traditions must:*

- (a) *Recognise and provide for:*
- (i) *Traditional Māori uses and practices relating to natural and physical resources such as mahinga mātaītai, waahi tapu, papakāinga and taonga raranga;*
  - (ii) *The role of tangata whenua as kaitiaki of the mauri of their resources;*
  - (iii) *The mana whenua relationship of tangata whenua with, and their role as kaitiaki of, the mauri of natural resources;*
  - (iv) *Sites of cultural significance identified in iwi and hapū resource management plans; and*
- (b) *Recognise that only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*

**Policy IW 3B:** *Recognising the Treaty in the exercise of functions and powers under the Act Exercise the functions and powers of local authorities in a manner that:*

- (a) *Takes into account the principles of the Treaty of Waitangi; (b) Recognises that the principles of the Treaty will continue to evolve and be defined; (c) Promotes awareness and understanding of councils' obligations under the Act regarding the principles of the Treaty, tikanga Māori and kaupapa Māori, among council decision makers, staff and the community; (d) Recognises that tangata whenua, as indigenous peoples, have rights protected by the Treaty and that consequently the Act accords iwi a status distinct from that of interest groups and members of the public; and (e) Recognises the right of each iwi to define their own preferences for the sustainable management of natural and physical resources, where this is not inconsistent with the Act.*

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<sup>26</sup> Bargh, R., Ngāti Kearoa Ngāti Tuarā, August 2020. *Communications to Kate Dahm, Rotorua Lakes Council*. RDC-1045522

**Policy IW 4B:** Taking into account iwi and hapū resource management plans Ensure iwi and hapū resource management plans are taken into account in resource management decision making processes.

**Policy IW 5B:** Adverse effects on matters of significance to Māori

When considering proposals that may adversely affect any matter of significance to Māori recognise and provide for avoiding, remedying or mitigating adverse effects on:

- (a) The exercise of kaitiakitanga;
- (b) Mauri, particularly in relation to fresh, geothermal and coastal waters, land and air;
- (c) Mahinga kai and areas of natural resources used for customary purposes;
- (d) Places sites and areas with significant spiritual or cultural historic heritage value to tangata whenua; and
- (e) Existing and zoned marae or papakāinga land.

**Policy IW 6B:** Encouraging tangata whenua to identify measures to avoid, remedy or mitigate adverse cultural effects

Encourage tangata whenua to recommend appropriate measures to avoid, remedy or mitigate adverse environmental effects on cultural values, resources or sites, from the use and development activities as part of consultation for resource consent applications and in their own resource management plans.

8.95 The relevant District Plan objectives and policies include

**Objective 3.3.1** Sites of importance to tangata whenua are protected so that their cultural values are maintained and not adversely affected by new activities.

**Policy 3.3.1.1** Avoid activities that will adversely affect the spiritual and cultural heritage values of sites of importance to tangata whenua.

**Policy 3.3.1.2** Enable activities on sites of importance to tangata whenua that do not adversely affect the spiritual or cultural values of the site.

**Policy 3.3.1.3** Encourage consultation with tangata whenua where applications may affect identified and unidentified sites of spiritual and cultural significance of the land, water, wāahi tapu and tāonga.

**Policy 3.3.1.4** Manage effects of subdivision, use and development on those lands, water, wāahi tapu, tāonga and other areas of importance to tangata whenua.

**Objective 3.3.2** Resource management decisions that give appropriate weighting to the relationship of tangata whenua with water, the lakes, rivers, and streams of the district.

**Policy 3.3.2.1** Recognise the Te Arawa Lakes Trust as a partner in the management of the effects of activities on the district's water bodies, through requiring affected party approval, particularly in relation to the activities that may affect the beds of the lakes that the Trust is the owner of.

**Policy 3.3.2.3** Consider Iwi and Hapu management plans, or memoranda of understanding between Iwi and the council (available on the Council's website) when making decisions on resource consents and plan changes.

**Policy 4.3.2.1** Maintain the following qualities and characteristics of the Residential 1 zone:

- Low density residential areas
- A mix of single and two storey buildings
- A variety of building design and materials
- Balance between the built and natural elements of the environment
- A sense of space around buildings
- Space enhanced by on-site landscaping and trees within the road reserve
- Low levels of noise and
- Low traffic levels

**Policy 13.3.8.2** Require that subdivision maintains and enhances the character, landscape and amenity values of each zone in the district.

**Policy 13.3.8.5** Subdivision and development minimises adverse effects on existing vegetation that contributes to amenity and enhances the landscape of the surrounding area by:

- Retaining existing established trees and vegetation on sites, particularly where the vegetation:
  - i. Is next to a stream, river, wetland or lake margin
  - ii. Adds positively to the environment
  - iii Is an integral part of the wider landscape
- The appropriate revegetation and enhancement with native species.

#### *Ngāti Kearoa Ngāti Tuarā Environmental Management Plan*

8.96 The iwi environmental management plan includes policies and protocols relating to wāhi tapu, wāhi whakahirahira and the discovery of koiwi tangata (remains) or taonga tuturu (traditional artefacts). The iwi's cultural impact assessment expresses concern that there has been inadequate assessment of how the plan change aligns with these.

#### **Evaluation**

##### *Overall submissions on Cultural Sites and Cultural Identify*

8.97 In response to the submissions from Ngāti Kearoa Ngāti Tuarā, Ngāti Whakaue -Te Kōmiro o te Utuhina and Te Arawa Lakes Trust, two meetings were held with the intention of resolving the issues raised in their respective submissions (21 May 2020 and 19 June 2020). .

8.98 The meetings were undertaken on the following basis:

*Note: the intention of these meetings is to where possible come to an agreement on any amendments that could be made to the plan change provisions to address the issues raised in submissions. It is noted that these meetings involve the above submitters and Rotorua Lakes Council (RLC). Rotorua Lakes Council may have further conversations with other submitters. This may result in further or other amendments to the provisions.*

*In addition, Council staff in reporting on the plan change can only make recommendations in the hearing report. Equally submitters have the ability to present their submission and/or evidence at the hearing. It will be the role of the Hearing Commissioners to make a recommendation to the Minister on the plan change.*

8.99 As a result of the 21 May meeting, amendments were agreed to the performance standards and policy relating to cultural identity and sites of archaeological or cultural importance, along with minor changes to the introduction, structure plan key and a new land use performance standard. Discussions on the non-notification provisions and the request for further landscape assessments progressed but issues were not resolved.

8.100 As a result of the 21 May meeting amendments were suggested to:

- recognise the significance of the area to other Te Arawa iwi and hāpu;
- recognise that other cultural sites and areas may be discovered during the development of the sites and ensure that protocols are established by the applicant should this occur;
- inclusion of a new land use performance standard to ensure the subdivision performance standards were applicable to land use activities that occurred prior to subdivision;
- amend key on Structure plan to refer to Cultural and Archaeological Sites;
- in relation to downstream flooding inclusion of a new non-complying activity rule for activities that resulted in increased downstream flood risk with a supporting policy (see section on flooding and stormwater).

8.101 At the 19 June meeting, the key provisions that were progressed were the non-notification provisions.

8.102 Te Arawa Lakes Trust position, as set out in their submission, is:

*‘it is unclear how the consultation and engagement provisions of Policy 2.9 work with the broad non-notification provisions stated in A5.2.3.2, A5.2.4.2 and A5.2.5.2. This simply requires an application to be consistent with the principles of the Pukehāngi Structure Plan for it to be processed without notification or the need to obtain affected party approvals. The relevant principle is:*

*‘Development that recognises, protect and provides for the expression of the cultural and archaeological values of the area;’*

*This sets a far lower standard for the involvement of tangata whenua than the detailed consultation and engagement provisions of Policy 2.9. Iwi and hāpu may engage with applicants through that policy only to have their concerns or solutions discarded by a developer who then seeks a non-notified application by arguing that this principle has been met.’*

8.103 It was agreed that a better test was consistency with the Structure Plan and Performance Standards.

8.104 The next issue for the submitters the non-notification presumption. The significance of this site to Ngāti Kearoa Ngāti Tuarā and other hāpu of Te Arawa is acknowledged, as is the sensitivity of the downstream environment from both the perspective of cultural sites and also water quality and flooding. Given this, it is agreed that written approval from the three submitters are appropriate where there are potential effects on

8.105 Following the second meeting with these submitters, the wording preference for the submitters was as follows:

*“Any application for resource consent for the activities listed in Table A5.2.3.1 a 4 - 11 shall be considered without public or limited notification or the need to obtain the written approval from affected parties if the Land Use and/or Subdivision are consistent with the Pukehāngi Development Area Structure Plan and Performance Standards, with the exception of Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust, Ngāti Whakaue, and Te Arawa Lakes Trust who shall be considered affected parties in regards to culturally significant sites, downstream water quantity, downstream water quality and Lake Rotorua water quality”.*

8.106 In writing this section, and reflecting on the cultural impact assessment it is agreed that an exemption from the non-notification provision is appropriate, subject to, and as suggested by Te Arawa Lakes Trust, a limitation on the issues of relevance (culturally significant site, downstream water quality and quantity and Lake Rotorua water quality).

8.107 Legal advice from Tompkins Wake has been sought on whether it is possible to identify those matters in respect of which the iwi groups are considered to be affected persons. The response states:

*‘Section 77D of the Resource Management Act 1991 (RMA) provides that a rule in a plan may specify the activities for which the consent authority:*

- Must give public notification;*
- Is precluded from giving public notification; or*
- Is precluded from giving limited notification.*

*.....*

*While s77D does not specifically provide for affected persons to be identified in the plan, in practice the Court has allowed rules which provide for non-notification where the agreement of a specified person is obtained, such as Transpower or NZTA. On this basis, we consider that an appropriately worded rule may be lawful.*

8.108 Based on the above, the following amendments to Rules A5.2.3.2: Non-Notification are recommended:

Any application for resource consent for the activities listed in Table A5.2.3.1a4 -11 shall be considered without public notification or limited notification ~~or the need to obtain the written approval from affected parties~~ if the Land Use and/or Subdivision are consistent with the ~~principles of the Pukehāngi Development Area Structure Plan~~ Pukehāngi Development Area Structure Plan and Performance Standards, with the exception that any application that has potential effects on culturally significant sites, downstream water quantity, downstream water quality or Lake Rotorua water quality will require the written approval of Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust, Ngāti Whakaue, and Te Arawa Lakes Trust in order to proceed without limited notification.

And the equivalent changes to Rules A5.2.4.2 and A5.2.5.2: Non-Notification.

8.109 In relation to the landscape assessment, there has been a further conversation with Robyn Bargh of Ngāti Kearoa Ngāti Tuarā. She has explained that the Pukehāngi area lies within a much wider area that has historically been occupied by Ngāti Kearoa Ngāti Tuarā. The submission point requesting a further landscape assessment is highlighting the difficulty in undertaking a Cultural Impact Assessment without sufficient information on the broader context. It would seem that this would require a cultural impact assessment with a wider geographic scope.

*Issues raised in the Cultural Impact Assessment*

8.110 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana address issues raised in the CIA by Ngāti Kearoa Ngāti Tuarā. Following completion of the CIA, Ngāti Kearoa Ngāti Tuarā and Council have progressed discussions on the issues raised in the CIA, including the Karamu-Takina Spring and a Memorandum of Understanding. The issues raised have not all been resolved but are continuing to be progressed where possible. In relation to protection of cultural values, as discussed above, further discussions have been had with Ngāti Kearoa Ngāti Tuarā resulting in further amendments to the provisions. It is intended that these amendments will provide protection for cultural identity and sites of cultural importance. Finally, the CIA expresses concerns that the iwi environmental plan has not been adequately addressed. The document includes policies and protocols that would be useful to reference within the plan change provisions. It is recommended that a reference to this document is added to the relevant performance standards.

*Policy 2.9: Cultural: Identify, Landscapes and Values*

8.111 In relation to HNZPT submission requesting ‘consideration of the protection of archaeological sites as part of the objectives and policies’, it is agreed that the existing policy should be strengthened with specific reference to archaeological sites to ensure that there is a clear policy framework supporting the performance standards.

8.112 Specifically, it is recommended that the policy is extended to explicitly refer to archaeological sites alongside cultural sites. In relation to the further submission of Te Arawa Group Holdings Limited, considerations has been given to the existing policy framework within the District plan, specifically Objective 2.3.8 and Objective 13.3.11. It is considered that the proposed amendments will provide more clarity and protection for archaeological sites within the plan change area.

*Archaeological and Cultural Sites*

8.113 HNZPT has also sought clarification whether the archaeological and cultural sites being considered are only those already scheduled, those identified in the archaeological and cultural reports or newly identified sites. The amendments recommended below address both identified sites and the process and protocols should new sites be identified during development.

8.114 HNZPT have also submitted on inconsistent language used for archaeological and cultural sites. Amendments are proposed to ensure consistent terminology as applicable. The amendments clarify that where a site contains an identified archaeological or cultural site then a specific subdivision rule applies. While the performance standard which applies to all subdivision uses the broader reference to ‘Sites of Archaeological or Cultural Importance’ (as opposed to ‘archaeological or cultural site’) which includes requirements for applicants in relation to identified and discovered sites.

8.115 HNZPT also identifies that the Rural 2 Performance Standards only appear to relate to sites that contain archaeological or cultural sites. The performance standards as amended are intended to relate to both identified and discovered sites. Amendments are proposed to clarify this in light of HNZPT submission.

8.116 In relation to HNZPT suggestion that the structure plan could be used to identify areas where development is inappropriate. The approach proposed, which involves the applicant consulting with iwi (and as recommended, HNZPT) is intended to ensure that the three parties discuss the layout of future development in relation to cultural and archaeological sites. This has the potential to allow a specific solution to be developed within the wider context of the subdivision.



8.117 HNZPT has also requested that the performance standards on *‘Protection of Cultural Identity and Sites of Archaeological or Cultural Importance’* are amended to include consultation with HNZPT. The submission explains that where these standards relate to the management and protection of archaeological sites, the processes proposed should be discussed and developed in consultation with HNZPT to ensure the works do not trigger the need for an archaeological authority.

8.118 HNZPT has statutory responsibility for archaeological sites under the Heritage NZ Pouhere Taonga Act 2014, and the modification or destruction of an archaeological site requires an archaeological authority under this Act. It is agreed that ensuring that there is an integrated approach to the management and protection of archaeological sites is logical, and ensuring consultation occurs with Heritage NZ in the development of a subdivision application will support this. As such, an amendment is recommended to the relevant performance standards.

8.119 HNZPT also suggested the inclusion of an advice note relating to the need for a HNZPT archaeological authority. It is agreed that this would assist in ensuring there is clarity on this process. Additional text is recommended to the relevant Performance Standards to achieve this.

#### *Wider Cultural Considerations*

8.120 In relation to the concerns of M Reesby, a Cultural Impact Assessment has been undertaken and an Archaeological Assessment. The intention of these reports is to understand the cultural significance of the site to iwi and guide a policy response if applicable.

#### *Identification of Heritage Buildings and Notable Trees*

8.121 Two submitters, J van der Waals and G and H Bell, have addressed the shearing/woolshed on the Hunt Block in relation to Heritage Values.

8.122 The District Plan defines Historic Heritage as: *‘Natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities: ...architectural; cultural, historic ...; and includes historic sites, structures, places, and areas; ...’*. Identified historic structures are categorised as either Category 1 which are ‘places of special or outstanding historic or cultural heritage significance or value’; or Category 2 ‘places of historic or cultural heritage significance or value’. The District Plan currently identifies 53 Heritage Structures including the ‘Cottage on Pukehāngi Road’ which is located on the Sumner Block.

8.123 The Bay of Plenty Regional Policy Statement provides guidance on the identification of Historic Heritage in Appendix F – Set 5 Historic Heritage. The criteria include:

- Generic Features including:
  - Period
  - Rarity or Special Features
  - Integrity
  - Representativeness
  - Context of Group Value
  - Diversity (Form and Features)
  - Fragility or Vulnerability
- Archaeological qualities
- Architectural qualities
- Cultural qualities

- Historic qualities
- Scientific Qualities
- Technological Qualities

8.124 A heritage assessment has not been undertaken in relation to the shearing shed. I am unaware of any historical qualities associated with the building that would trigger the need for a Heritage Assessment.

8.125 The shearing/woolshed on the Hunt Block is not identified as a Heritage Structure by HNZPT.

8.126 J van der Waals has also identified a number of trees on the Hunt Block to be listed or protected.

8.127 The District Plan includes a schedule of Notable Trees (Appendix 1). The schedule contains thirty five entries (trees or groups of trees). The trees identified by the submitter are not currently protected.

8.128 The District Plan does not include a policy framework for the scheduling of Notable Trees. However, the process used when the District Plan was reviewed was a two-step process whereby land owners with potential notable trees were contacted to confirm they supported the protection of the tree, and if so, a Standard Tree Evaluation Method (STEM) assessment was undertaken.

8.129 It is noted that the protection of the trees is opposed in the Hunt Family submission.

8.130 The policy framework identifies the qualities of the Residential 1 Zone while the general subdivision policies look to retain existing established trees.

8.131 With the rezoning of this land, a strong emphasis has been placed on creating an overall development with high amenity values, including through the revegetation of parts of the mid-site escarpment. When development does occur, the developer may choose to incorporate the trees into the development. However, amenity within the general area adjoining Pukehāngi Road is anticipated to be high with the dual use open space/dry detention areas. As such, it is not recommended that the trees are specifically protected.

8.132 In relation to the submission from K and J Rogers, in developing the plan change the intention has been to respect cultural and environmental values and concerns.

8.133 Finally, in relation to the request to remove references to the Ngāti Kearoa Ngāti Tuarā Cultural Impact Assessment, changes have been made to the text as administrative changes. The changes are to the Introduction where a more generic reference to cultural assessments is recommended. While the reference at the end of Policy 2.9 is recommended to be deleted.

### ***Recommendations***

8.134 That Submissions 42.0, 10.0, 10.1, 10.3, 24.1, 10.1, 10.2, 42.1, 42.2, 9.1, 9.3, 2.0 and 2.1 be accepted.

8.135 That Further Submissions 6.29, 7.1, 7.2, 7.3, 2.4, 6.26, 6.30, 2.2, 6.12, 6.14 and 6.15 be accepted.

8.136 That Submissions 22.0, 8.2, 23.2, 24.2, 25.2, 9.0 and 9.2 be accepted in part.

8.137 That Further Submissions 2.3, 6.11, and 6.13 be accepted in part.

8.138 That Submission 1.1, 45.0, and 46.4 be rejected.

8.139 That Further Submission 1.3 be rejected.

8.140 Submission 4.4 is acknowledged.

8.141 That the following amendments are made to A5.2A Pukehāngi Heights Development Area – Introduction:

**A5.2A PUKEHĀNGI HEIGHTS DEVELOPMENT AREA**

**A5.2A.1 Introduction**

.....

While few archaeological features remain, the Cultural Impact Assessment prepared by Ngāti Kea Ngāti Tuarā cultural assessments prepared identifies the area's cultural and historical significance, with settlement occurring over 500 years ago. The whole area is significant for Ngāti Kea Ngāti Tuarā as a meeting point between their ancestors' traditional homes of Horohoro, Tihi-o-Tonga, Tārewa and Patetere. Key cultural features include the old pā sites - Pukehāngi and Puketapu and the north-facing slopes from the kāinga at Paparata towards the north-west (along what is now Pukehāngi Road) that were used extensively by tangata whenua as mahinga kai.

The area is also significant for other iwi and hapu with associations with the cultural landscape including downstream sites and values.

.....

8.142 That the following amendments are made to Policy 2.9 Cultural Identity, Landscapes and Values:

**Policy 2.9 Cultural: Identity, Landscapes and Values**

Ensuring that subdivision, use and development expresses the cultural history and identity of Tangata Whenua, recognises the cultural landscape, and recognises and protects the values of archaeological and cultural sites and areas within the Development Area by:

- Consulting with Tangata Whenua through the design and planning stages of development;
- Expressing cultural identity through measures such as the inclusion of structures or art in public spaces, interpretation plaques, a cultural trail, place naming;
- Recognising that the Development Area forms part of a wider cultural landscape for Ngāti Kea Ngāti Tuarā;
- Recognising the interests of other Te Arawa iwi and hapu with associations with the cultural landscape including downstream sites and values;
- Identifying archaeological and cultural sites and areas, and providing legal and practical access for Tangata Whenua;
- Assessing the values and associations of identified archaeological and cultural sites and areas, and the wider cultural landscape; and
- Mitigating adverse effects on the values and associations of identified sites and areas, and other sites and areas that may be discovered during development.

~~Information on the cultural history of the area is includes a Cultural Impact Assessment report provided in the by Ngāti Kea Ngāti Tuarā: Cultural Impact Assessment An Assessment of the Cultural Impact of the proposed Pukehāngi Heights Development (Te Rūnanga o Ngāti Kea Ngāti Tuarā, (May 2019).~~

8.143 That the following amendments are made to Rule A5.2.3.1.11

11. Subdivision where the site includes a <del>site of</del> archaeological or cultural <del>importance site.</del>	<u>RD</u>
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8.144 That the following amendments are made to Rules A5.2.3.2: Non-Notification:

Any application for resource consent for the activities listed in Table A5.2.3.1a4 -11 shall be considered without public notification or limited notification ~~or the need to obtain the written approval from affected parties~~ if the Land Use and/or Subdivision are consistent with the ~~principles of the Pukehāngi Development Area Structure Plan~~ Pukehāngi Development Area Structure Plan and Performance Standards, with the exception that any application that has potential effects on culturally significant sites, downstream water quantity, downstream water quality or Lake Rotorua water quality will require the written approval of Te Rūnanga o Ngāti Kēaroa Ngāti Tuarā Trust, Ngāti Whakaue, and Te Arawa Lakes Trust in order to proceed without limited notification.

8.145 That the equivalent changes to Rules A5.2.4.2 and A5.2.5.2: Non-Notification are also made, recognising that the reference to the rule table within the rule will differ from that quoted above.

8.146 That the following amendments are made to Performance Standards A5.2.3.4.10 and A5.2.4.4.6 *Protection of Cultural Identity and Sites of Archaeological or Cultural Importance*:

10 Protection of Cultural Identity and Sites of Archaeological or Cultural Importance

The application shall:

- a. Report on the outcomes of consultation with Ngāti Kēaroa Ngāti Tuarā and, where relevant, with other Te Arawa iwi and hapu with associations with the cultural landscape including downstream sites and values;
- b. Report on the outcomes of consultation with Heritage NZ if the subdivision includes an archaeological or cultural site;
- c. Identify measures that express the cultural identity of Ngāti Kēaroa Ngāti Tuarā with the land, including:
  - i. Incorporate landmark features such as traditional or contemporary art works, into the street network that reflect the history of the area;
  - ii. Identify names of streets that reflect cultural associations of Tangata Whenua with the area;
- d. Identify measures that recognise and protect the interests of other Te Arawa iwi and hapu with associations with the cultural landscape including downstream sites and values;
- e. Identify measures to recognise the wider cultural landscape;
- f. Identify the location, extent and scale of the proposal in relation to any identified cultural and archaeological sites and areas;
- g. Identify the process and protocols that will be applied if other cultural and archaeological sites and areas are discovered prior to or during site works or development;
- h. Identify how cultural and archaeological sites and areas ~~heritage values~~ will be protected, including:
  - i. How ~~archaeological~~ sites and areas will be integrated into the development;
  - ii. How sites and areas will be separated or buffered from urban activities; and
  - iii. Monitoring of the effects of development on ~~archaeological~~ sites and areas;

- i. Include proposals for the provision of access by Tangata Whenua to any archaeological and areas and the on-going management of these sites; and
- j. Include mechanisms, for example, cultural awareness training or pre-start meetings, to ensure contractors are aware of the potential for archaeological discoveries, and the protocols to be followed should evidence be discovered.

Advice Notes:

- 1. Ngāti Kearoa Ngāti Tuarā Environmental Management Plan provides policies and protocols relating to wāhi tapu, wāhi whakahirahira and the discovery of koiwi tangata (remains) or taonga tuturu (traditional artefacts).
- 2. An Archaeological Authority is required from Heritage NZ for the modification or damage of an archaeological site, either recorded or unrecorded.

8.147 That the following amendments are made to Rule A5.2.4.1.

7. Subdivision where the site includes an <u>site of</u> archaeological or cultural <u>importance site</u> .	<u>RD</u>
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8.148 That the following Land Use Performance Standards are included in A5.2.3.3 and A5.2.4.3:

- 11. The performance standards in A5.2.3.4 Performance Standards – Subdivision shall apply, where relevant, to any proposed land use that occurs prior to subdivision.
- 9. The performance standards in A5.2.4.4 Performance Standards – Subdivision shall apply, where relevant, to any proposed land use that occurs prior to subdivision.

8.149 That the Structure Plan key is amended as follows:

Cultural and Archaeological Sites

## LAKE ROTORUA NUTRIENT MANAGEMENT

### **Background**

8.150 Section 6 of this report evaluates submissions seeking an expert assessment to confirm that the anticipated land use change can be accommodated within the nutrient discharge allocations for the parent lots; and section 7 evaluates submissions seeking nutrient management objectives for the plan change area. This section of the report evaluates submissions seeking changes to the principles, policies and rules to address nutrient management.

8.151 The plan change provisions include Policy 2.2 ‘Environmental Enhancement’:

*Reduce nutrient losses, restore and enhance indigenous biodiversity and ecological functioning through partial re-vegetation of the Mid-site Escarpment*

### **Submissions**

8.152 BOPRC seeks changes to the principles for the plan change area, policies and rules of the District plan to ensure that subdivision and development is designed to achieve water quality and nutrient management objectives and policies in the District Plan, gives effect to the Bay of Plenty Regional Policy Statement and is consistent with the Regional Natural Resources Plan.

8.153 BOPRC considers developments should be required to demonstrate significant reductions in nutrient losses, or at least no net increase based on the parent properties’ 2032 nitrogen discharge allocations. BOPRC note the restricted discretionary criteria provided for land use and subdivision do

not consider nutrient management. BOPRC considers that, if necessary, the District Plan could set parameters for stock numbers, number of houses per site etc in an integrated way, rather than leaving this to be determined with each development. Limitations could be imposed on specific lots or land uses (e.g. horticulture). Information requirements for subdivision could also be included in the performance standards. Other approaches could also be considered (submissions 44.7, 44.8, 44.11 and 44.12).

8.154 The principles suggested by BOPRC to address land use suitability and water quality are (submission 44.9):

- (i) Subdivision layout, alignment of boundaries, lots sizes and future land uses that ensure best management practice outcomes for water quality, protection of highly erodible steep slopes, maintains suitable ground cover, and enhances ecosystem health;*
- (ii) Subdivision and future land use is designed within nutrient management limits, demonstrates significant nutrient losses (to achieve Objective 13.3.1, or at least no net increase in nitrogen entering Lake Rotorua – based on parent properties 2032 NDA's to meet PC10);*
- (iii) Staging of proposed subdivision and development demonstrates nutrient management requirements to be met throughout the various stages of development;*

8.155 BOPRC seeks amendments to the plan change to address nutrient management as follows:

- Refine the proposed plan change to ensure subdivision and subsequent development is designed within nutrient management limits, land use suitability best practice and water quality and nutrient management outcomes demonstrate significant reductions in nutrient losses - DP policy, or at least no net increase in nitrogen entering Lake Rotorua – based on parent properties 2032 NDA's;*
- Amend plan change provisions to ensure the assessment inform the provisions and if necessary, set parameters for stock numbers, numbers of houses per site etc in an integrated way rather than leaving these for each of the developers to consider and impose limitations on particular lots or land uses for future owners;*
- Amend plan change provisions to be clear whether rural land uses such as farming are permitted or otherwise. If so, the plan change should set up an integrated set of parameters for the plan change area rather than leave it up to each of the developers to impose limitations on particular lots or land uses for future owners in an ad hoc way. These may include setting appropriate parameters such as stock numbers, limiting horticulture, numbers of houses per site. Alternatively, the proposed zoning could be amended to align more closely with the intended large lot residential – similar to Residential 4 or 5;*
- Add appropriate policies to deliver water quality and land suitability outcomes and direction alongside the landscape objectives and policies to give effect to the relevant RPS Water quality objectives and policies as well as district plan policy framework – refer Objective 13.3.1 and associated policies, Objective 9.3.1 and associated policies as examples;*
- Add appropriate performance standards to A5.2.4.4. including what applications shall include A5.2.4.4.6;*
- Other approaches that would appropriately address the matters raised above and, other relevant part of this submission; and*
- Any consequential amendments as required.*

8.156 The Hunt Family supports the additional principles suggested by the BOPRC (further submission 6.10) and partly supports other BOPRC submission points addressing nutrient management. The family agrees that the provisions need to be amended to, if necessary, set parameters for stock numbers, numbers of

houses per site, etc. The family consider that grazing within the Rural 2 Zone should be prohibited. If rural uses are to remain permitted in Rural 2 Zone the plan change should set up an integrated set of parameters for the area (further submissions 6.8 and 6.9).

- 8.157 Submissions by Te Arawa Lakes Trust and Ngāti Whakaue - Te Kōmiro o te Utuhina, and N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana, whilst couched in broader terms, can be reasonably interpreted as including an interest in plan provisions.

### **Planning Framework**

- 8.158 As set out in the preceding Strategic Issues and Objectives evaluation, Plan Change 2 makes no specific provision for nutrient management. Management of nutrient effects from the Pukehāngi Heights Development Area is assumed to follow the general subdivision and development provisions of the District Plan, with decision making on resource consents integrated with parallel regulation under the Natural Resources Regional Plan (Plan Change 10) and implementation of WWTP discharge consents.
- 8.159 The submissions and further submissions are that this is not the most appropriate approach and that specific provisions are needed.
- 8.160 The provisions in the operative District Plan that give effect to water quality and nutrient management outcomes have a distinctly rural focus. For example, an additional lifestyle lot in the Rural 1 Zone within the Lake Rotorua catchment is allowed where a “permanent definitive land use change that results in a significant reduction in nutrient losses has been secured”<sup>27</sup>. There is a general requirement on all rural subdivisions that consideration be given to existing vegetation, retirement of land adjoining water courses from grazing and appropriate new planting of indigenous species to mitigate the effects of potential development for the purposes of “water quality improvement”.
- 8.161 By contrast, the District Plan provisions relating to water quality and nutrient management in urban areas are more generally expressed. There is no specific reference in policies or rules to reductions in nutrient losses in an urban context. This is understood to be a reflection of low urban growth expectations at the time the operative District Plan was prepared and therefore a relatively limited impact on nutrient losses compared to rural activities.
- 8.162 The urban zone subdivision performance standards include a general requirement to provide:
- “a. An adequate system for the site specific collection and disposal of stormwater from the proposed roads, private ways, access ways, and reserves and from all sites and buildings within the subdivision.*
- b. Adequate disposal of sewage from each site and building within the subdivision.”*
- 8.163 The urban zone subdivision performance standards cross reference the performance standards of the relevant zone .... The urban zones provisions have a general assessment criteria:
- “The extent to which the proposal will avoid, remedy, or mitigate effects on water quality.”*

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<sup>27</sup> Rule 13.10.1.19

- 8.164 The “adequacy” of infrastructure is determined by the Council’s Civil Engineering Code and the requirement for the Council for any vested assets to comply with wastewater discharge consent conditions that it holds, and the Water Services and Trade Waste bylaws. This indirectly brings the issue of managing nutrient losses into play in the consenting process.
- 8.165 When read in the context of the strategic objectives and policies of water quality enhancement, there is a mandate to address nutrient management issues for urban development proposals under the operative District Plan. However, to the general plan user this may not be readily apparent.
- 8.166 Practice and procedure within Council is also a consideration in assessing the overall effectiveness of the existing planning framework which requires integration with Regional Plan based Nitrogen Management Plans and Wastewater Treatment Plant consent compliance.
- 8.167 In this regard, integration is achieved through pre-application meetings, application referrals to BOPRC and Council asset managers, affected party assessments, and the use of s91 and s95 of the RMA to align processes and obtain information. Urban greenfield subdivision assessments consider the issue of nutrient losses and include consent conditions where necessary to control future land use to ensure development remains within nutrient loss limits.

#### **Evaluation**

- 8.168 Under Section 30 of the RMA it is a function of a regional Council to:

*“...control of the use of land for the purpose of...the maintenance and enhancement of the quality of water in water bodies and coastal water...”*

- 8.169 There is no equivalent function for territorial authorities under Section 31, although there is a general function of:

*“...establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:”*

- 8.170 The methods used to carry out any functions under subsection (1) may include the control of subdivision.
- 8.171 Plan Change 10 to the NRRP promotes integrated management of nutrients. It includes policies that acknowledge that the sustainable annual nitrogen load for Lake Rotorua provides for nitrogen losses from both rural and urban land, and the increased demand on infrastructure resulting from land use change as a consequence of urban growth. Plan Change 10 methods include the Regional Council implementing an accounting methodology for the shift in nitrogen losses between rural and urban land uses. The methodology must recognise that land use change (subdivision) requires a nitrogen allocation.
- 8.172 When preparing or changing a district plan, a territorial authority must have regard to a proposed regional plan in regard to any matter of regional significance or for which the regional council has



primary responsibility<sup>28</sup>. A district plan must not be inconsistent with a regional plan for any matter specified in section 30(1).

8.173 The Operative District plan already recognises the Council role is “complementary” to the regional councils’ role of controlling nutrient discharge from land use activities.

8.174 Weaknesses in the current planning framework are:

- A focus on rural greenfield subdivision, whereas all urban intensification has a potential nutrient impact;
- Limited transparency and lack of formal documentation of practice and procedures;
- A reactive approach where applicants tend not to address the issue in the initial design of planning of development proposals. The issue is often the subject of further information requests;

8.175 Notably, the MOU already records that Council will consider a District plan change, and while not specific scope is mentioned, this understood to be to impose a requirement on developers to transfer nitrogen from a parent Lot to offset losses from urban land use change, and to establish a regime to create and fund nitrogen offsets where transfers of nitrogen are not possible.

8.176 In this context, and given the strategic significance of nutrient management, the existing provisions for urban nutrient management are not appropriate.

8.177 Ideally, District Plan amendments provisions to address this issue would apply in a consistent manner to all urban areas under the District Plan. However, amendments under the BOPRC submission are limited in scope to the Pukehāngi Heights Development Area. In this context, if amendments to the plan change are to be made, they might be regarded as “interim” provisions with potential to be replaced through a further urban area-wide District plan change in the future.

8.178 For the above reasons, it is concluded that the most appropriate approach is to include additional provisions in Plan Change 2 consistent with the amendments sought by the BOPRC submission.

8.179 Plan change provisions need to recognise and provide for the complementary role of Council to the Regional Council, the MoU, a guidance document which is subject to review and change, the expectation of multiparty implementation, and the pending WWTP discharge consent.

### **Recommendation**

8.180 Accept in part the submissions by BOPRC (44.7, 44.8, 44.11 and 44.12); further submissions by Hunt Family (6.8 and 6.9) and submissions by Te Arawa Lakes Trust and Ngāti Whakaue - Te Kōmiro o te Utuhina, and N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana.

8.181 Add the following policies

*Policy 5.1 Subdivision and land use shall, where practicable, be designed to achieve nutrient losses within the nutrient limits of the land.*

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<sup>28</sup> Section 74(2)(a)(ii).

Policy 5.2      Any nutrient losses from subdivision and land use shall not exceed the nutrient limits of the land unless those losses are offset by nutrient loss reductions on other land.

Policy 5.3      The assessment of nutrient losses shall follow best practice and be in accordance with any Council approved policy or guidelines, including any Nitrogen Allocation Transfer Plan (or equivalent) certified under the discharge consent for the Rotorua Wastewater Treatment Plant

8.182 Add the following Rules

A5.2.3.4 Performance Standards – Subdivision (Residential 1)

14      Nutrient Management

A Nutrient Management Plan for the entire site, including any balance area, shall be submitted that includes:

- a. Confirmation of the Nitrogen Discharge Allocation for the parent Rural property;
- b. Calculation of the nitrogen losses from the proposed development of the land in accordance with any Council approved policy or guidelines, and undertaken by a suitably qualified person;
- c. Where the losses from the development exceed the Nitrogen Discharge Allocation for the Rural property, proposals for nutrient loss reductions. This may include the application of a Council-operated offset regime.
- d. Nutrient management requirements to be met at full development and, where staged, at each stage of development.

A5.2.4.4 Performance Standards – Subdivision (Rural 2)

10      Nutrient Management

A Nutrient Management Plan for the entire site, including any balance area, shall be submitted that includes:

- a. Confirmation of the Nitrogen Discharge Allocation for the parent Rural property;
- b. Calculation of the nitrogen losses from the proposed development of the land in accordance with any Council approved policy or guidelines, and undertaken by a suitably qualified person;
- c. Where the losses from the development exceed the Nitrogen Discharge Allocation for the Rural property, proposals for nutrient loss reductions. This may include the application of a Council-operated offset regime.
- d. Nutrient management requirements to be met at full development and, where staged, at each stage of development.

## APPROPRIATENESS OF RURAL 2 ZONE

### Background

8.183 The Rural 2 Zone is applied to the mid-site escarpment with the objective of enabling low density development that fits within the landscape constraints that apply to this area. The same zone applies to the Parklands Estate Development located between the two parts of the Development area. The intention is that this area would assist in providing a visual transition from the indigenous bush character of the Parklands Estate Development to the landscape character of the surrounding area.

### Submissions

- 8.184 BOPRC submit that the initial plan change (section 32) evaluation and plan change wording A5.2A.1 appear to indicate the intention is 'large lot residential' rather than 'rural/residential lifestyle' lot [for the Rural 2 Zone], which is more akin to Residential 4 Zone or Residential 5 Zone than Rural 2 Zone.
- 8.185 BORPC also submit on the appropriateness of land use on the escarpment. Its desktop analysis indicates that much of the land is class 6e with steep contour. Careful subdivision layout, boundary placement and land management would be required to maintain land cover on the steep pumice slopes and the densities provided. Soil retention / prevention of erosion are key requirements to maintaining and enhancing lake water quality and positive outcomes for ecosystems. BOPRC notes that similar slopes were revegetated in other developments.
- 8.186 BOPRC seeks that Council amend the zoning and thereby remove potentially inappropriate activities on steep escarpments such as 'farming activities' and their associated nutrients. BORPC note this may also reduce potential reverse sensitivity issues. It also seeks that the provisions are informed by experts in regard to the suitability of land use on the escarpments (submission 44.8 and 44.10).
- 8.187 The Hunt Family's further submission on BOPRC's submission states that Residential 4 or 5 zoning is not necessarily appropriate for the subject site and its location. Residential 4 is a placed based zone, specific to lakeside settlements with dwellings often orientated to capitalise on lake views; Residential 5 is specific to Wharenui Road Area Development Plan with an average net site area of 2,000m<sup>2</sup>, which would not support the landscape and visual assessments of Boffa Miskell (further submission 6.3).

### Planning Framework

- 8.188 The mid-site escarpment is shown on the Structure Plan. This land is proposed to be zoned Rural 2 – Rural Lifestyle (RR2). As noted above, this is the same zoning that applies to the adjacent Parkland Estate Development and was seen as a 'best fit' zone for the subject area. An alternative approach would have been to create a new zone for this area.
- 8.189 The Zone description is:
- "Rural-residential living. Lots are generally smaller than the Rural 1 zone and provide for a higher density of residential development. Dwellings are spaced apart and provide for relatively large outdoor living areas and high standards of privacy. The zone has a relatively quiet environment. Small scale farming activities are carried out on site and there are low levels of hard surface and building coverage."*
- 8.190 The plan change modifies the standard land use controls for the Rural 2 Zone by imposing more restrictive building height, site coverage and visual standards (building reflectivity and fencing

/retaining walls)<sup>29</sup>. Forestry is not permitted. Subdivision performance standards are also modified by the inclusion of landscape, stormwater management, natural hazard, archaeological, traffic and construction requirements<sup>30</sup>.

### **Evaluation**

- 8.191 The submission identifying the inappropriate reference to “large lot residential” rather than “rural lifestyle” is acknowledged. An amendment is recommended to address this. A change in zoning to Rural 4 or 5 would not be appropriate for the reasons set out in the Hunt Family submission.
- 8.192 In relation to farming activities and their nutrient impacts, it is anticipated that this would be addressed within the scope of the proposed nutrient performance standards. However, in general terms it is agreed that farming would not ordinarily be appropriate on small rural residential lots in this mixed urban/rural setting and should therefore be excluded through a rule, on the same basis as forestry. Non-compliance with this rule will be a discretionary activity. It should also be noted that such District Plan rules will not be retrospective. Current farming activities will be able to continue under existing use rights at the same character, intensity and scale.
- 8.193 In relation to suitability of land use, the requirement for a Landscape Concept Plan and Visual Assessment prepared by a suitably qualified landscape architect includes consideration of building locations, built form, ancillary structures, earthworks, vegetation, access and lighting. A landscape architect has appropriate technical expertise to make recommendations on suitability of land use. No changes to the provisions are recommended.

### **Recommendation**

- 8.194 Accept in part the submission by BOPRC (44.8 and 44.10) and further submission by the Hunt Family (6.3).
- 8.195 Replace references to “*Large Lot Residential*” in the development principles in A5.2A.1 Introduction and A5.2A.2 Objectives and Policies for the Mid-site Escarpment with “*Rural Residential*”.
- 8.196 Add the following to A5.2.4.3 Performance Standards – Land Use
- “9 Farming*
- No agricultural activity shall be undertaken except within the Pukehāngi Southern Slopes.”*

## **FLOODING AND STORMWATER**

### **Background**

- 8.197 The Pukehāngi Heights Development Area lies with the Utuhina Steam Catchment and will discharge stormwater to the catchment. Changes from rural land use to urban land use will increase the volume of stormwater flows from a site due to increased impervious surfaces. As the Utuhina catchment already experiences flooding in downstream urban areas, managing potential changes in stormwater flows has been a key issue for the plan change.

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<sup>29</sup> A5.2.4.3 Performance Standards – Land Use

<sup>30</sup> A5.2.4.4 Performance Standards – Subdivision

- 8.198 The overall approach has been to design a stormwater system that is of sufficient capacity to mitigate downstream effect to not increase downstream flooding and erosion risk. The Structure Plan indicates the general layout of overland flow paths and attenuation ponds required to achieve this.
- 8.199 The Section 32 Report recognises that providing an appropriate stormwater solution for the Development Area is likely to be beyond the capability and mandate of private landowners/developers. Optimisation of infrastructure requires a whole of catchment approach to be taken, with mitigation both onsite and offsite.
- 8.200 Finalising the design of the stormwater management system for the development was constrained by incomplete information on the Utuhina catchment. An effective Catchment Management Plan for the total catchment required modelling to enable consideration of issues such as future development, current flooding risk, and climate change.
- 8.201 This work was underway, but not complete, at the time of notification of the plan change. This necessitated interim assumptions to be used as a basis for stormwater system design. Further catchment modelling and catchment management planning has since been advanced but has yet to be finalised. However, the indications from this further work is that onsite mitigation within the Development Area will need to be significantly increased in scale from that shown on the Structure Plan to avoid increasing downstream flooding risk.

### ***Submissions***

- 8.202 The BOPRC submits that the individual stormwater assessments required under the plan change will not consider the cumulative effects of the proposal as a whole on the receiving Utuhina catchment, in particular in the lower catchment. The regional council considers there is still considerable uncertainty as to how the catchment will be impacted. It also submits that the risk assessments provided to-date do not comply with the regional policy statement and that further work is required to understand where a low level of risk can be achieved. Further advances in modelling may provide greater certainty prior to the scheduled hearing date, but this relies on successful calibration of the model in a short time period.
- 8.203 The BOPRC does not consider the plan change provisions would comprehensively manage the cumulative adverse effects in an integrated manner, consistent with the requirements of Policy 1R 3B (adopt an integrated approach) and Policy 1R 5B (assessing cumulative effects) of the Regional Policy Statement. The regional council considers that a precautionary approach should be taken, consistent with Policy 1R 1B. It seeks (submissions 44.2, 44.3, 44.4, 44.5 and 44.6):
- That the provisions are amended to provide for a comprehensive risk assessment and stormwater assessment on a catchment-wide basis to be undertaken prior to the commencement of any subdivision, use or development in the development site. It is concerned that the stormwater management plans required under the current provisions may not consider the cumulative effects of the entire plan change area.
  - Amendments are made to the plan change provisions to explicitly provide for mitigation if required following the above catchment-wide assessments.
- 8.204 Te Rūnanga o Ngāti Keroa Ngāti Tuarā Trust has reservations that the stormwater issues are adequately addressed. It supports further catchment modelling and wants assurance that further downstream flooding issues will be avoided. The Trust seeks that the plan change policies clearly

state that developments that do not demonstrate a reduction in flood risk (and an improvement in water quality) will be refused consent (submission 22.2).

- 8.205 Te Arawa Lakes Trust is concerned about the impact of the plan change on both stormwater quality and quantity. It supports Policy 2.3 (low impact design) but seeks that the wording be expanded. It also seeks that a strong policy direction be added to state that applications that do not demonstrate that they will not increase downstream flood risk will be refused consent (submission 10.4). The Hunt Family oppose this submission point, stating there is strong enough wording in the existing objectives, policies and provisions to decline applications on the basis that they do not satisfactorily avoid, remedy or mitigate downstream effects (further submission 6.33).
- 8.206 Ngāti Whakaue – Te Kōmiro o te Utuhina seeks integrated management of land and stormwater, green infrastructure and water sensitive design to the highest possible standard to ensure no flooding or negative impacts on water quality occur downstream as part of any development plan (submission 42.6).
- 8.207 Te Arawa Group Holdings Limited, which owns part the area within the plan change, notes the uncertainties for stormwater infrastructure due to the absence of information on the Utuhina Catchment. It considers the plan change addresses this uncertainty through the requirement for a catchment-based stormwater management plan and also notes the opportunities presented by the renewal of Council’s comprehensive stormwater discharge consent to include the Pukehāngi Heights Development Area and include modelled data. However, the company seeks that catchment modelling and planning be progressed in parallel to this plan change to support future development consent processes; provide up to date information for the plan change; and ensure effects are managed effectively and efficiently on a comprehensive basis across the Utuhina Catchment (submission 20.5 and further submission 6.29). It seeks that the wording for Policy 3.1 and A5.2.3.4 is then reviewed after completion of the catchment modelling and planning to ensure the intent of the policy framework is effective and efficient (submission 20.9 and 20.15 and further submission 6.29).
- 8.208 Te Arawa Group Holdings Limited also supports submissions of other parties (Te Arawa Lakes Trust, Rotorua District Residents and Ratepayers Association, Utuhina Valley Farm, Ngāti Kearoa Ngāti Tuarā, BOPRC to the extent that modelling and associated planning for stormwater is completed in parallel to the plan change (further submissions 2.6, 2.11, 2.13, 2.15 and 2.19).
- 8.209 The joint submission of landowners the Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm) is consistent with the individual submission of the Te Arawa Group Holdings above, but the joint submission also states that the landowners are of the opinion that a comprehensive approach to stormwater management should include an analysis of existing land area and infrastructure surrounding the proposed plan change area e.g. Wright Park (submissions 28.5, 28.10 and 28.16).
- 8.210 The further submission by the Hunt Family supports in part the submission points of BOPRC. The Hunt Family oppose detailed stormwater management plans at the time of subdivision consent and seek stormwater be addressed in a comprehensive manner. It seeks that risk assessments are undertaken prior to rezoning so as to comply with the regional policy statement (further submission 6.4, 6.5, 6.6 and 6.7).

- 8.211 Utuhina Valley Farm state that the absence of the Greater Utuhina Catchment Model presents a risk to achieving the expected yields and potential mitigation approaches cannot be tested. It seeks that the management of stormwater is undertaken prior to approval of the plan change, stating there is no point rezoning the land until this issue is resolved. It does not consider it appropriate to approve the zone change in principle subject to stormwater as the downstream effects cannot be determined (submission 21.5). This is supported by the Hunt Family, which seeks consideration of the effects in a comprehensive manner, which could then remove the need for restricted discretionary activity status for future development (further submission 6.42).
- 8.212 Rotorua Residents and Ratepayers Association note the design and information gathering for stormwater systems is still to be completed so they cannot fully support the plan change until all information is available. The Association has many questions including what works are being done to the existing network, what maintenance assumptions have been used to inform design and how will the Council rectify existing downstream flood issues prior to this development (submission 18.0). Their further submission on the Utuhina Valley Farm submission also makes this point (further submission 4.6).
- 8.213 Rotorua and Bay of Plenty Hunting is the owner of 130 Riri Street. Flood waters from the Mangakakahi Stream have entered the building causing damage. During the storm that flooded Ngongotahā around two years ago flood levels rose to almost a metre and carpet and doors needed to be replaced. On Christmas evening floodwaters again entered the building and completely covered the parking area with muddy silt. The organisation is concerned about additional flooding with the development and seeks widening and maintenance of the Mangakakahi, which it states is the Council's duty. It also seeks stopbanks (submission 38.0).
- 8.214 W L Gracie and Associates Ltd are machinery dealers located in Riri Street. The company has operated from their site for 35 years and have experienced many serious floods costing thousands of dollars and note that the area that floods extends through Matawhero Street, Depot Street, and Old Taupō Road to Shorlands. They say that bunds in Linton Park have been a waste of money and failed. They note other tenants have vacated. The owner states he has cellulitis disease from the flood water. The company opposes the plan change on the basis of flooding. It seeks maintenance of the stream and planning for the area for the 100 year flood (submission 40.0).
- 8.215 John & Kay McDonald Trust also have a business located in Riri Street and are concerned that the Pukehāngi Heights subdivision would increase stormwater problems for Riri Street. They note the Mangakakahi Stream and Mangakakahi Drain are already inadequate and flooding of Riri Street is becoming more frequent. They seek widening of the stream and drain, enlarging of the culvert under Old Taupō Road and maintenance of the waterways (submission 5.0).
- 8.216 Submitters D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey oppose the plan change. They live on Pukehāngi Road, across from the development. They believe that volumes of water from the development are underestimated and are concerned about flooding of their house. They consider extreme landscaping changes will be necessary and the Council has not taken into account the increase in severe weather events with global warming (submissions 32.0, 33.0, 34.0, 35.0, 36.0 and 37.0).
- 8.217 J Revell owns property on Pukehāngi Road and her western boundary is adjacent to the Sunnybrook Farm. She states that the Sunnybrook Farm is a flood plain and has witnessed 300mm deep and 30m wide flooding. She supports the structure plan with the detention basins proposed against the

boundary with her property provided they are lower than her property. She would be concerned if houses were instead adjacent to her property because of the difficulties controlling flows from these lots. Although she has been informed by lawyers that it is illegal to divert floodwaters through to her property, she is concerned this could happen (submission 41.1).

8.218 G and H Bell, who own property surrounded by the Hunts Farm, are concerned about the management of the runoff from the shared driveway that provides access to their property. Currently the runoff is absorbed by the surrounding farm. They want to know the plan has accounted for this and do not want to be liable for runoff into private properties after subdivision (submission 46.6).

8.219 The BOPRC's further submission supports the above submissions of John & Kay McDonald Trust, Rotorua District Residents and Ratepayers Association, Utuhina Valley Farm, N Winiata, R Kiriona, N Khan, H Honana, the Storeys, Utuhina Valley Farm, Te Rūnanga o Ngāti Kearoa Ngāti Tuarā, W L Gracie and Associates Ltd., J Revell and Te Kōmiro o te Utuhina, in terms of seeking that stormwater is appropriately assessed and mitigated to ensure downstream areas are not impacted (further submission 7.4). BOPRC supports Te Arawa Lakes Trust in seeking that the policies are strengthened to require no increase in flood risk outside the structure plan area (further submission 7.5). It also supports Te Arawa Group Holdings Limited and the joint submission by landowners of the plan change to review the subdivision performance standards after completion of the catchment modelling to the extent that cumulative effects are assessed and mitigated in an integrated way (further submission 7.8).

### ***Planning Framework***

8.220 The Pukehāngi Heights Development Area lies with the Utuhina Steam Catchment and will discharge stormwater to the catchment. This is via the Mangakakahi and Otamatea Streams that join the Utuhina Stream before it enters Lake Rotorua about 5 km downstream of the Development Area.

8.221 The volume of stormwater runoff will increase with the urbanisation of the Pukehāngi Heights area due to the increase in impermeable surfaces. It is recognised that the downstream network has existing flooding risk. To avoid increased flooding risk, significant mitigation will be required.

8.222 As part of the development of the plan change, conceptual stormwater management plans applying water sensitive design principles were developed for each of the three sites within the Development Area (Sunny Downs,<sup>31</sup> Hunts Farm<sup>32</sup> and Twin Oaks<sup>33</sup>) and a further report assessing flood risk was

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<sup>31</sup> Foster L., Opus International Consultants, 10 November 2017. Pukehāngi Road (Hunts Farm) development – Stormwater Masterplan Advice. *Memorandum prepared for Rotorua Lakes Council* (RDC-982659).

<sup>32</sup> Foster L., Opus International Consultants, 03 November 2017 (content updated July 2019). Pukehāngi Road (Sunny Downs) development – Stormwater Masterplan Options – Structure Plan Amendments. *Memorandum prepared for Rotorua Lakes Council* (RDC-982640).

<sup>33</sup> Boldero A. and Foster L., Opus International Consultants, 17 September 2018 (content updated March 2019). OPUS Stormwater Report for Te Arawa Group Holdings Development, Rotorua. *Memorandum prepared for Rotorua Lakes Council* (RDC-982627).



prepared.<sup>34</sup> This concluded that flood risk within the site is ‘low’ and the contribution of the site to flooding downstream can be managed with appropriate management within the Development Area. These reports were independently peer reviewed.<sup>35</sup>

- 8.223 Each conceptual stormwater management plan uses a “treatment train” approach, with a focus on source control (including ‘on-lot’) measures, distributing to a network of stormwater attenuation areas including swales for attenuation and conveyance, and use of larger dry attenuation “ponds” before discharging off the site.
- 8.224 When not in use for stormwater attenuation, the ponds would serve as passive public open space. The initial design was that these would have depths of between 1.5 and 2m, with the design configured to minimise health and safety hazards when in use for stormwater attenuation. Ponds adjacent to the southern boundary of Parklands provide an additional open space amenity buffer. Defined overland flow paths also have a dual purpose, serving as walkway corridors
- 8.225 The conceptual stormwater management plans for Sunny Downs and Hunt Farm attenuate water using ponds within their respective land. Twin Oaks attenuation is also within the Hunt Farm due to space limitations on site and access to an appropriate outlet.
- 8.226 The conceptual stormwater management plans were based on interim design assumptions about the level of attenuation needed to protect downstream areas from increased flooding. The design criterion used is to reduce the 1% AEP runoff to 80% of the pre-development flows consistent with BOPRC stormwater guidelines.
- 8.227 At that time, a hydrological model was still under development by BOPRC for the Greater Utuhina Catchment. The model would allow detailed consideration of issues such as future development, co-occurrence of discharges from different parts of the catchment and the impact of climate change. As the model was not available to undertake the downstream flood risk assessment the BOPRC guideline criteria were applied to the indicative design.
- 8.228 The key elements of the stormwater system (stormwater attenuation ponds and overland flow paths) are shown indicatively on the Structure Plan, based on the interim design assumptions. As notified, approximately 6ha is allocated to stormwater attenuation ponds. The overland flow paths are buffered with an indicative width 10-15m to accommodate 0.2% AEP event.
- 8.229 Given the scale and nature of the attenuation areas, they will be a significant influence on the overall urban design of the Development Area. Locations are influenced by locations that are at levels that minimise risks of failure and proximity to outlets to the downstream infrastructure crossing Pukehāngi Road. There are design decisions yet to be made in the configuration of the ponds (location, shape and depth, and their treatment as open space).

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<sup>34</sup> Foster L., Opus International Consultants, March 2019. Pukehāngi Heights Development Area - Flood Risk Assessment. *Prepared for Rotorua Lakes Council* (RDC-903504)

<sup>35</sup> Pennington, M., Tonkin and Taylor Limited, 21 March 2019. Pukehāngi Plan Change – Technical review – downstream flood risk assessment. *Assessment prepared for Rotorua Lakes Council*. (RDC-904050)

- 8.230 The indicative status of stormwater infrastructure shown on the structure plans reflects the interim level of design and the likelihood that the design will change following the completion of further hydrological and hydraulic modelling of the catchment, detailed design of development (earthworks, infrastructure and buildings), and further consideration of off-site mitigation opportunities (both upstream and downstream of the Development Area). In addition, the final design of the stormwater system will need to comply with the conditions of any future stormwater discharge consent.
- 8.231 In this context, the proposed plan change included the following provisions to manage stormwater, protect the area from flooding and meet the requirements of the Bay of Plenty Regional Policy Statement, pending more detailed assessments:
- A policy that requires that prior to subdivision and development, a flood risk assessment is completed using a detailed catchment-wide model to show how low flood risk will be achieved and maintained within the Development Area without increasing flood risk to downstream urban areas (Policy 3.1).
  - A Structure Plan that shows the 'indicative' scale and location of stormwater detention areas and the main overland flow paths based on the interim design criteria.
  - A subdivision performance standard for the residential areas and mid-site escarpment that requires completion of a risk assessment that complies with the regional policy statement (A5.2.3.4(8), A5.2.4.4(4));
  - A further subdivision performance standard for the residential areas and mid-site escarpment that requires a catchment based stormwater management plan to be prepared prior to subdivision (A.5.2.3.4.7, A5.2.4.4.5). The performance standards also detail matters to address in the stormwater management plan.
  - A policy requiring the identification of overland flow paths for events greater than the designed flow (Policy 3.1). This policy will also inform the assessment of subdivision applications.

### ***Evaluation***

- 8.232 The issues raised in submissions fall into two broad themes:
- Managing cumulative flooding effects on the downstream catchment from new development;
  - Managing flooding effects on properties adjacent to the Development Area from new development;
- 8.233 Many of the submissions seek further assessment of downstream flooding effects, including further modelling, to establish that flood risk to downstream urban areas will not be increased, or will be reduced.
- 8.234 Although the requirements in the plan change for flood risk assessment and catchment management planning are framed as resource consent matters, the Council recognises that these requirements would be difficult for an applicant (owner and/or developer) to address. The catchment is large and complex, and optimal mitigation for the Development Area is likely to include offsite measures on land that not owned and controlled by an applicant.
- 8.235 In this context and given the underlying strategic purpose of the plan change to improve land supply, active steps have been taken by the Council to lead catchment management planning and risk assessment. The strategy is that provisions requiring a Stormwater Management Plan and risk assessment and would be fully addressed by Council before any application for development was made.

- 8.236 The intention has been to undertake the assessment on a collaborative basis between District and Regional Council. This work could not be significantly advanced until the Greater Utuhina Catchment Model (GUCM) became available in May 2020 as a basis for stormwater assessment. The model became available later than expected which has created challenges in having the desired level of information available in time for the hearing. The report refers to work that is continuing, with the intention that further, more refined information will be made available to all parties prior to the hearing.
- 8.237 The process and outcomes to date are described in the Stormwater Report from Liam Foster,<sup>36</sup> a Technical Principal from WSP engaged by the Council. The report includes information on the mitigation now being considered following further assessment and modelling.
- 8.238 A key outcome from this work is that the area of the proposed attenuation basins or ponds within the Development Area may need to be significantly greater than that shown on the Structure Plan as publicly notified. The scale of increase is from approximately 6ha to 14ha. The Stormwater Report explains the reasons for this increase. It is important to note that the pond areas as notified were indicative and it was always expected that these might change once further modelling and evaluation was completed.
- 8.239 With the increased scale of the attenuation ponds, the modelling results shows that the existing peak flows will be reduced following development which is described as a “benefit downstream”<sup>37</sup>. The reduced peak flow will reduce the peak water level for the two tributaries of the Mangakakahi and Otamatea Streams. Nearer the development, the benefits are more marked<sup>38</sup>. This benefit is not as certain in the lower part of the catchment as other tributaries take up the available capacity to have a wider impact across the catchment. The flow rate will remain elevated for a longer period compared to the existing condition<sup>39</sup>.
- 8.240 The Stormwater Report identifies that the Linton Park Detention Basin will have inundated areas for a longer period following development (by approximately 2 hours)<sup>40</sup>, but this is assessed as unlikely to have a detrimental effect on the park’s performance or aesthetics.
- 8.241 These results give confidence that the development can occur in a manner that gives effect to the RPS Natural Hazards policies: Policy NH 3B: Natural hazard risk outcomes and Policy NH 4B: Managing natural hazard risk on land subject to urban development.

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<sup>36</sup> Opus International Consultants, 19 August 2020. PC 2 Pukehāngi Heights Stormwater Report. *Prepared for Rotorua Lakes Council* (RDC-1046337).

<sup>37</sup> Ibid 4.1.2 Comparison of Peak Flows

<sup>38</sup> Ibid 4.2.1 Performance of the Primary Network

<sup>39</sup> Ibid 4.2.1 Performance of the Primary Network

<sup>40</sup> Ibid 4.2.2 Linton Park Detention Basin

- 8.242 The Stormwater Report describes the ‘72-hour nested storm’ that is used in the GUCM as “precautionary”<sup>41</sup> and “overly conservative”<sup>42</sup>. This produces extreme flows that are unlikely to occur.
- 8.243 A “24-hour nested storm” is identified as a more typical duration of antecedent rainfall to use for assessment of stormwater management across the Region. Nested storms have been identified to be ‘conservative’ for the design of attenuation systems<sup>43</sup>. Local rainfall and flow data show that storm events that cause flooding are typically less than 12 hours<sup>44</sup>.
- 8.244 Similarly, the design rainfall used in the GUCM is described as “conservative”, taking into account the time of concentration of the Utuhina Catchment. This has led to larger storage requirements than would typically be expected to achieve the levels of performance required to prevent downstream impacts. For climate change effects to 2130, GUCM adopts RCP 8.5 which are described as conservative<sup>45</sup> as is the rainfall distribution<sup>46</sup>.
- 8.245 It is understood that the modelling approach gives peak flow rates in the river that are likely to be greater than the statistically driven peak flow rates, representing a further degree of conservatism.
- 8.246 Based on the above, the assumptions used so far in the modelling based on GUCM conservatively “book end” the upper scale limit of stormwater assets that may be needed to avoid increasing flooding risk downstream.
- 8.247 Cumulative effects on stormwater from future residential intensification in the lower Utuhina catchment is an issue that was recently identified for further consideration. The current GUCM includes an assumed impervious area for existing residential development of 55%. There is concern that this may not take the intensification factor fully into account. BOPRC propose that the impervious area for the base case be assumed as 80% to provide for intensification, reflecting the permitted activity standard for lot imperviousness in the operative District Plan. This is likely to be overly conservative given the modest level of growth by infill within Rotorua.
- 8.248 The Stormwater Report identifies areas where agreement on less conservative, but appropriately cautious, assumptions for the further design of attenuation systems would be beneficial<sup>47</sup>.
- 8.249 There is significant concern from Council infrastructure networks managers that the GUCM assumptions are unduly conservative and are not premised on verified or recognised standards or practices. The implication of this are explained in the statement provided by Jean-Paul Gaston, the Council’s Group Manager: Strategy and Partnerships. This statement also sets out the wider strategy

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<sup>41</sup> Ibid 3.1.2.2 Antecedent Rainfall Condition

<sup>42</sup> Ibid 3.1.4 Climate Change Effects

<sup>43</sup> Ibid 3.1.2.2 Antecedent Rainfall Condition

<sup>44</sup> Ibid 3.1.3 Design Rainfall

<sup>45</sup> Ibid 3.1.4 Climate Change Effects

<sup>46</sup> Ibid 3.1.4.1 Rainfall Distribution

<sup>47</sup> Ibid 6 Summary

council has adopted for enhancement of housing supply and associated integrated stormwater management, and the Council's commitment to concluding the remaining catchment assessment and planning work.

8.250 The Stormwater Report also identifies that outside of the plan change process, the Council is developing a Stormwater Masterplan for the District that will address existing and future flooding issues in the catchments. It notes that this approach may recommend other stormwater management measures that could reduce or remove the need for on-site mitigation with the Development Area<sup>48</sup>.

8.251 In overview, the further assessment of stormwater management undertaken since public notification supports the stormwater planning approach in Plan Change 2. However, development cannot proceed until comprehensive catchment management planning is completed and a risk assessment confirms that downstream risk will not increase.

8.252 A further pre-development planning process will also be required to obtain stormwater discharge consents. This process is likely to be led by Council. The discharge consent application is likely to be publicly notified and will also need to address the issues of flood risk management in the lower catchment.

8.253 The submission by BOPRC seeks amendments to provide for a comprehensive risk assessment and stormwater assessment on a catchment-wide basis to be undertaken prior to the commencement of any subdivision, use or development in the development site.

8.254 The proposed plan provisions include Policy 3.1 that:

*"Ensure that risk from flooding is managed by:*

- Prior to subdivision and development, undertaking a flood risk assessment using a detailed catchment-wide model (which may include detailed hydrological and hydraulic modelling and hazard mitigation) to show how low flood risk will be achieved and maintained within the Development Area without increasing flood risk to downstream urban areas..."*

8.255 This policy is to be implemented through Subdivision Performance Standards A5.2.3.4.7 and 8 in the Residential Zone and A5.2.4.4.7 and 8 in the Rural 2 Zone which both require

*"A Stormwater Management Plan shall be provided which shall address;*

- The scale and form of foreseeable urban development in the applicable catchment;*
  - An assessment of effects on stormwater water quality and quantity, including erosion and flooding hazards, in the applicable catchment for the full reach downstream to Lake Rotorua;*
- ..."*

8.256 On review, the words "applicable catchment" used in these standards are potentially ambiguous. The Stormwater Management Plan is intended to be for the entire Development Area to ensure that cumulative effects are considered. The assessment of effects on stormwater water quality and

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<sup>48</sup> Ibid 5 Future Works

quantity is intended to be for the Utuhina Catchment. It would be appropriate to amend the standards to avoid this ambiguity.

- 8.257 Te Arawa Lakes Trust seek a stronger policy direction and that the Council should refuse consent to proposals that will result in an increased downstream flood risk. Their concern is that the current discretionary activity status for applications that do not meet the stormwater performance standards indicates there is discretion to allow an increase in downstream flooding risk. In pre-hearing discussions with TALT, an amendment to the provisions was discussed whereby the activity status for any proposal that did not meet the stormwater performance standards would be assessed as a non-complying activity, rather than a discretionary activity. Given there is no intention to allow an increase in downstream flooding risk in any circumstances, a change in activity status to non-complying would be appropriate.
- 8.258 Other submissions seek similar outcomes in relation to stormwater being appropriately assessed and mitigated to ensure downstream areas are not impacted. These outcomes are provided within the plan change provisions through objectives, policies and subdivision performance standards, clarified and strengthened by the proposed amendments
- 8.259 The stormwater attenuation ponds shown indicatively on the Proposed Plan Change 2 Structure Plan are unlikely to be of sufficient size to manage stormwater impacts downstream. While an increase to 14ha would give effect to the currently modelled results, the advice is that this is unlikely to be the final outcome on the ground. On this basis, a mapping approach with a less prescribed scale and form would be more appropriate, supported by an explanatory text.
- 8.260 The Structure Plan also shows notations indicating the potential to incorporate downstream measures in the Catchment Management Plan consistent with submissions made by Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm).
- 8.261 The amended Structure Plan in Appendix 1 shows this approach.

### **Recommendation**

- 8.262 Accept in part the submissions by BOPRC (44.2, 44.3, 44.4, 44.5 and 44.6); Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust (22.2); Ngāti Whakaue – Te Kōmiro o te Utuhina (42.6) Te Arawa Group Holdings Limited (20.5 and 6.29); joint submission of the Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm) (28.5, 28.10 and 28.16); further submission by the Hunt Family (6.4, 6.5, 6.6 and 6.7); Utuhina Valley Farm (21.5 and further submission 6.42); Rotorua Residents and Ratepayers Association (18.0 and further submission 4.6); Rotorua and Bay of Plenty Hunting (38.0); John & Kay McDonald Trust (5.0); D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey (32.0, 33.0, 34.0, 35.0, 36.0 and 37.0); J Revell (41.1); G and H Bell (46.6); and further submissions by BOPRC (7.4, 7.5 and 7.8).
- 8.263 Amend Subdivision Performance Standards A5.2.3.4.7 in the Residential Zone as follows:
- “A Stormwater Management Plan shall be provided which shall address;*
- *The scale and form of foreseeable urban development in the ~~applicable catchment~~ Development Area;*
  - *An assessment of effects on stormwater water quality and quantity, including erosion and flooding hazards, in the ~~applicable catchment~~ Utuhina Catchment for the full reach downstream to Lake Rotorua;*

8.264 Amend Subdivision Performance Standards A5.2.4.4 in the Rural 2 Zone as follows:

*“A Stormwater Management Plan shall be provided which shall address;*

- *The scale and form of foreseeable urban development in the ~~applicable catchment~~ Development Area;*
- *An assessment of effects on stormwater water quality and quantity, including erosion and flooding hazards, in the ~~applicable catchment~~ Utuhina Catchment for the full reach downstream to Lake Rotorua;*

8.265 Amend Table A5.2.3.1 a Pukehāngi Heights Development Area Residential 1 to include the following:

<u>15 Subdivision that would otherwise be a Restricted Discretionary Activity and that does not comply with A5.2.3.4.7 Stormwater Management and A5.2.3.4.8 Natural Hazard Risk Management</u>	<u>NC</u>
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8.266 Amend Table A5.2.4.1 a Pukehāngi Heights Development Area Residential 1 to include the following:

<u>10 Subdivision that would otherwise be a Restricted Discretionary Activity and that does not comply with A5.2.3.4.4 Stormwater Management and A5.2.3.4.5 Natural Hazard Risk Management</u>	<u>NC</u>
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8.267 Amend the Structure Plan to show the locations of Stormwater Attenuation/Public Open Space area with indicative symbols and a notation in the legend: *“Final Location and Layout subject to Final Design in accordance with subdivision performance standards and compliance with Stormwater Discharge Consent Conditions”* and to show notations indicating the potential to incorporate downstream measures in the Catchment Management Plan.

## WATER QUALITY AND STORMWATER

### Background

8.268 The control of land use for the purpose of the maintenance and enhancement of water quality is a function of regional councils under section 30(c) of the RMA and is managed through stormwater discharge provisions in regional plans. Stormwater discharge consents will include conditions prescribing minimum standards for discharges

8.269 Nonetheless, it is recognised that the control of land use and subdivision under District Plans and Council’s stormwater design requirements (guided by its engineering standards) also have an influence on achieving water quality outcomes.

### Cultural Impact Assessment

8.270 The cultural impact assessment prepared Te Rūnanga o Ngāti Kearoa Ngāti Tuarā for the plan change notes the long standing physical and spiritual connection to the natural water resource. Iwi are concerned about the cultural and spiritual value of the waters in the Mangakakahi and Utuhina streams and ultimately Lake Rotorua. Iwi expect to be fully involved in decision-making relating to governance and management of waterways. Recommendations include:

- Insisting all developments use low impact design.
- Developing targets to improve the health and wellbeing of Utuhina and Mangakakahi Streams.

### Submissions

- 8.271 Te Arawa Lakes Trust submits that development within the plan change area has the potential to significantly alter the quality of stormwater. Culturally significant sites located downstream of the structure plan area, including Tārewa Pounamu and Ohinemutu, already suffer from poor water quality. Any further increase in flooding or decrease in water quality should be avoided. Te Arawa Lakes Trust supports the concept of low impact stormwater design as set out in Policy 2.3 and elsewhere in the structure plan and seeks that these provisions be retained. However, the Trust is concerned that Policy 2.3 sits under an objective which does not protect environmental quality outside the structure plan area and seeks that Objective 2 be expanded to apply to the wider area in general and downstream sites in particular (submission 10.4).
- 8.272 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust has reservation that stormwater is adequately addressed. It is concerned about increased contamination from streets and sumps, oils and plastics, silt and faecal coliforms from birds and animals, all washing downstream into the Mangakakahi, Otamatea, and Utuhina streams and into Lake Rotorua. Ngāti Kearoa Ngāti Tuarā support the proposed Pukehāngi development using a low impact urban design for stormwater and recommend that all developers of each subdivision be required to use low impact design for stormwater to decrease the potential impact on the Utuhina stream (submission 22.3).
- 8.273 Ngāti Whakaue – Te Kōmiro o te Utuhina state that after a century of councils supporting works and developments along the Utuhina that have directly resulted in the loss of water and food security for Ngāti Whakaue; the devastation of our cultural resources and sites; and impacts on their cultural practices to the point where the intergenerational bonds between their whānau and tupuna awa have been severed, it is time the Council takes responsibility for ensuring the protection of the rights of mana whenua to restore and protect their wai, taonga species, cultural resources, sites, values and practices. It seeks that the policies explicitly require green infrastructure and water sensitive design to the highest possible standard to ensure no flooding or negative impacts on water quality occur downstream as part of any development. Therefore, it seeks the word ‘require’ be included within the bullet points of proposed Policy 2.3 (submission 42.6):
- 8.274 Ngāti Whakaue – Te Kōmiro o te Utuhina also seek that the Council recognise and provide for the national significance of freshwater and Te Mana o te Wai through giving effect to the National Policy Statement for Freshwater Management 2014 (objectives and limit setting) (submission 42.7).
- 8.275 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana state the subdivision will increase the amount of contaminated stormwater flowing into the already polluted Utuhina stream; and the mitigation measures to address this are based on assumptions due to the lack of catchment research and modelling (submissions 8.4, 23.4, 24.4 and 25.4).

### Planning Framework

- 8.276 Policy 2.3 gives effect to the objectives for achieving water quality:

*Provide for integrated management of land use and stormwater by:*

- *Management of water quality and quantity through the application of low impact design principles with the development of a “treatment train” using measures that distribute stormwater management across the site:*
  - *Source Control - individual lot level stormwater management approaches such as soak holes for capturing roof runoff, rain gardens, rainwater harvesting;*



- *Site Control – collecting and conveying runoff from a collection of lots through to smaller stormwater management facilities such as dry attenuation zones, swales, through to;*
- *Regional Control - larger dedicated catchment facilities, such as detention basins, ponds and wetlands.*
- *Designing stormwater infiltration measures based on a geotechnical assessment to achieve and maintain a low level of risk of landslide or liquefaction within the Development Area without increasing risk elsewhere;*
- *Minimising the formed width of roads to reduce stormwater run-off while ensuring that road function and safety is maintained;*
- *Integrating the use of open space for stormwater management and recreation including the provision and protection of adequate space to safely accommodate detention ponds and overland flow paths; and*
- *Ensuring that appropriate stormwater infrastructure is provided at the right time and that costs are shared on an equitable basis.*

8.277 The plan change requires a stormwater management plan to be prepared as a performance standard for subdivision (A.5.2.3.4.7 / A5.2.4.4.5). The stormwater management plan is to address various matters including an assessment of the effects on stormwater quality and proposals for management of stormwater quality. Council's discretion in assessing subdivisions is reserved broadly over the matters in set out in the objectives, policies and principles.

8.278 As explained above, initial site-specific conceptual stormwater management plans have been developed for each of the land blocks covered by the plan change. These set out concepts for managing both the quality and quantity of stormwater. The concepts involve a treatment train approach, with a focus on source control (including 'on-lot' measures), distributing to a network of green open space that serves as stormwater attenuation areas including swales for attenuation and conveyance, and use of larger dry basins before discharging off the site. The concepts are intended to demonstrate that feasible options are available; but the final design of stormwater is to be determined through a further Stormwater Management Plan that meets the requirements of A.5.2.3.4.7 / A5.2.4.4.5.

### **Evaluation**

8.279 The proposed planning approach will ensure that the spatial design for the Development Area provides for mitigation of water quality effects based on best practice low impact design and balanced between private measures and assets vested in Council. The ultimate regulatory mandate for ensuring compliance with water quality standards in the downstream rests with the Regional Council as consent authority.

8.280 Similar to the evaluation above on flooding, there is no intention to allow discretion on resource consents that would accommodate degradation of downstream water quality. A change in activity status for subdivision to non-complying where the low impact design stormwater performance standards are not met would also be appropriate.

### **Recommendations**

8.281 Accept in part the submissions by Te Arawa Lakes Trust (10.4); Te Rūnanga o Ngāti Kēaroa Ngāti Tuarā Trust (22.3); Ngāti Whakaue – Te Kōmiro o te Utuhina (42.6) and N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana ( 8.4, 23.4, 24.4 and 25.4).

8.282 Amend Subdivision Performance Standards A5.2.3.4.7 and 8 in the Residential Zone as follows (as also recommended for Flooding and Stormwater):

*“A Stormwater Management Plan shall be provided which shall address;*

- *The scale and form of foreseeable urban development in the ~~applicable catchment~~ Development Area;*
- *An assessment of effects on stormwater water quality and quantity, including erosion and flooding hazards, in the ~~applicable catchment~~ Utuhina Catchment for the full reach downstream to Lake Rotorua;*

8.283 Amend Subdivision Performance Standards A5.2.4.4.4 and 5 in the Rural 2 Zone as follows:

*“A Stormwater Management Plan shall be provided which shall address;*

- *The scale and form of foreseeable urban development in the ~~applicable catchment~~ Development Area;*
- *An assessment of effects on stormwater water quality and quantity, including erosion and flooding hazards, in the ~~applicable catchment~~ Utuhina Catchment for the full reach downstream to Lake Rotorua;*

8.284 Amend Table A5.2.3.1 a Pukehāngi Heights Development Area Residential 1 to include the following:

<u>15 Subdivision that would otherwise be a Restricted Discretionary Activity and that does not comply with A5.2.3.4.7 Stormwater Management and A5.2.3.4.8 Natural Hazard Risk Management</u>	<u>NC</u>
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8.285 Amend Table A5.2.4.1 a Pukehāngi Heights Development Area Residential 1 to include the following:

<u>10 Subdivision that would otherwise be a Restricted Discretionary Activity and that does not comply with A5.2.3.4.4 Stormwater Management and A5.2.3.4.5 Natural Hazard Risk Management</u>	<u>NC</u>
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## WATER SUPPLY

### **Background**

8.286 The District Plan’s existing subdivision performance standards require that all sites and buildings are provided with adequate and potable water supply (13.13.3.1 and 13.13.3.2). Policy 13.3.5.2 and performance standard 13.13.3.2(f) expressly require that the water supply be adequate for fire-fighting purposes.

8.287 Development in the plan change area is expected to be supplied reticulated water through Council’s central water supply scheme, which is Council’s largest water supply scheme by demand volume and serves the CBD and surrounding suburbs. Water is sourced from the Karamu-Takina spring on the south-western outskirts of the city, where it is treated and pumped to storage reservoirs at Matipo Avenue and Utuhina Road and gravitates to the distribution system. Seven intermediate reservoirs

and four booster pump stations are also included in the distribution system.<sup>49</sup> The consent for the water take from the Karamu-Takina spring expires in 2026.

8.288 Peak day demand in previous years has reached close to the maximum daily extraction limits consented.<sup>50</sup> To address demand Council is currently focusing on public education to reduce summer peak demand; sectorisation of the water supply scheme to enable bulk monitoring and facilitate leak detection; as well as pressure management projects to reduce wastage. The installation of water meters to enable use-based charges and promote further water use reductions is not currently planned, but is expected to continue to be investigated as the cost-benefits change into the future.<sup>51</sup>

8.289 An initial report to support Council's master planning suggests no additional source waters will be required before 2051 under the baseline growth projections provided by Infometrics (April 2020),<sup>52</sup> provided that water take consent limits remain the same and the initiatives to reduce demand are sufficient to meet demand management forecasts. However, there is currently much uncertainty about the potential limits on future takes, including the impact of implementation of the National Policy Statement for Freshwater Management 2020. In the event that extraction limits are reduced, groundwater sourced from bores is the preferred solution to supplement the existing water source.<sup>53</sup>

8.290 Council and its consultants have investigated how the distribution network for the central water supply scheme can be extended to serve development in the Pukehāngi Heights and three reports were produced.<sup>54</sup> These confirm that additional infrastructure is required to provide sufficient pressure to elevated development in the plan change area (above approximately the 340m contour). Various pump and reservoir locations were investigated to meet levels of service, provide sufficient storage in the scheme and also provide flexibility for developments to proceed independently. The most favoured options for additional storage at that time were in either Russell Crescent, adjacent to the existing reservoir, or on the Te Arawa Group Holdings Land, near the existing Matipo Avenue reservoir.

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<sup>49</sup> A. Patterson and B. Balaei, Opus International Consultants, 15 December 2017. Rotorua Lakes Council Water Supply Asset Management Plan.

<sup>50</sup> The consented limit is 36,368 cubic metres/day. Peak day demand recorded in recent years was: 2019/20 34,237 cubic meters (94% consented limit); 2018/19 33,134 cubic metres (91% consented limit); 2017/2018 29,174 cubic metres (80% consented limit).

<sup>51</sup> A. Patterson and B. Balaei, Opus International Consultants, 15 December 2017. Rotorua Lakes Council Water Supply Asset Management Plan; Rotorua District Council Water Conservation Strategy 2009 (RDC 47306); and Rotorua Lakes Council, February 2018. Report of Progress Achieved in Implementation of Rotorua Lakes Council Water Conservation Strategy (RDC-803732).

<sup>52</sup> Infometrics, April 2020. Rotorua District Employment, Population, Household and Visitor Projections for Rotorua Lakes Council (Draft). *Report for Rotorua Lakes Council*.

<sup>53</sup> R. Taylor, Thomas Consultants Ltd., 31 March 2020. Water Supply Master Planning Central Area – Main Planning Summary Document (Draft).

<sup>54</sup> Opus International Consultants, February 2017. Pukehāngi West Water Supply Options Report Final. *Report prepared for Rotorua Lakes Council* (RDC-729775); Thomas Consultants, November 2017. Pukehāngi Rd Water Supply Planning Report, (RDC-780450); RLC Infrastructure Planning, October 2018. Central WSS Additional Reservoir Storage and Options – Draft (RDC-866353).

- 8.291 Master planning is now underway that builds on the above reports to confirm strategies to service growth. The planning identifies that a key issue is providing adequate in-distribution storage in the event that an emergency interrupts supply. A draft report identifies that additional storage is required in the near future (within the next three years) because existing reservoirs do not provide sufficient emergency storage with the anticipated growth in demand. The favoured option is now construction of a new reservoir next to the existing reservoir on Tarawera Road, which would provide shared storage for the central and eastern schemes. The next most preferred option is additional storage at Russell Crescent. Construction of a reservoir at higher elevations in Pukehāngi Heights is discounted because provision of a reservoir large enough to address emergency storage issues for the central water supply scheme would result in either lower water quality due to reduced turnover, or high energy costs to pump water to the high elevation.<sup>55</sup>
- 8.292 Funding of \$4.8m for an additional reservoir to serve the central water supply scheme is already identified in the current Long Term Plan for 2019 to 2025. This will be reviewed for the next Long Term Plan, informed by the master planning.

### **Submissions**

- 8.293 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust note that the most likely source of water supply for the development is the central urban water supply, which is drawn from the Karamu-Takina Spring. The Trust submits that the Karamu-Takina Spring and Mawae Spring are significant sites for the iwi and the acquisition of the Karamu-Takina Spring has been contentious with the iwi since 1954. The iwi is pleased that the Council has now entered into discussions with the iwi to work towards an agreement regarding ownership of the land and ongoing management of the spring (submission 22.1).
- 8.294 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana oppose the plan change and one of their reasons is that more pressure will be placed on Karamu-Takina Springs; and potentially also Mawae Springs. They submit that research on these springs is lacking and tangata whenua still have outstanding matters to be progressed with the Crown over freshwater ownership and management (submissions 8.3, 23.3, 24.3 and 25.3).
- 8.295 Utuhina Valley Farm note that the supply of water has not been determined, including the location of the water reservoir and impacts of aquifer drawdown. It seeks that the supply and management of water is undertaken prior to approval of the plan change. It does not believe it appropriate to approve the plan change in principle as the effects on the aquifers cannot be determined and the reservoir is potentially a significant 'eye sore'. It opposes any reservoir located adjacent to their property or on the caldera rim (submission 21.6).
- 8.296 G and H Bell, whose property is surrounded by the Hunt Farm, also have concerns that the location of the reservoir has not been finalised. They seek that the subdivision allow for their house to hook up to the new water supply and not at their expense (submission 46.7).

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<sup>55</sup> R. Taylor, Thomas Consultants Ltd., 31 March 2020. Water Supply Master Planning Central Area – Main Planning Summary Document (Draft). *Report prepared for Rotorua Lakes Council.*

- 8.297 Submitters D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey, who live nearby, are concerned that the Council has not adequately taken into account the effect of the large volume of houses on water supply in the immediate area. They submit that water pressure is already an issue in summer. They consider that, unless additional reservoirs are built, there will be inadequate supply, resulting in health and safety issues and increased fire risk. They seek that the plan change not be progressed (submissions 32.4, 33.4, 34.4, 35.4, 36.4 and 37.4).
- 8.298 Pukehāngi Parklands Estate Inc. seeks that the Council also plan to provide water supply to the adjacent Parklands development. It submits that the Parklands' private water scheme was always intended as an interim measure, until sufficient capacity was available through the Council's scheme (submission 4.5).
- 8.299 Fire and Emergency New Zealand (Fire and Emergency) are concerned that the plan change will remove the opportunity for them to review individual applications to ensure suitable water supply and access provisions are achieved. Fire and Emergency refer to the non-notification rules, stating the plan change provides no requirement for notification of subdivision applications or to obtain written approval from affected parties if the land use and/or subdivision is consistent with the principles and the structure plan. It also refers to the performance standards – while performance standards for the Residential 1 Zone and mid-site escarpment require compliance with any other relevant provision of the District Plan [including those relating to firefighting water supply in Part 13], there appears to be no requirement for compliance with Part 13 for the upper escarpment. Therefore, Fire and Emergency submits it is essential that the specific requirements for appropriate firefighting water supply and access identified in Chapter 13 are incorporated within the plan change.
- 8.300 It also considers the performance standards should refer to the New Zealand code of practice.
- 8.301 It seeks the following performance standards (submissions 14.0):

*A5.2.3.4 Performance Standards – Subdivision*

14. Within Residential 1 Zone, the water supply required under 13.13.3.2(f) must be adequate for firefighting purposes in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

*A5.2.4 Rules - Pukehāngi Heights Development Area Mid Site Escarpment - Rural 2 Zone*

10. Within Rural 2 Zone, the water supply required under 13.13.3.2(f) must be adequate for firefighting purposes in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

*A5.2.5 Rules - Pukehāngi Heights Development Area Upper Escarpment - Rural 1 Zone*

2. Within Upper Escarpment - Rural 1 Zone, the water supply required under 13.13.3.2(f) must be adequate for firefighting purposes in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

**Planning Framework**

*National Policy Statement on Urban Development 2020*

- 8.302 The integration of infrastructure planning with land development planning is fundamental in the new national policy statement, as expressed in Objective 6:

*Local authority decisions on urban development that affect urban environments are:  
integrated with infrastructure planning and funding decisions; and strategic over the*

*medium term and long term; and responsive, particularly in relation to proposals that would supply significant development capacity.*

8.303 In this regard, the implementation section of the national policy statement clarifies that development capacity provided to meet the objectives and policies must be infrastructure ready, meaning there is water and other local authority infrastructure (land transport, wastewater and stormwater) to support the development of the land in relation to the short and medium term; that any shortfall for the medium term is programmed in the long-term plan; and that any shortfall for the long term not programmed in the long-term plan is identified in the infrastructure strategy (3.2 and 3.4).

*Bay of Plenty Regional Policy Statement*

8.304 The most pertinent objective of the Regional Policy Statement is:

**Objective 23**

*A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth.*

8.305 The related policies include:

**Policy UG 10B: Rezoning and development of urban land – investment and infrastructure considerations**

*Require the rezoning or other provisions for the urban development of land to take into account:*

- (a) Sustainable rates of land uptake;*
- (b) Existing or committed public and private sector investments in urban land development and infrastructure;*
- (c) Sustainable provision and funding of existing and future infrastructure; and*
- (d) Efficient use of local authority and central government financial resources, including prudent local authority debt management.*

**Policy UG 11B: Managing the effects of subdivision, use and development on infrastructure** *Manage the design and location of subdivision, use, and development to address potential adverse effects on the operation and upgrading of existing, consented, designated or programmed infrastructure*

8.306 Structure planning (method 18) is an important method to achieve these policies. Structure plans are required for all large-scale land use changes and are intended to assist to promote coordinated development that is integrated with infrastructure and the management of environmental effects. Structure plans are to include existing and proposed infrastructure and infrastructure corridors and responsibilities for infrastructure 'as appropriate and applicable'.

*District Plan*

8.307 The objectives for future growth and infrastructure in the existing District Plan (Part 15) are relevant for evaluating the changes sought by submitters:

**Objective 12.3.2**

*Subdivision and development within growth areas complemented in a structured and integrated pattern, with the environmental qualities of the land identified and sustainably managed.*

**Policy 12.3.2.1** *Identify the key infrastructural, community, cultural and environmental opportunities and constraints for each new growth area and ensure that these are reflected in the development of each area.*

**Objective 12.3.3**

*Serviced development that safely connects to the existing road network, utility reticulation, provides a potable drinking water supply and sufficiently caters for the future development potential of the site.*

**Policy 12.3.3.1** *Manage urban subdivision and land development to connect with the existing infrastructure and transportation network, according to the capacity limitations of that network where available and the potential requirements for upgrading its capacity.*

**Policy 12.3.3.2** *Require all subdivision and development to be coordinated with the planned provision of infrastructure, integrated with the transport network and the district's road hierarchy.*

**Policy 12.3.3.3** *Provide for urban expansion where such growth does not adversely affect the safe and efficient use and development of land, roads and infrastructure.*

8.308 Also relevant are the following objective and policies relating to water supply and subdivision  
Facilitating the achievement of such infrastructure objectives at subdivision is part of the purpose of the plan change:

**Objective 13.3.5**

*Adequate infrastructure and services are provided to each site to accommodate the potential development.*

**Policy 13.3.5.1** *Require that connections to the public reticulated water supply, stormwater and sanitary sewerage systems are made at **time** of subdivision wherever a reticulated system is available.*

**Policy 13.3.5.2** *Ensure applications for **subdivisions** demonstrate that the water supply capacity, including capacity for firefighting purposes, is sufficient for the development.*

**Policy 13.3.5.3** *Provide for potable **water** supply to a suitable standard to all lots or lease areas at time of subdivision.*

*Ngāti Kearoa Ngāti Tuarā Environmental Management Plan and Cultural Impact Assessment*

8.309 This plan identifies the Karamu Takina Spring as a site of particular historical significance to iwi and that the iwi have a grievance over the acquisition of the land and spring by the Council's predecessor, the Rotorua Borough Council.

8.310 The cultural impact assessment also notes the long-standing grievance over the Karamu Takina Spring and that sourcing water supply from the spring for the plan change area will exacerbate the grievance. The plan change is identified as an opportunity to address the issue. Council is encouraged to enter into discussions to work towards an agreement regarding ownership of the land and management of the spring.

**Evaluation**

*Water sources and grievances.*

8.311 The Mawae Spring is located to the west of the Karamu-Takina Spring, along the Utuhina Stream, on the boundary line between a Council block and the Māori land known as Kaitao 2C Block. In the 1970s and 1980s the Council pursued use of the Mawae Spring to supplement the Karamu-Takina

Spring and consent to take water was issued by the regional water board on 23 January 1987. However, this right expired on 31 December 2006 without being implemented.<sup>56</sup>

8.312 The Mawae Spring is not currently being considered by Council as a potential water source to supplement the Karamu-Takina Spring. While future demand on this spring cannot be ruled out, it is not a preferred option for supplementing the Karamu-Takina Spring because the two springs are associated with the same surface water body (the Utuhina Stream). Therefore there is unlikely to be potential to supplement reduced water takes from one spring with another extraction from another.<sup>57</sup>

8.313 Council and Ngāti Kea Ngāti Tuarā are in ongoing discussions around the management, use and ownership of the springs and no changes are considered necessary to the plan change.

#### *Reservoir location*

8.314 In response Utuhina Valley Farm's concern about the potential location of a reservoir on the caldera rim noted that, as explained in the background section above, recent investigations do not favour additional storage within the plan change area but have identified other preferred locations for additional water storage.

8.315 The most favoured location for additional storage is some distance away from the plan change area, adjacent to the existing reservoir by Tarawera Road and Forest Place. While an elevated site, it is outside the area identified as part of the caldera rim in the Caldera Rim Report. The second most favoured site is at lower elevation on Council land near Russell Crescent.

8.316 Given that the preferred sites are on Council land and not in the plan change area it is considered they need not be identified in structure plan in terms of method 18 of the Regional Policy Statement.

#### *Sufficiency of Water Pressure*

8.317 The Rotorua Lakes Council water operations team are not aware of any existing water pressure issues on Pukehāngi Road and hydraulic modelling does not suggest any potential issues.<sup>58</sup> If submitters continue to have concerns they suggest they contact the Council's customer service centre and request a check of their individual connection.

#### *Adequacy of investigations*

8.318 It is not considered, in response to the concerns of Utuhina Valley Farm, G and H Bell, that additional water source and water storage options to service growth need further investigation / confirmation before the plan change is approved.

8.319 As explained above, the need for water sources is dependent on future extraction limits for the Karamu-Takina Spring, for which the consent expires in 2026. There is currently much uncertainty: additional water sources may not be needed for some thirty years if extraction limits for the spring

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<sup>56</sup> B. Manley, 7 May 2019. Karamu Takina and Mawae Springs. *Internal Memorandum to G. Rangī, Rotorua Lakes Council*.

<sup>57</sup> Comms. G. Manzano, Water Planning Manager, Rotorua Lakes Council, 30 April 2020; Pattle Delamore Partners Ltd., August 2019. Rotorua Water Source Assessment – Stage 1. *Report prepared for Rotorua Lakes Council*.

<sup>58</sup> Comms. E Cawte, Manager Water Operations - Water Solutions, Rotorua Lakes Council, 12 May 2020.



remain similar; but additional water sources could be needed much sooner if extraction limits are reduced. However, this uncertainty is not considered to present a sufficient risk to delay the plan change. The Council has at least six years until the expiry of the consent to continue to work through options and, depending on the limits set, may have additional time beyond this to implement any additional water sources required.

- 8.320 In terms of additional storage, Council's asset management planning suggests this is not required for several more years. Two potential locations adjacent to existing reservoirs on Council land have been identified. Funding has been signalled in Council's Long Term Plan and is expected to be carried over to the next Long Term Plan. In short, no major constraints or concerns meeting the objectives and policies of the District Plan and Regional Policy Statement have been identified.

*Connections for other existing developments*

- 8.321 Connections to the central water supply scheme sought by Parklands Estate and G and H Bell are considered outside the scope of this plan change and these submission points should be rejected on this basis.

*Fire-fighting water supply and level of service issues*

- 8.322 It is agreed with Fire and Emergency that performance standard 13.13.3.2(f) and the associated Policy 13.3.5.2, which require water supply is adequate for fire-fighting purposes, continue to apply to subdivision of the mid-site escarpment and terraces under the plan change (refer to proposed performance standards for the Residential 1 Zone and mid-site escarpment, Residential 2 Zone at A5.2.3.4.1 and A5.2.4.4.1, which in turn refer to the existing subdivision performance standards).
- 8.323 It is also agreed that there is no such cross reference to the performance standards for subdivision of the upper escarpment. However, this is not considered an issue as buildings are a non-complying activity and subdivision is not intended to facilitate the separate use of this area for buildings to which fire-fighting water supply need be considered. Should any subdivision be proposed to facilitate such use, the existing objectives and policies of the District Plan (including those relating to fire-fighting water supply) would apply.
- 8.324 Therefore, no additional performance standards are considered necessary to address firefighting water supply for the plan change area.
- 8.325 It is not agreed that that the plan change will affect the opportunity for Fire and Emergency to review individual applications to ensure suitable water supply and access provisions are achieved. Currently consent applications are not customarily provided to Fire and Emergency for review, as Council's internal engineers check compliance with the District Plan's fire-fighting water supply performance standard. This practice is not expected to change. The proposed non-notification rule does not apply to an activity that does not meet the fire-fighting water supply performance standard and, therefore, does not affect any notification of affected parties with respect to firefighting water supply.
- 8.326 It is not considered appropriate to include the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 in the performance standards (incorporate by reference) under this plan change. The code is already referenced in engineering standards RITS and Council is already guided by this code of practice in its development of conditions on subdivisions. Incorporation of the standard in the District Plan as a performance standard would require significant consideration and is more efficiently addressed more widely at plan review.

### **Recommendation**

8.327 Submission 22.1 (Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust) be accepted.

8.328 Submissions 8.3, 23.3, 24.3 and 25.3 (N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana) and 21.6 (Utuhina Valley Farm) be partly accepted.

8.329 Submissions 46.7 (G and H Bell), 4.5 (Pukehāngi Parklands Estate Inc), 32.4, 33.4, 34.4, 35.4, 36.4 and 37.4 (D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey) and 14.0 (Fire and Emergency) be rejected.

8.330 Make no changes as a result of these submissions.

## **TRANSPORT AND THE ROAD NETWORK**

### **Background**

8.331 The plan change proposes a new policy addressing traffic and access as one of several policies to achieve proposed Objective 2 – Integrated Urban Design.

#### **2.4 Traffic and Access**

*Ensuring that construction and development traffic is accommodated in a manner that maintains connectivity, safety, and amenity within the capacity of the road network by:*

- *Identifying an indicative primary road network on the Structure Plan with connections to the existing road network to optimise traffic management;*
- *Identifying additional primary roads on the Structure Plan that may be provided to improve connectivity;*
- *Identifying appropriate construction traffic routes where necessary; and*
- *Ensuring efficient and safe walkways are provided to existing and planned public transport facilities.*

8.332 Policy 2.7 is also proposed to provide high levels of connectivity within and around the site for walking and cycling.

#### **Policy 2.7 Public Walking and Cycling Access**

*Provide high levels of connectivity within and around the site for walking and cycling.*

8.333 Policy 2.5 is also relevant with respect to access for lots onto Pukehāngi Road:

#### **Policy 2.5 Street Character and Amenity**

*Develop a local street character that:*

- ...
- *Minimises vehicle crossings onto Pukehāngi Road to ensure the safety of any future cycleway along Pukehāngi Road is protected.*

8.334 To assist achieve these policies, the proposed structure plan shows:

- an indicative internal primary road network for the plan change area and additional links that could form part of the network
- the appropriate locations for new intersections onto Pukehāngi Road and Matipo Avenue
- changes/upgrades to existing intersections onto Pukehāngi Road to address traffic effects
- walkways and cycleways within the plan change area
- a cycleway along Pukehāngi Road

- the indicative location of two future bus stops.

8.335 During consultation on the development of the plan change Matipo Avenue residents raised concerns about the negative effect of increased traffic on their amenity values. The plan change seeks to mitigate these potential effects with a connected road network that encourages traffic from the Te Arawa Group Holdings land (Area A) to access Pukehāngi Road via new links down the mid-site escarpment rather than Matipo Avenue. Specifically the plan change includes:

- Indicative road network on the structure plan:
  - a road that connects Te Arawa Group Holdings Land/Area A with the upper terrace in Hunt Farm/Area B;
  - a new spine road in Area B that extends Malfroy Road into the plan change area and connects to the upper terrace;
  - closure of Matipo Avenue intersection onto Pukehāngi Road (once the alternative connection to through to Area B is available);
  - upgrading of the intersection of Pukehāngi Road and Malfroy Road/new spine road to a roundabout to cope with increased traffic;
  - a lower connection between Matipo Avenue and the new spine road to allow traffic from lower Matipo Avenue to access Pukehāngi Road.
- Special subdivision performance standards for the Residential 1 Zone and Rural 2 Zone to limit the number of dwellings that may be serviced by a road connecting with Matipo Avenue to 60 if no such connection between Area A and Area B is available at the time of subdivision (A5.2.3.4.11 and A5.2.4.4.7):
  - a. *If no road connection is available between Area A and Area B, any road intersection connecting with Matipo Avenue from Area A may provide access for no more than 60 residential dwellings.*
  - b. *If a road connection is available between Area A and Area B, the subdivision and development of Area A shall be designed such that any road intersection connecting with Matipo Avenue from Area A provides access for no more than 35 residential dwellings, or the equivalent number of vehicle trips during the evening peak hour established through traffic modelling methodology by a Suitably Qualified and Experienced Traffic or Transportation Engineer.*
  - c. *Standard b above shall be deemed to be met where:*
    - i. *A road intersection at Pukehāngi Road/Malfroy Avenue is located generally as shown on the Pukehāngi Heights Development Area Structure Plan; and*
    - ii. *The Indicative Primary Road in Area B up the mid-site escarpment is located generally as shown on the Pukehāngi Heights Development Area Structure Plan.*

8.336 The road layout for the plan change was based on a multi-criteria assessment of various options. The criteria considered a wide range of matters such as potential construction cost, disturbance of neighbours, development yield, staging issues and connectivity.

- 8.337 Stantec were commissioned to undertake an assessment of traffic impacts of the proposed roading network using a traffic model for Rotorua developed with the TRACKS transportation modelling, which is detailed in the report completed in March 2019 (the 2019 Stantec Traffic Assessment).<sup>59</sup>
- 8.338 In terms of wider network impacts Stantec concluded, on the basis of its modelling of the estimated yields from the development along with other growth in the city, that the additional traffic would not show up problems beyond those that exist today. The exception was the signalised intersection of Malfroy Road and Old Taupo Road (SH5), which will need additional capacity for the through movement on the east approach.
- 8.339 The Stantec Traffic Assessment also made observations about the limitations of the current carriageway width of Pukehāngi Road for accommodating parking, cycleway and turning bays. Parking restrictions and local widening are discussed as potential solutions in the assessment. Such solutions were not included in the structure plan but were expected to be further investigated and programmed through Council's transport activity if needed.
- 8.340 Most of the transport elements of the structure plan are expected to be implemented by developers as part of the subdivision process. Council's discretion over subdivision references the policies for the Pukehāngi Heights Development Area and underlying zone (A5.2.6.5). While the implementation of the structure plan is not expressly required in the performance standards or policies, the structure plan illustrates how subdivision applications can achieve the requirements of the District Plan. However, some elements of the structure plan, those that relate to multiple land blocks or have benefits/outcomes beyond the plan change area, may require separate funding. Examples in the proposed structure plan are the future roundabout indicated at Pukehāngi Road and Malfroy Road intersection and shared cycleway along Pukehāngi Road. Existing financial contribution rule 14.5.3 provides scope for Council to potentially charge contributions towards roading upgrades, which would need to be considered at subdivision. Council has also indicated an intention to implement a development contributions policy that might replace the need to use these financial contributions.

## **Submissions**

### *Internal Road Layout*

- 8.341 Matipo Ave Residents Incorporated Society (MARIS) supports closing Matipo Avenue at the intersection with Pukehāngi Road as shown on the structure plan and the alternative connection from Matipo Avenue to Pukehāngi Road through the proposed link from lower Matipo Avenue through to the Hunt Farm (Area B) (submission 12.8).
- 8.342 However, MARIS oppose the linking of upper Matipo Avenue with the Hunt Farm (Area B) through the Te Arawa Group Holdings Limited land (Area A). MARIS submit:
- There is unlikely to be any safety benefit as this new road will have similar steep gradient to Matipo Avenue.

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<sup>59</sup> Stantec, 08 March 2019. Pukehāngi Heights Development Area Traffic Assessment. *Report prepared for Rotorua Lakes Council*. RDC-899757.

- While the link will provide movement choice and connectivity, this must be balanced with safety and privacy considerations. Studies suggest crime is lower in cul-de-sacs than two way streets.
- A short cul-de-sac is considered a more efficient use of this hillside, involving less roading. Connectivity with the wider Pukehāngi Heights development will still be achieved via the link at the lower part of Matipo Avenue.
- The link road could exacerbate substandard stopping distances and substandard vertical and horizontal alignments, creating potential cumulative effects for Matipo Avenue residents and a potential loss of amenity.

MARIS seek that the additional primary road connection from the Te Arawa Group Holdings Limited land (Area A) to upper Matipo Avenue be removed from the structure plan; and seek that Area A instead be accessed from Great West Road or the Hunt Farm (Area B). However, MARIS are amenable to the temporary use of a link road/private road during construction until an alternative is available (submissions 12.1, 12.4 and 12.7).

- 8.343 Te Arawa Group Holdings oppose MARIS's submission 12.1 regarding the deletion of the 'additional primary road connection'. It notes that the traffic assessment concluded that, with the roading network shown in the structure plan, traffic movements on Matipo Avenue would be less than those enabled under current District Plan provisions (further submission 2.9).
- 8.344 The Hunt Family also oppose MARIS's submission point that seeks to delete the additional primary road linking the Hunt Farm to Matipo Avenue through the Te Arawa Group Holdings Limited land. The family refer to the promotion of connections in the New Zealand Urban Design Protocol. They consider that removal of this connection would not provide good accessibility, resulting in long travel distances for some areas of the development. The family also refer to the protections in the plan change for Matipo Residents (performance standard A5.2.3.4.11 for limiting the number of dwellings accessing Matipo Avenue and A5.2.3.4.12 for construction traffic) (further submission 6.19).
- 8.345 Pukehāngi Parkland Estate Inc. question the intention of the dotted line labelled 'additional primary road connection'. They ask whether there is a proposed road. They also seek clarification of whether this adjoins the overland flow path and whether the intention is for residential lots to be constructed between the road and the boundary with Parklands Estate. They seek a buffer between Parklands and any housing (submission 4.2).
- 8.346 L Herbert, who lives opposite the Hunt Farm driveway, is concerned about the intention for this to be turned into a road. She states there is currently minimal traffic but the noise and light from the additional traffic would make a huge difference. She seeks that the main roads be located at the Pegasus Drive intersection and Malfroy Road roundabout (submission 6.0).

#### *Pukehāngi Road*

- 8.347 R Mischewski is concerned about traffic noise. She seeks speed limit reductions, seal that absorbs sound and traffic calming measures (submission 39.0).
- 8.348 MARIS supports a roundabout at the intersection of Malfroy Road and Pukehāngi Road (submission 12.9).

- 8.349 Pukehāngi Parklands Estate Inc also supports a roundabout at the intersection of Malfroy and Pukehāngi Road; as well as a reduction in the speed limit and that a roundabout at the Sunset Road and Pukehāngi Road intersection be considered (submission 4.0).
- 8.350 G and H Bell seek that the Council assure them that appropriate upgrades are planned at key intersection points to address the increase in traffic on Pukehāngi Road (submission 46.5).
- 8.351 Rotorua District Residents and Ratepayers Association are concerned about the additional traffic, despite the conclusions of the traffic assessment. It doubts that the impact of an additional 700 houses would be 'relatively low' (submission 18.1).
- 8.352 Utuhina Valley Farm seek that Pukehāngi Road be widened to accommodate the additional traffic, on-road parking and the proposed cycleway (submission 21.7).
- 8.353 D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey oppose the plan change. One of their reasons is that they are concerned that the Council has not adequately taken into account safety for residents to safely enter and exit their property and the safety for children due to increased traffic (submissions 32.3, 33.3, 34.3, 35.3, 36.3 and 37.3)
- 8.354 D Eric and R Brackfield seek the following changes to the roading network, which is supported by the Rotorua District Residents and Ratepayers Association (submission 3.0 and further submission 4.1):
- Speed limit reductions along Pukehāngi Road
  - A slip lane for vehicles to go around cars waiting to cross traffic into Hodgkins Street (they consider this should also be applied to Barraud Place and Bloomfield Street)
  - A roundabout for Sunset Road
- 8.355 J Dodd is concerned that extension of the 'CyWay' network (which involves shared pedestrian/cycling paths) is not adequate for cyclists travelling longer distances and sometimes at fast speeds. He considers these faster cyclists will opt to use a road rather than sharing a cycleway with pedestrians and crossing multiple intersections without priority. He also notes that Pukehāngi Road is the only direct link between Springfield / East Rotorua and Paradise Valley. He seeks that both sides of Pukehāngi Road be provided with safe cycle lanes for faster riders using the roads with physical separation, such as implemented on Moray Street (submission 17.0).
- 8.356 D Crowley supports the residential zoning conditional on the provision of adequate alternative transport (cycling). Like J Dodd above, he is concerned about the provision of good side road crossings along the cycleway and submits that traffic lights may be a better solution than the proposed roundabout. He considers on-road cycle lanes on both sides of the road through the development and Pukehāngi Road should be provided. He seeks that the Council have detailed plans reviewed by independent cycling infrastructure experts to confirm they are of a high standard (submission 19.0).

#### *External Network Issues*

- 8.357 The Transport Agency is supportive of the plan change in principle but considers the traffic report does not adequately assess the effects of the proposal on the roading network. Further information requested by the Agency includes (submissions 11.0, 11.1):
- Further detail on the trip generation rates used in the traffic modelling and the distribution in the morning peak or interpeak periods.
  - Details of how the future residential yield of 708 lots was calculated.

- 8.358 The Transport Agency is concerned that traffic generated by future development in the plan change area could affect the safety and efficiency of a number of state highway intersections (Malfroy Road and SH5; Sunset Road and SH5; Devon Street and SH5; and Springfield Road and SH5). It is concerned that this has not been adequately addressed in the supporting traffic modelling and seeks assessment of how the traffic generated by the future development could affect the safety and efficiency of these intersections SH5 intersections with Malfroy Road, Sunset Road, Devon Street and Springfield Road (submission 11.5).
- 8.359 The Transport Agency also notes that upgrades to Malfroy Road and SH5 intersection, while shown in the Long Term Plan, are not in the Regional Land Transport Programme (which is necessary for the co-funding by the Transport Agency). The Transport Agency requests details of the proposed upgrade, confirmation of what funding is secured and implementation timeframes (submission 11.3).
- 8.360 The Transport Agency's further submission supports requests for further information on modelling and states SIDRA analysis of the intersections may be required. It seeks to engage further with the Council on mitigation measures to be incorporated into the District Plan with respect to these intersections if the analysis shows the development will cause or exacerbate safety or efficiency effects on the state highway (further submissions 3.1 and 3.2).
- 8.361 MARIS supports NZTA's request for details regarding vehicle flows (further submission 5.1).
- 8.362 Pukehāngi Parkland Estate Inc, regarding the downstream rush-hour traffic effect on Sunset Road at the traffic lights to Old Taupō Road (SH5), suggests priority turning lanes and extension of the no parking zone outside the industrial area could assist (submission 4.0). This is supported by the Rotorua District Residents and Ratepayers Association (further submission 4.2).
- 8.363 Rotorua District Residents and Ratepayers Association are concerned about the additional traffic, despite the conclusions of the traffic assessment. The association states there are already delays and doubts that the impact of an additional 700 houses would be 'relatively low' (submission 18.1).

#### *Public Transport*

- 8.364 In relation to public transport, the Transport Agency requests additional information in relation to the routes serving Westbrook and the potential for route changes to serve the structure plan area. It notes further engagement with BOPRC may be required in this regard (submission 11.4).

#### *Schools*

- 8.365 The Ministry of Education seeks that the Council consider the need to provide safe transport routes and access to and from schools when considering the plan change (submission 15.1). It supports the submission of the Transport Agency in terms of seeking well planned growth, the need for additional mitigation measures to be implemented as part of the development to ensure safe transport routes to and from schools. It seeks that further traffic assessments are undertaken to ensure the transport network is safe and efficient for pupils travelling by foot or car to and from school (further submission 8.1).
- 8.366 Rotorua District Residents and Ratepayers Association also seeks safety around schools is addressed (submission 18.1).

## **Planning Framework**

### *National Policy Statement on Urban Development 2020*

8.367 As explained above, the policy intent of national policy statement is to ensure regional policy statements and district plans provide adequate opportunity for land development for business and housing to meet community needs and ultimately to improve the responsiveness and competitiveness of land and development markets. Most, if not all, of the objectives and policies are relevant to this policy intent, but of particular relevance is Policy 2

*Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.*

8.368 Objective 6 states:

*Local authority decisions on urban development that affect urban environments are: integrated with infrastructure planning and funding decisions; and strategic over the medium term and long term; and responsive, particularly in relation to proposals that would supply significant development capacity.*

8.369 Development capacity provided to meet the objectives and policies must be infrastructure ready, meaning there is adequate existing land transport and other local authority to support the development of the land in relation to the short and medium term; that any shortfall for the medium term is programmed in the Long Term Plan; and that any shortfall for the long term not programmed in the Long Term Plan is identified in the infrastructure strategy (3.2 and 3.4).

8.370 Policy 1 sets out the requirements for a well-functioning urban environment and requires planning decisions to contribute to these. In relation to transport the most relevant requirements are:

- good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport;
- support reductions in greenhouse gas emissions.

8.371 Relevant to the concerns raised by submitters about increased traffic and noise, Policy 6 acknowledges that urban planning decisions may involve changes to an area that detract from some amenity values. However, Policy 6 also requires regard to be had to the positives that may result for amenity values, including through increased housing options; as well as to give regard to the contribution to development capacity.

8.372 The implementation section of the national policy statement sets out monitoring and planning requirements (Future Development Strategy (FDS)) to promote the integration of infrastructure into urban planning and achieve the policy intent. This plan change precedes the implementation of these actions. However, it is considered the plan change should be undertaken with a view to contributing to the FDS through consideration of the infrastructure required and how the plan change can contribute to clarifying these requirements and removing constraints. This is, in any case, required as part of structure planning under the Regional Policy Statement.

8.373 The national policy statement also restricts district plans from setting minimum car park requirements, which is discussed further in section 10 of this report.



*Regional Policy Statement*

8.374 The relevant objectives and policies in the Regional Policy Statement are those listed above for other infrastructure: Objective 23 and related Policy UG 10B and Policy UG 11B. These aim for a compact and efficient urban form, require consideration of the provision and funding of infrastructure at rezoning and the management of the effects of subdivision on infrastructure.

8.375 As also noted above, structure planning (method 18) is an important method to achieve these policies relating to infrastructure. Structure planning is to include existing and proposed infrastructure and infrastructure corridors and responsibilities for infrastructure ‘as appropriate and applicable’.

*District Plan*

8.376 Proposed Objective 2 – Integrated Urban Design forms part of the framework of objectives for considering the transport aspects of the plan change and related submissions:

***Objective 2: Pukehāngi Heights Development Area – Integrated Urban Design***

*The environmental quality, character, amenity and cultural values of the Pukehāngi Heights Development Area are developed and then maintained and enhanced through appropriate urban planning and design.*

8.377 Relevant to this and other aspects of the plan change is also existing Objective 12.3.1 for future growth, addressing the need to provide for growth and development choice:

***Objective 12.3.1***

*Sufficient land area suited for future urban and economic development that provides for the residents of Rotorua with a range of lifestyle and development choices.*

8.378 Existing Objectives 12.3.2 and 12.3.3 and the related policies, also noted above for other infrastructure, address the development of future growth areas and infrastructure:

***Objective 12.3.2***

*Subdivision and development within growth areas complemented in a structured and integrated pattern, with the environmental qualities of the land identified and sustainably managed.*

***Policy 12.3.2.1*** *Identify the key infrastructural, community, cultural and environmental opportunities and constraints for each new growth area and ensure that these are reflected in the development of each area.*

***Policy 12.3.2.3*** *Avoid fragmented development that results in inefficiencies in the provision of infrastructure.*

***Objective 12.3.3***

*Serviced development that safely connects to the existing road network, utility reticulation, provides a potable drinking water supply and sufficiently caters for the future development potential of the site.*

***Policy 12.3.3.1*** *Manage urban subdivision and land development to connect with the existing infrastructure and transportation network, according to the capacity limitations of that network where available and the potential requirements for upgrading its capacity.*

***Policy 12.3.3.2*** *Require all subdivision and development to be coordinated with the planned provision of infrastructure, integrated with the transport network and the district’s road hierarchy.*

***Policy 12.3.3.3*** *Provide for urban expansion where such growth does not adversely affect the safe and efficient use and development of land, roads and infrastructure.*

8.379 Existing Objective 13.3.4 and related policies address the integration of development into the transport network at subdivision:

**Objective 13.3.4**

*Sites and associated roads integrate safely and efficiently with the transport network*

**Policy 13.3.4.1** *Require that sites are provided with safe and efficient links for pedestrians, cyclists and vehicles providing connectivity to the existing transport network and to local services and facilities at the time of subdivision*

**Policy 13.3.4.2** *Require that sites are connected with the existing transport infrastructure in a manner that does not compromise connection with future subdivision or development of both the proposed and adjoining sites.*

8.380 Existing Objective 13.3.5 and policy 13.3.5.11 address the connectivity of development patterns created at subdivision:

**Objective 13.3.5**

*Adequate infrastructure and services are provided to each site to accommodate the potential development*

**Policy 13.3.5.11** *Require road access to adjoining sites to ensure:*

- *Future potential development is not precluded by the layout of a subdivision*
- *That communities are connected through an integrated road network.*

**Other Transport Policy**

8.381 The RMA does not require consideration of the Regional Land Transport Strategy or Regional Public Transport when changing a District Plan but the following provisions are provided for background.

**Regional Land Transport Strategy: Objective 3.3.3 Land use and transport integration**

*Long term planning ensures regional growth patterns and urban form reduce travel demand, support multi-modal freight efficiency, public transport, walking and cycling.*

*There is a strong relationship between land use and transport. Current and future land use patterns influence transport factors such as trip lengths and the viability of different modes, while the provision of transport infrastructure influences the type of land use patterns that emerge. Achieving this objective will involve integrated planning to ensure the right mix of transport provision and land use development occurs to achieve sustainable outcomes.*

**Regional Public Transport Plan: Policy 4**

*Consider providing public transport to growth areas with a density of at least 15 dwellings per hectare, with a developed area of at least 10 ha and where a high level of priority infrastructure is provided.*

8.382 Pukehāngi Road is also identified as a secondary public transport corridor in the Transport Agency's Network Operating Framework.

**Evaluation**

**Internal Road Layout**

**a) Connectivity – Area A, Area B and Matipo Avenue**

8.383 It is considered that the plan change's approach to the connectivity between Matipo Avenue and future development in the plan change area is appropriate and no further changes are needed in response to the MARIS submission.

- 8.384 During the development of the plan change a multi-criteria assessment and the Stantec Traffic assessment were used to consider and various road layout options and supports the structure plan and rules included in the plan change.<sup>60</sup> Furthermore, the Stantec Traffic Assessment concludes the layout provided for in the structure plan will result in less vehicle movements on Matipo Avenue than those enabled under the existing provisions for Twin Oaks in the current District Plan: it will be quicker for almost all of the traffic from Area A to access Pukehāngi Road using the upper link to Area B than to travel along Matipo Avenue and use the lower connection with Area B.
- 8.385 The increase in traffic on Matipo Avenue will be greater in the event that Area A is developed before Area B and the connection to Area B is not yet available. However, the traffic assessment estimated that the traffic enabled by the Twin Oaks development provisions is equivalent to around an additional 70 dwellings. Therefore, the proposed plan change provisions, which limit development on Area A to 60 dwellings where no connection to Area B is available, are expected to result in similar levels of traffic. The Stantec Traffic Assessment also notes that, with this limited amount of development, Matipo Avenue will comply with Council's engineering standards for traffic volumes and carriageway widths, with respect to the carriageway of Matipo Avenue (8.0 to 8.5m).
- 8.386 MARIS, in support of their preference for a road layout that directs traffic from Area A through to Area B rather than Matipo Avenue, refer to the potential for additional traffic to exacerbate substandard stopping distances and substandard vertical and horizontal alignments. However, the safety audit conducted by Harrison Transportation in 2015 and referred to in the Stantec Traffic Report found only minor non-compliance with stopping sight distances and suggested a stop sign at the intersection of Pukehāngi Road and Matipo Avenue was warranted.<sup>61</sup> This would no longer be required once the connection is severed.
- 8.387 MARIS are also concerned about safety, privacy and amenity. However it is considered that the benefits of connectivity, while difficult to quantify, are also important. Such benefits include resilience (providing alternative travel options), greater recreational opportunities for walking/cycling and the potential to enhance travel efficiency and reduce energy consumption for example associated with for deliveries, mail and rubbish collection.

*b) Additional primary road connection alongside Parklands*

8.388 In response to the questions raised by Pukehāngi Parklands Estate Inc:

- The intention of the dotted line labelled 'additional primary road connection' running alongside Parklands Estate is to indicate where roads could be constructed to assist achieve the connectivity required for traffic movements under proposed policy 2.4 (and potentially also for walking and cycling in policy 2.7). However, there may also be other solutions to achieve these policies so that these roads need not be constructed.

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<sup>60</sup> Rotorua Lakes Council, 8 February 2019. Pukehāngi Heights Development Area Consideration of Rooding Options. Prepared for Information for Matipo Avenue Residents Meeting 12 February 2019. RDC-1039009.

<sup>61</sup> Harrison Transportation, August 2015. Road Safety Audit Report [Matipo Avenue, Rotorua]. Report for Rotorua Lakes Council Reference 104 SA v1. RDC-567500.

- The location of this road shown in the structure plan is in the vicinity of the overland flow path and this should would need to be addressed in the design of the subdivision and road.
- If the road were constructed in the location indicated in the structure plan there would not be space to locate residential lots between the road and the boundary with Parklands Estate. Therefore this location may have some advantages for achieving the separation between Parklands Estate and new housing, which is sought by Pukehāngi Parklands Estate Inc. (Traffic volumes on this road are expected to be low - modelled at 15-20 vehicles per hour in the morning peak). However, as explained above, it is possible that alternative connections may be proposed at subdivision stage.

8.389 The relief sought of a buffer between Parklands and any housing is discussed further in the landscape and amenity section.

*c) Additional connection near Hunt Farm driveway*

Concerns expressed in the submission by L Herbert about the effects of vehicle lights and noise on her house located on Pukehāngi Road opposite the additional road connection shown in the structure plan are acknowledged. Locating of new roads opposite existing roads rather than houses is considered to assist to mitigate the effects of the new roads into the plan change area (as is the case with the roads indicated opposite Malfroy and Pegasus Drive). However, it is considered that an additional connection in the location indicated should remain in the structure plan. The distance between the roads indicated opposite Malfroy Road and Pegasus Drive is around half a kilometre and an additional connection to Pukehāngi Road will enhance recreational walking and cycling opportunities and may assist to improve accessibility to potential future bus stops and a future cycleway along Pukehāngi Road. The benefits of connectivity promoted under the Urban Design Protocol include encouraging social cohesion, making places lively and safe, and facilitating contact among people.<sup>62</sup>

It is considered that the most appropriate option is to leave open the potential for this connection to be made and to add an additional bullet point to proposed Policy 2.4:

*Ensuring that construction and development traffic is accommodated in a manner that maintains connectivity, safety and amenity within the capacity of the road network by....Designing and locating road intersections with Pukehāngi Road to reduce the effects of vehicle light spill into houses located opposite the new roads.*

This policy would require the effects to be considered at subdivision and that mitigation options such as fencing, planting and window treatment be considered.

*Pukehāngi Road*

8.390 A second report was commissioned from Stantec to assist respond to submissions and it provides further information on the anticipated traffic effects on Pukehāngi Road (the 'Second Stantec Traffic

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<sup>62</sup> Ministry for the Environment. 3 Key urban design qualities - The seven Cs. Link to publication [here](#). Last accessed 19 August 2020.

Report’).<sup>63</sup> Development of the plan change area is expected to increase traffic movements just north of Sunset Road from about 434 vehicles per hour in the evening peak hour (‘no development’ scenario) to around 550-710 vehicles based on a lot yield range of 755 (revised yield scenario) and 900 (high yield scenario). An allowance for some other growth in the city is also incorporated in the no development scenario, as detailed in the report.

8.391 The limited carriageway width of Pukehāngi Road was identified in the initial Stantec Traffic Assessment and is also discussed in the Second Stantec Traffic Report. The reports identify that Pukehāngi Road is classified as a Minor Arterial under the District Plan and its current width of 9-10m is not consistent with the Rotorua Civil Engineering Industry Standard 2000, which sets a width of 13m.<sup>64</sup>

8.392 However, it is not considered that widening of Pukehāngi Road carriageway should be signalled in the structure plan for the following reasons:

- As noted in the initial plan change evaluation (section 32) report, the carriageway width needs to respond to parking and cycling demands. The structure plan signals extension of a segregated shared walking/cycling path that does not use the carriageway. On-street parking demands, meanwhile, are expected to be low: demand associated with existing development on the northern side of the road are low; and the design of roads in the structure plan is intended to discourage properties fronting the southern side of Pukehāngi Road.
- Traffic volumes, at around 5,490 or 7,100 average daily traffic movements under the revised and high yield scenarios, are expected to remain low for an arterial road. As a comparison, other minor arterials have the following estimated average daily traffic movement ranges:<sup>65</sup>
  - Clayton Road of 5,070 (near Roosevelt Crescent) to 14,920 (near Amies Road)
  - Malfroy Road 5,670 (near Lytton Street) to 11,980 (near Pukeko Street).
- Speed limits are likely to reduce and a wider carriageways encourage increased speeds.
- Extending the carriageway width would have significant cost. According to Council’s Infrastructure Capital Programme Manager, it would be difficult to estimate a rough order cost due to the many variables, but he suggests would be in the order of millions. He notes the road sits on the side of a slope and that there would likely be issues reconstructing driveways with steep drives on the downside of the slope. Significant earthworks and relocation of infrastructure would also be necessary.<sup>66</sup>
- Policy 2.5 refers to minimising vehicle crossings onto Pukehāngi Road to ensure the safety of any future cycleway along Pukehāngi Road is protected.

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<sup>63</sup> Stantec, August 2020. Pukehāngi Heights – Plan Change 2. *Report prepared for Rotorua Lakes Council*. (RDC-1044815)

<sup>64</sup> It is noted that Pukehāngi Road is classified as a Primary Collector and not an Arterial road in the Transport Agency’s One Network Road Classification System. Link [here](#). Last accessed August 2020.

<sup>65</sup> RAMM database traffic estimation module.

<sup>66</sup> Comms, Peter Dine, Infrastructure Capital Works Programme Manager, Rotorua Lakes Council, 30 July 2020.

8.393 Rather than identify increased carriageway width, it is recommended that:

- The reference to the use of access restrictions be moved from policy 2.4 to 2.5 and it be clarified that the outcomes sought are not just safety of the cycleway, but the avoidance of on street parking and the need to upgrade the width of Pukehāngi Road.
- Policy 2.5 be amended to include the use of permeable fencing on rear facing lots on Pukehāngi Road. This is to avoid the likely adverse effects on amenity values of high fences of the rear facing lots along Pukehāngi Road. Planting behind the fences should remain an option for landowners that wish to create privacy.
- Performance standard A5.2.3.3(4) be broadened from 'Passive Surveillance of Streets' to 'Fencing' and an additional rule be included to require permeable fencing for rear facing residential lots along Pukehāngi Road.
- The structure plan be amended to signal the use of access and amenity restrictions along Pukehāngi Road.

The proposed wording of the changes to the policies, rules and performance standard is shown below.

8.394 The Second Stantec Traffic Report also identifies that about half of the traffic generated by the development could potentially use the intersection at Pukehāngi Road and Malfroy Road (the modelling assumes the connection alongside Parklands Estate is not provided and volumes would be less with this additional connection). The proposed structure plan shows a roundabout at this intersection to accommodate the increased traffic and several submitters support the installation of this roundabout. However, the modelling suggests the intersection can adequately function as a priority (stop sign) intersection. A priority intersection is likely to be easier for cyclists to navigate. Therefore, amending the structure plan would assist to address concerns raised by other submitters about the provision of side road crossings suitable for cyclists (the suggested alternative to the roundabout of traffic lights is not considered necessary). A priority intersection is also expected to cost significantly less than a roundabout and would reduce the need to consider complex funding arrangements to share cost between developers and/or Council.

8.395 The appropriateness of the design of other key intersections on Pukehāngi Road is also considered in the Second Stantec Traffic Report. Aside from the priority intersection at Pukehāngi Road and Malfroy Road, no further upgrades are considered necessary.

8.396 Several submitters identify a need to reduce the speed limits on Pukehāngi Road. Speed limits cannot be amended through the plan change process but a proposal to reduce the speed limit to 50km per hour is currently being developed as part of a larger review of speed limits. As noted in the Second Stantec Traffic Report, a lower speed limit should assist to reduce traffic noise. It may also enhance safety for cars entering and exiting the existing houses along the north side of Pukehāngi Road with the increased traffic volumes expected.

8.397 The concerns raised by J Dodd and D Crowley about Council's focus on segregated off-road cycling and inadequate provision (particularly at intersections) for those that wish to travel on-road rather than on an offroad cycleway are acknowledged. However, the Council's approach is to target the more vulnerable/less confident cyclists through the development of an off-road shared walkways/cycleway network, which is consistent with Government funding priorities. The provision of additional on-road cycleways is not considered efficient given the off-road cycleway, as shown on

the southern side of Pukehāngi Road, will involve few intersections to navigate and is likely to be attractive for a range of abilities and speeds.

#### *External Network Issues*

8.398 Further analysis has been undertaken of the impact of increased housing on the external road network in response to the submissions/further submissions of the Transport Agency, Pukehāngi Parkland Estate Inc, Rotorua Residents and Ratepayers Association and MARIS. This analysis is detailed in the Second Stantec Traffic Report. Further information about the trip generation rates used can also be found in the Rotorua traffic model build report.<sup>67</sup>

8.399 Data about the existing (March 2020 and also July 2020 in the case of Malfroy Road) traffic volumes at intersections, traffic light phasing/cycle times and intersection layout was obtained from the SCATs system. Stantec then estimated the change of traffic flows on the State Highway 5 intersections with Malfroy Road, Sunset Road, Devon Street and Springfield Road using the Rotorua traffic model for the various household yield scenarios in the plan change area. It then added these change in flows to existing traffic flows and used the SIDRA intersection modelling to optimise the phasing and cycle times. This resulted in an estimated level of service for each intersection approach in terms of average delays during the peak hour.

8.400 Levels of service were given scores of 'A' through to 'F'. 'A' is free flow of traffic with no impedance. For signalised intersections, any movement with an average delay of 20 seconds to 35 seconds is LoS 'C', 35 to 55 seconds is LoS 'D', 55 to 80 Seconds is LoS 'E' and above 80 seconds LoS 'F'.

8.401 The yield scenarios modelled to identify the change in traffic flows on the intersections were: a 'no development' scenario which includes some growth in the city but not in the plan change area; a revised yield scenario (755 houses); and a high yield scenario (900 houses). A yield of 80 houses on the Freedom Villages site on top of the high yield scenario has also been tested on the Sunset intersection, which is of most concern for development in this location. These yield scenarios also include an allowance for growth in the rest of the city, as detailed in the report.

8.402 The results of this analysis were:

- *Devon Street and Springfield Road intersections with State Highway 5*

These intersections were found to have an adequate level of service, even with the high yield housing scenario for the plan change area.

- *Sunset Road intersection with State Highway 5*

Detector flow data indicates this intersection already has a fairly low level of service in the morning peak on the right turn from the state highway (north) into Sunset Road (level of service E - delays of 55 to 80 seconds). Traffic volumes under the revised yield scenario were modelled using to result in similar levels of service in the morning peak; while in the level of service during the evening peak for the right and left turns out of Sunset Road onto the state highway would

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<sup>67</sup> TDG, April 2014. Rotorua Model Update 2013, Rotorua District Council Transportation Model. TDG Ref: 12428 20140411, Report for Rotorua District Council.

deteriorate (level of service E – delays of 55 to 80 seconds). The high yield scenario resulted in the same level of service bands for the intersection.

Based on this analysis, the Stantec advice is that a solution to the improve the level of service should be 'in hand' by the time the plan change is fully developed so that it is ready to be completed before further deterioration in the level of service to unacceptable levels (level of service F – delays of more than 80 seconds).

- *Malfroy intersection with State Highway 5*

Analysis of the March and July data suggests this intersection already has a fairly low level of service in the morning peak on three of the four right turns (level of service E – delays of 55 to 80 seconds).

The SIDRA analysis of the intersection when the additional traffic from the revised yield scenario is added to the March traffic volumes suggests the right turn out of Malfroy Road (east) onto the state highway (north) in the morning peak hour would deteriorate and is considered at capacity (level of service F – delays of more than 80 seconds). The level of service for other right remains fairly low (level of service 'E'); and the level of service for through traffic on the state highway is reduces (level of service 'E').

When the high yield scenario is used added the intersection analysis suggests an additional level of service F on the right turn into Malfroy Road West in the morning peak.

However when the additional traffic from the revised yield is added to the July traffic volumes the levels of service remain at level 'E' or better in the morning peak.

Stantec conclude that 'the intersection is close to capacity now and the modelling suggests it will be close to or at capacity once the development is complete (revised scenario). Whether the intersection exceeds capacity (level F) in the above analysis is sensitive to small differences in the base flow between March and July. It is not sensitive to small changes in the signal operational settings. The timing of the proposed upgrade will need periodic review in the years ahead'.

8.403 The Transport Agency seeks to engage with the Council to develop mitigation measures in the District Plan if the analysis shows the development will cause or exacerbate safety or efficiency effects on the state highway. It is not considered that appropriate to incorporate any specific rules, structure plan changes or other amendments to the plan change with respect to the Malfroy Road intersection for the following reasons:

- Earlier network modelling identified this intersection had capacity constraints and it was identified as a future level of service project.<sup>68</sup> As a result, Council has been pursuing an upgrade of this intersection to provide additional turning lanes, which would bring the intersection back to acceptable levels of service. Several of the affected properties have already

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<sup>68</sup> Opus International Consultants, November 2003. Rotorua Urban Transportation Study. *Report for Rotorua Lakes Council Ref HCC0112*.



been purchased as they come on the market and subdivided to obtain the land needed to widen the intersection.

- The project is identified in Council's current Land Transport Activity Management Plan and capital funding for the activity identified in Long Term Plan. This inclusion of the project in the Long Term Plan meets the 'infrastructure ready' requirements for development capacity in the National Policy Statement for Urban Development 2020. (It is agreed that the project is not yet in the Regional Land Transport Programme, which covers a shorter funding period).
- A designation was also included in the previous District Plan and current District Plan (designation number RDC513). While the designation appears to have lapsed in 2016,<sup>69</sup> the funding in the Long Term Plan illustrates Council's commitment to the project.
- The Stantec analysis shows that the contribution of Pukehāngi plan change to traffic volumes at the intersection is limited. The revised yield scenario, which includes 755 houses in the plan change area as well as other growth such as 275 households in Western Heights and 160 households in Fordlands, adds only 3% growth to traffic volumes at the intersection.

#### *Public Transport*

8.404 Existing public transport routes near the plan change area are detailed in the Second Stantec Traffic Report. Route 4 includes a short section of Pukehāngi Road between Sunset Road and Pegasus Drive and has an existing bus stop (not shown on the structure plan) located adjacent to the southern end of the Parklands development.

8.405 Clarification has been sought from the regional council (through its consultants) about how to service the plan change area for public transport, as sought in the Transport Agency submission. The Second Stantec Traffic Report identifies the possibility of linking existing routes through the lower terrace of the plan change area to reduce the delay between buses while using the same number of buses. This has been discussed with the regional council's public transport consultant, Joe Metcalfe. However, feedback from Mr Metcalfe, was that the bus routes through the plan change area are unlikely to be effective or efficient because:

- The plan change is at the fringe of the city; it would extend routes.
- The expected density of development is low. (Considered as a whole the plan change has an estimated yield of around 5 dwellings per hectares compared to the 15 dwellings per hectare indicated in the Regional Public Transport Plan for consideration of public transport; although expected yields on the terraces are higher).
- The plan change area is split into two parts that aren't well connected, limiting the efficiency of any bus route into the area.
- While the joining of routes will be considered in the next review of the routes, it would be more appropriate to provide bus services along Pukehāngi Road, identified as a secondary public

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<sup>69</sup> The lapse condition in the Operative District Plan is identical to that in the previous district plan and reads 'The designation shall lapse after 10 years from the date of this decision (18 September 2006) unless an application is made pursuant to section 184 of the Resource management Act 1991 to extend the period for the designation'.

transport route through the Network Operating Framework, rather than through the plan change area.

8.406 Mr Metcalfe considered that promotion of public transport for the plan change area should involve ensuring walking links to bus routes on Pukehāngi Road are direct and that there are safe crossing points to allow access to the far side of the road. He noted that most of the development should have reasonable walking access to Pukehāngi Road (largely under 400m), however the walk home through the escarpment and to the upper terrace would involve a steep gradient and may present a barrier to those that are less mobile.

8.407 Based on this feedback it is considered that the primary way the plan change should promote public transport is through direct walking routes to Pukehāngi Road. This is already promoted in the existing provisions through:

- Policy 2.4, to ensure that development traffic is accommodated in a manner that maintains connectivity, safety and amenity within the road network by.....ensuring efficient and safe walkways are provided to existing and planned public transport facilities.
- Restricted discretionary status for subdivision with discretion reserved over achievement of policies and objectives.
- The road layout indicated in the structure plan to achieve connectivity to Pukehāngi Road.

8.408 It is considered that, given bus stop locations have still to be determined when routes are reviewed periodically by the regional council, the bus stops should be removed from the structure plan and policy 2.4 amended to make explicit that the safe and efficient walkways sought are to Pukehāngi Road and existing and planned public transport facilities.

8.409 Mr Metcalfe did also note that linking both sides of the plan change area (through the Parklands development) would improve the prospects for public transport and that a long term strategic view would leave open the potential to create this link. It is acknowledged that this has not been provided for in the structure plan as the potential to achieve this link is considered remote.

#### *Schools*

8.410 It is not considered that any additional assessments of the safety of school routes or around schools is needed in response to the submission/further submission of the Ministry of Education and submission of the Rotorua District Residents and Ratepayers Association.

8.411 The Council undertakes or plans to undertake the following activities in relation to the safety of routes to and around schools:<sup>70</sup>

- Annual 'Safeways to School' survey  
The Council undertakes a survey of families from a different school each year to understand barriers to alternative transport.
- Urban school safety review

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<sup>70</sup> Comms, Jodie Lawson, Sustainable Transport Team Lead, Rotorua Lakes Council, July 2020.

Council has completed a survey of the safety around rural schools and resolved to roll out this review for urban schools as well (although funding has yet to be secured). The review includes interviews with school management; an independent engineering audit of the network around the school; and traffic movement monitoring.

- Assistance to schools

The Council's Safe and Sustainable Journeys team works with schools to address safety concerns and work towards more sustainable transport journeys via school travel planning. These programmes aim to increase alternative transport uptake and include support to establish walking school buses.

- Urban Cycleways

The Council has identified an urban cycleway network that can accommodate the less confident, more vulnerable users on shared walking/cycling paths that are segregated from traffic. Accessibility to schools has been key in the identification of this network and priorities for improvement. The middle part of Pukehāngi Road adjacent to the plan change area is not currently identified as part of the urban cycleway network but has been identified in the structure plan as an obvious extension once development occurs. Once developed, this will assist to improve access from the plan change area.

8.412 Improving cycling access along Sunset and Malfroy Roads to schools remains an issue. While these routes have been identified as desirable in urban cycleway planning (particularly along Malfroy Road), they have not been identified in the cycleway network due to the costs of construction. However this is an existing and known issue.

***Recommendation:***

8.413 Accept submissions 11.0, 11.1, 11.3 and 11.4 (the Transport Agency) and 12.8 (MARIS) and further submissions 2.9 (Te Arawa Group Holdings), 5.1 (MARIS) and 6.19 (the Hunt Family).

8.414 Partly accept submissions 3.0 (D Eric and R Brackfield), 4.0 and 4.2 (Pukehāngi Parkland Estate Inc.), 6.0 (L Herbert), 11.5 (the Transport Agency), 15.1 (Ministry of Education), 17.0 (J Dodd), 19.0 (C Crowley), 39.0 (R Mischewski), 18.1 (Rotorua District Residents and Ratepayers Association) and further submissions 3.1 and 3.2 (the Transport Agency) 4.1 (Rotorua District Residents and Ratepayers Association) and 8.1 (Ministry of Education).

8.415 Reject submissions 4.0 (Pukehāngi Parkland Estate Inc.) 12.1, 12.4, 12.7 and 12.9 (MARIS), 21.7 (Utuhina Valley Farm) and 32.3, 33.3, 34.3, 35.3, 36.3 and 37.3 (D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey) and further submission 4.2 (Rotorua District Residents and Ratepayers Association).

8.416 Amend the structure plan to show access and amenity controls along Pukehāngi Road.

8.417 Delete the roundabout in the structure plan at the intersection of Malfroy Road and Pukehāngi Road.

8.418 Remove the bus stops from the structure plan and show a public transport corridor along Pukehāngi Road.

8.419 Amend Policies 2.4 and 2.5 and Performance Standard A5.2.3.3(4)

***Policy 2.4 Traffic and Access***

Ensuring that construction and development traffic is accommodated in a manner that maintains connectivity, safety, and amenity within the capacity of the road network by:

- Identifying an indicative primary road network on the Structure Plan with connections to the existing road network to optimise traffic management;
- Identifying additional primary roads on the Structure Plan that may be provided to improve connectivity;
- Identifying appropriate construction traffic routes where necessary; and
- Ensuring efficient and safe walkways are provided to existing and planned public transport facilities.
- Avoiding lots that access Pukehāngi Road to ensure the safety of any future cycleway along Pukehāngi Road is protected; and to minimise demand for on street parking and the need to upgrade the carriageway width.
- Designing and locating road intersections with Pukehāngi Road to reduce the effects of vehicle light spill into houses located opposite the new roads.

#### **Policy 2.5 Street Character and Amenity**

Develop a local street character that:

- ...
- Minimises vehicle crossings onto Pukehāngi Road to ensure the safety of any future cycleway along Pukehāngi Road is protected. Avoids negative impacts on amenity values from high fences on rear yards along Pukehāngi Road through the use of permeable fencing and optional screening planting behind.

#### **A5.2.3.3 Performance Standards – Land Use**

##### **5. ~~Passive Surveillance of Streets-Fencing~~**

- a) The maximum height of any fence, wall or combination of these structures located between the dwelling and the front boundary of a site or adjoining any public open space:
  - Shall not exceed 1.6m in height; and
  - Any fencing above 1.2m in height shall be visually permeable (that being that where any fencing is above 1.2m in height at least 50% of that area can be seen through).
- b) Fences on rear boundaries adjoining Pukehāngi Road shall be visually permeable (that being at least 50% of the fencing can be seen through) but may incorporate screen planting behind.

## **ELECTRICITY NETWORK**

### **Background**

8.420 Subdivision performance standard 13.13.3.3 in the existing provisions of the District Plan requires that adequate provision is made for the supply and installation of electricity for every site and building within a subdivision up to the frontage of the site. The plan also requires the services are underground unless demonstrated to be impracticable.

8.421 The plan change does not include any additional provisions specifically addressing the electricity network.



### **Submissions**

8.422 Unison Networks states it is the electricity network business supplying Rotorua and would be involved with supplying the Pukehāngi Heights Development area. It submits that it doesn't have any specific comments on the proposed plan change but wants to alert parties that:

- The network in the vicinity is approaching capacity and a new feeder from Malfroy Road would be required. The company estimate the cost is approximately \$1.4 million and states a capital contribution may be required. This would be in addition to reticulation of the development.
- There may be a delay before the new supply would be available, but interim solutions may be available.
- Alterations to the roundabout at Malfroy Road and Pukehāngi Road may require relocation or adjustment of electricity networks.

8.423 Unison encourages the Rotorua Lakes Council and developers to engage with Unison early to come to appropriate commercial arrangements for the supply (submission 47.0).

### **Planning Framework**

#### *National Policy Statement on Urban Development 2020*

8.424 The implementation section of the national policy statement requires development capacity for housing to be 'infrastructure ready' (3.4). Electricity networks are identified as 'additional infrastructure' and Council must be satisfied such 'additional infrastructure' is likely to be available (1.4 and 3.5).

#### *Regional Policy Statement*

8.425 Method 18 of the Regional Policy Statement (structure planning) lists the electricity network as a matter to include in structure plans for large-scale land use changes 'as appropriate and applicable'.

#### *District Plan*

8.426 The relevant objective and policy are:

##### **Objective 13.3.5**

*Adequate infrastructure and services are provided to each site to accommodate the potential development.*

**Policy 13.3.5.7** *Ensure adequate provision is made at the time of subdivision for connections to electricity, telecommunications and broadband services for lots or lease areas created by subdivision.*

### **Evaluation**

8.427 The submission is noted. No changes to the plan change are identified for consideration.

### **Recommendation**

8.428 Submission 47.0 be accepted.

8.429 No further changes be made to the plan change.

## **SCHOOLS**

### **Background**

8.430 The plan change will potentially lead to an increase in the number of school children in the south west of Rotorua city by facilitating additional households in the plan change area.

***Submissions***

8.431 The Ministry of Education submits that they recognise that the Pukehāngi Heights area has been identified for future development in the District Plan for some time. Schools in the vicinity have capacity to absorb an increase in student numbers. However, the Ministry is concerned that the growth be carefully managed. Given the level of increase in housing provision in the Pukehāngi Heights area, the Ministry requests that the Council engage early with the Ministry in terms of the staging and timeline of the development so it can plan for roll growth (submission 15.0). This is supported by the Rotorua Residents and Ratepayers Association (further submission 4.5).

***Planning Framework***

8.432 The implementation section of the national policy statement requires development capacity for housing to be 'infrastructure ready' (3.4). Schools are identified as 'additional infrastructure' and Council must be satisfied such 'additional infrastructure' is likely to be available (1.4 and 3.5).

8.433 Method 18 of the Regional Policy Statement (structure planning) lists schools as a matter to include in structure plans for large-scale land use changes 'as appropriate and applicable'. No other specific objectives or other RMA guidance has been identified.

***Evaluation***

8.434 The Council notes the Ministry's request. No changes are considered necessary to the plan change.

***Recommendation***

8.435 Submission 15.0 (Ministry of Education) and further submission 4.5 (Rotorua Residents and Ratepayers Association) be accepted.

8.436 No changes be made to the plan change.

**CONSTRUCTION EFFECTS**

***Background***

8.437 The land use change from rural to urban use will involve bulk earthworks, the construction of underground services, roads, parks, houses and other buildings over a number of years. The foreseeable effects are the movement of heavy vehicles and machinery, noise and vibration, visual changes, air (dust) and water borne sediment.

8.438 Large scale earthworks are controlled under the Regional Plan by the BOPRC. Construction noise is managed under the District Plan, which requires compliance with New Zealand Standards as a permitted activity standard. Subdivision conditions often require noise management plans to be prepared to ensure compliance with the construction noise standards.

8.439 Vibration may be addressed in noise management plans and through civil liability, primarily on a reactive basis. However, there is currently no specific management of vibration in the District Plan, which was identified as a concern during consultation. The plan change therefore proposed specific subdivision performance standards requiring the preparation of a construction noise and vibration management plan (A5.2.3.4.13 and A5.2.4.4.9).

8.440 In response to concerns from Matipo Avenue residents about construction traffic, the plan change also includes a requirement for a traffic management plan to support subdivision and development

of the Te Arawa Group Holdings Ltd. land (Area A). The plan is to include a restriction on construction traffic accessing the upper terrace through Matipo Avenue (a temporary access is instead to be provided from Great West Road or from the rest of the development area) (A5.2.3.4.12 and A5.2.4.4.8).

***Submissions***

- 8.441 The Transport Agency requests details regarding the expected average and hourly maximum construction vehicle flows, and the routes that are to be promoted or prohibited (submission 11.5). This submission is supported by MARIS (further submission 5.1).
- 8.442 MARIS supports the subdivision performance standards that require the preparation of noise and vibration management plans (submissions 12.3 and 12.6).
- 8.443 MARIS also supports the subdivision performance standards A5.2.3.4.12 and A5.2.4.4.8 for a traffic management plan including restrictions on construction traffic accessing the upper terrace through Matipo Avenue but seeks that the performance standards be made more explicit. It notes construction traffic was explored at length in developing a consent order for the appeal on the District Plan and it was ultimately agreed that all construction and service traffic associated with the retirement village that was to be built (Twin Oaks) would access the development via Great West Road. MARIS continues to support this approach (submissions 12.2 and 12.5).
- 8.444 Te Arawa Group Holdings Limited and the joint submission of landowners the Hunt family, Te Arawa Group Holdings Limited, and Paul Sumner (Sunny Downs Farm) consider Matipo Avenue is still a valid option for construction traffic accessing Area A, stating through Area B has issues of private ownership and access from Great West Road would result in significant environment effects due to construction earthworks to form the temporary road. These submitters seek amendments to the performance standard that allow for this option to be pursued for construction traffic accessing Area A (submissions 20.6, 20.16, 28.7 and 28.17). The further submission by Te Arawa Group Holdings Limited and the Hunt Family in relation to MARIS's submission reinforce this position (further submission 2.10 and 6.29).
- 8.445 MARIS opposes the submission of the Hunt Family, Te Arawa Group Holdings Limited and seeks that A5.2.3.4.12 performance standards for construction traffic be adopted as notified. MARIS asks to see the expert traffic advice mentioned. The further submission reiterates that a lengthy and rigorous process was undertaken to develop the consent order for the Twin Oaks Development Plan, which explored construction traffic at length and agreed construction traffic was to access the development via Great West Road. MARIS continues to support the avoidance of construction traffic on Matipo Avenue for the following reasons (further submissions 5.3, 5.4, 5.8, 5.9, 5.10, 5.11):
- The steep gradient of Matipo Avenue (i.e. steeper than 1:8 at top end);
  - Narrow carriageway of Matipo Avenue;
  - Unsafe intersection of Matipo Avenue and Pukehāngi Road;
  - Amenity impacts on Matipo Avenue.
- 8.446 Utuhina Valley Farm opposes linking the development to Great West Road during construction, stating this will result in safety issues as there are blind corners, rural stock movements, rural stock trucks, rural contractors and forestry vehicles using the road (submission 21.8). MARIS's further submission acknowledges these safety and maintenance concerns but it is their expectation that



these will be addressed at the developer's cost (further submission 5.5). Te Arawa Group Holdings Limited's further submission seeks that the difficulties listed in the Utuhina Valley Farm be submission be acknowledged but that access to Great West Road for construction be retained as an option (further submission 2.14).

- 8.447 L Herbert, who lives opposite the Hunt Farm Driveway, is concerned about dust, noise, vibration and sediment runoff during construction. She states she currently has to maintain a soak pit at the bottom of their drive at least once a year because of water and sediment runoff from the Hunt Farm and is concerned that this will increase. She seeks a plan for management of these effects (submission 6.1).
- 8.448 D Eric and R Brackfield seek that Council put controls in place to prevent trucks from operating during peak hours (morning and night) and to control dust in summer by using watering (submissions 3.1 and 3.2).
- 8.449 G and H Bell seek compensation for being subject to years of dust and construction noise (submission 46.1).
- 8.450 D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey, who live on Pukehāngi Road, oppose the Pukehāngi Heights development. They are concerned that their home will be damaged due to vibration effects during the sustained period of construction, noting their home is already rattled and shaken by heavy trucks. They are also concerned about dust during construction and the impact on their child with asthma (submissions 32.1, 32.2, 33.1, 33.2, 34.1, 34.2, 35.1, 35.2, 36.1, 36.2, 37.1 and 37.2)
- 8.451 M Reesby opposes the plan change (submission 1.1) and her further submission notes that construction noise is one of the reasons for her opposition (further submission 1.8).
- 8.452 Rotorua District Residents and Ratepayers Association seek that management of construction effects be reviewed carefully, stating experience of previous developments without sufficient Council control that have resulted in silt and debris washing down from hillside site works (submission 18.3).

### ***Planning framework***

#### ***Regional Policy Statement***

- 8.453 Policy WL 7B 'Minimising the effects of land and soil disturbance' is relevant to the adverse effects of construction earthworks:

*Achieve regional consistency by controlling land and soil disturbance activities to:*

- (a) Avoid accelerated erosion and soil loss; and*
- (b) Minimise silt and sediment runoff into water, or onto or into land that may enter water, So that healthy aquatic ecosystems are sustained.*

- 8.454 The explanation states that the control of land and soil disturbance is an area of overlapping jurisdiction between the BOPRC and district council and that local authorities should work in collaboration to manage the effects of land and soil disturbance activities.

#### ***Regional Plans***

- 8.455 The Bay of Plenty Regional Natural Resources Plan also manages earthworks and regional consent may be required for bulk earthworks, depending on the location, slope and extent of the earthworks. This is a method for implementing the control of land and soil disturbance under Policy WL 7B.

8.456 The Bay of Plenty Regional Air Plan also contains performance standards for permitted activities that including detailed provisions for assessing dust complaints.

#### *District Plan*

8.457 The adverse effects of earthworks are not the subject of specific objectives or policies in the District Plan. However, the plan does contain earthwork performance standards. For subdivision these are set out at 13.13.1 and require minimising of earthworks and control of bulk earthworks by a chartered professional engineer. As noted above, subdivision conditions commonly require developers to install and maintain appropriate erosion, sedimentation and dust controls in accordance with BOPRC Sediment Erosion control guidelines.

8.458 With respect to noise effects of construction, Policy 11.3.1.5 of the District Plan provides the basis for exempting construction activities from the maximum permitted noise level requirements imposed achieve a noise environment consistent with the character and amenity of the zone (Objective A11.3.1).

***Policy 11.3.1.5** Exempt from the maximum permitted noise level requirements those activities which are an integral part of accepted management practices of activities associated with production land in rural areas (well drilling, audible bird scaring devices, frost fans) as well as other activities (in any zone) clearly of a temporary nature (e.g. Construction works, emergency back-up generators).*

8.459 As stated above, the District Plan instead requires construction noise to instead comply with NZS 6803: 1999 Acoustics – Construction Noise.

8.460 Practice and procedure within Council is also a consideration in assessing the overall effectiveness of the planning framework. Construction effects are addressed at the fine-grained level of intervention at resource consent stage. Council imposes a standard condition requiring a Site Management Plan (SMP) to be implemented for larger subdivisions, normally those subdivisions that may be located next to a residential zone. The SMP addresses construction effects including traffic, noise and so forth. A standard condition is also imposed on subdivision consent requiring compliance with the construction noise standards, which in itself defines when a Noise Management Plan is needed, and what noise levels apply relative to the duration of the works.

#### **Evaluation**

##### *Earthwork effects – dust and sedimentation of waterways*

8.461 . Management through the Bay of Plenty Natural Resources Plan, Air Plan, District Plan performance standards and subdivision conditions is sufficient. While the objective and policy framework could be strengthened to reflect standard conditions, this is best considered at plan review for the whole District. No changes are needed in response to the submissions expressing concern about the management of dust and sediment from construction.

##### *Construction Noise and Vibration*

8.462 It is also considered that no changes are needed to address concerns about noise and vibration; the proposed performance standard requiring a construction noise and vibration plan is sufficient. MARIS's support for the construction noise and vibration plan is acknowledged.

*Construction Traffic*

- 8.463 There is both support and opposition for broadening the subdivision performance standard that requires a construction traffic management plan for Area A, with respect to also allowing access via Matipo Avenue as an option to meet the standard.
- 8.464 It is acknowledged that access for construction traffic for Area A through Area B relies on negotiation between neighbouring blocks or delaying the development of Area A until after Area B is developed and the structure plan road is provided. Access from Great West Road is likely to have high construction costs. Matipo Avenue provides greater independence for the Te Arawa Group Holdings block and may, therefore, be more attractive for those developing Area A.
- 8.465 However, the multi-criteria assessment has suggested that access via Matipo Avenue is the least preferred option. Therefore, it is appropriate to retain the proposed performance standard. Should access via Matipo Avenue be promoted it would need to be assessed as a discretionary activity given it does not meet the performance standards.
- 8.466 It is unclear how the performance standards can be made more explicit as sought by MARIS.
- 8.467 With respect to the relief sought by D Eric and R Brackfield that Council put controls in place to prevent trucks from operating during peak hours (morning and night), this is a matter of detail better addressed through subdivision consent conditions than plan rules.
- 8.468 The information sought by the Transport Agency about construction vehicle movement volumes cannot be provided at this stage with any certainty. The plan change will proceed as a series of developments and the scale of each is, as yet, unknown. This aspect of the submission should, therefore, be rejected. As noted above, this level of fine grained regulation of temporary effects is better addressed through resource consent conditions relevant to the site development.

*Compensation for construction dust and noise*

- 8.469 It is considered that that the hearings panel's focus should be directed at the merits of the plan change in terms of section 32 and section 74 of the RMA rather than issues of compensation. It is the Environment Court that deals with applications for compensation on application under section 85 of the RMA.

***Recommendation***

- 8.470 Submissions 12.3 and 12.6 (MARIS) and further submissions 5.3, 5.4, 5.8, 5.9, 5.10, 5.11 (MARIS) and 2.14 (Te Arawa Group Holdings Limited) be accepted.
- 8.471 Submissions 12.2 and 12.5 (MARIS), 21.8 (Utuhina Valley Farm), 6.1 (L Herbert) 3.1 and 3.2 (D Eric and R Brackfield) 32.1, 32.2, 33.1, 33.2, 34.1, 34.2, 35.1, 35.2, 36.1, 36.2, 37.1 and 37.2 (D T B Storey, S J N Storey, V E S Storey, M V C Storey, V C Storey and S M Storey) 18.3 (Rotorua District Residents and Ratepayers Association) and further submission 5.5 (MARIS) be partly accepted.
- 8.472 Submissions 1.1 (M Reesby), 20.6, 20.16 (Te Arawa Group Holdings Limited and 28.7 and 28.17 (joint submission of the Hunt family, Te Arawa Group Holdings Limited, and Paul Sumner (Sunny Downs

Farm)), 46.1 (G and H Bell) and 11.5 (The Transport Agency) and further submissions 2.10 (Te Arawa Group Holdings Limited) and 6.29 (the Hunt Family) be rejected.

8.473 Make no changes as a result of these submissions.

## **REVERSE SENSITIVITY EFFECTS**

### ***Background***

8.474 Reverse sensitivity refers to land use change limiting the ability of established (usually neighbouring) activities to continue because of the sensitivity of the new activity to the impact of the effects of the existing activity.

8.475 Reverse sensitivity issues are potentially associated with the rural production, forestry, native revegetation areas and motor racing (Paradise Valley Speedway) within or near the development area. For example, residential activities facilitated by the development may be sensitive too:

- Shading of dwellings and gardens and leaf drop from trees near the boundary
- Concern about the risk to dwellings and structures from falling branches or trees on neighbouring properties
- Noise, dust or smell from rural activities
- Noise from motor racing.

### ***Submissions***

8.476 Rotorua Stock Car Club Inc considers that motor racing may result in high noise levels in the area to be rezoned and seek that any title issued within the development area include a proviso that there are existing use rights for motor racing at 105 Paradise Valley Road (submission 7.0). Rotorua District Residents and Ratepayers Association support this submission (further submission 4.3).

8.477 Utuhina Valley Farm, which operate on a property to the south-west of the plan change area, is concerned about the development limiting their current farming operation and considers the plan change has not adequately addressed reverse sensitivity. It seeks setbacks (yards) of 10m for the Residential 1 Zone and Rural 2 Zone sites adjoining the Rural 1 Zone (submission 21.11). It also seeks that reverse sensitivity / no complaints covenants be imposed on the adjoining titles and that a vegetation screen be established along the boundary with agreement between the Council, developer and Utuhina Valley Farm (submission 21.9). It also seeks that the minimum setback [from structures] to the Rural 1 Zone is 10m (submission 21.11)

8.478 The Hunt Family opposes the request for a 10m setback by Utuhina Valley Farm, stating this would be onerous and reduce the buildable area. The Hunt Family considers purchasers should undertake their own due diligence and accept their sections adjoin a rural zone (further submission 6.36). It also notes that the upper escarpment and upper terrace area run along the majority of the boundary with the Utuhina Valley Farm; and the performance standards require partial revegetation of the upper escarpment, which will create a natural buffer. It notes that no complaints covenants cannot be imposed unilaterally and must have the consent of the developer. In any case, no complaints covenants only go so far and cannot restrict members of the public from taking enforcement action against a landowner or submitting on an effects-producing resource consent application. The Hunt Family feel that a permanent vegetative screen or buffer on the common boundary between the structure plan area and Utuhina Farm would assist in managing potential reverse sensitivity effects and is supportive. However, it considers it is not appropriate for Utuhina Farm to determine or have

an influence over the vegetation selection, buffer and width as compliance with a performance standard or condition of a consent cannot be dependent upon third party approvals (further submission 6.43).

8.479 D Witehira and J Mitchell are immediate neighbours to the development area, located behind Parklands. They seek that the objectives, policies and rules are amended to ensure that dwellings and buildings are not located within 30m from the property boundary. In explanation, the submitters state the property has existing plantation forestry and proposals that would allow dwellings and buildings close to the plantings would create reverse sensitivity effects. They also point out that the District Plan has existing performance standards of 30m for plantation forestry plantings (submission 16.0). Although not noted in the submission, we understand the plantings are a mixture of species including redwoods.

### **Planning Framework**

#### *Bay of Plenty Regional Policy Statement*

8.480 The Regional Policy Statement contains the following objectives and policies relating to the protection of rural production activities from reverse sensitivity effects.

#### **Objective 26**

*The productive potential of the region's rural land resource is sustained and the growth and efficient operation of rural production activities are provided for*

##### **Policy UG 17B: Urban growth management outside the western Bay of Plenty sub-region**

*Manage the growth of urban areas located outside of the western Bay of Plenty sub-region in a manner consistent with sound resource management principles, including:*

- (c) The efficient development and use of the finite land resource;*
- (d) Setting defined limits of urban development; and*
- (e) Providing for the efficient, planned and co-ordinated use and development of infrastructure.*

##### **Policy UG 20B: Managing reverse sensitivity effects on rural production activities and infrastructure in rural areas**

*Require that subdivision, use and development of rural areas does not compromise or result in reverse sensitivity effects on:*

- (a) rural production activities; and*
- (b) the operation of infrastructure located beyond the urban limits or existing and planned urban zone areas*

##### **Policy UG 23B: Providing for the operation and growth of rural production activities**

*In providing for the operation and growth of rural production activities, regard should be had to:*

- (a) Appropriate plan provisions, including zoning of land;*
- (b) Access to and use of resources;*
- (c) Transportation and infrastructure requirements; and*
- (d) Protection from reverse sensitivity effects*

***Policy UG 24B: Managing reverse sensitivity effects on rural production activities in urban areas***

*Manage reverse sensitivity effects on existing rural production activities located within the urban limits or existing and planned urban zoned areas.<sup>71</sup>*

8.481 The Regional Policy Statement requires that these policies be implemented when changing plans (Method 3). Policy 17B is also to be implemented through structure planning for large scale land use changes (Method 18).

8.482 The Regional Policy Statement is focused on reverse sensitivity to rural production activities and no provisions relating to the protection of the speedway, as an existing legal activity, from reverse sensitivity were identified.

*District Plan*

8.483 The District Plan contains a number of objectives and policies addressing reverse sensitivity. Consistent with the Regional Policy Statement, provisions relating to the rural zones specifically address reverse sensitivity to rural activities:

***Policy 9.3.3.4 Manage the adverse effects of rural lifestyle living on the working rural area by:***

- *Requiring separation between dwellings and other buildings on adjacent rural sites*
- *Providing landscaping to ensure rural character is maintained*
- *Managing the visual impact of new buildings on the landscape*
- *Acknowledging the nature of productive activities and their effects in the working rural environment.*

***Objective 9.3.4***

*New sensitive activities are located and managed to avoid potential reverse sensitivity effects on lawfully established activities in the rural environment.*

***Policy 9.3.4.1*** *Avoid reverse sensitivity effects on lawfully established rural industries, recreation, farming activities, infrastructure and network utilities by managing the location of new activities and buildings*

8.484 The broader situation of reverse sensitivity to existing legal activities, which is relevant to speedway, is also addressed. Part 1 of the District Plan identifies reverse sensitivity is one of the issues of strategic importance to the District. The relevant objectives and policies are:

***Objective 1.3.10***

*Subdivision, use and development that enables the continued efficient operation of existing development and activities.*

***Policy 1.3.10.1*** *Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.*

8.485 The subdivision chapter includes the following objectives relating to reverse sensitivity:

***Objective 13.3.14***

*Subdivision design that prevents reverse sensitivity effects on exiting lawfully established activities*

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<sup>71</sup> The explanation to this policy, which refers to urban areas in Appendix E, suggests the policy may only apply in Western Bay of Plenty.

**Policy 13.3.1.1** *Ensure that new subdivision and development will not have reverse sensitivity effects on lawfully established activities.*

8.486 Policy 12.3.4.2 for future growth in Part 12 of the District Plan also addresses reverse sensitivity, as well as other matters. Notably this refers to situations where development ‘unduly’ conflicts with existing activities on adjoining properties, which could imply some limits to the protection of existing activities from reverse sensitivity.

**Policy 12.3.4.2** *Manage development to ensure it will not unduly conflict with existing activities on adjoining properties, compromise future urban development potential or give rise to adverse effects on the amenity of the caldera*

8.487 Listed below are various aspects of the existing rules that assist to manage reverse sensitivity. Many of these are targeted at the protection of rural activities.

- The use of zones, which manage the effects of activities according to the characteristics of the environment including existing land uses.
- Yard requirements (setbacks of buildings from boundaries): 10m for all yards in the Rural 1 Zone; 7.5m for all yards in the Rural 2 Zone; 2.5m (side and rear) and 5m (front) in the Residential 1 Zone.
- 30m setback requirement for the reverse situation of establishing a dwelling/building in a rural zone near an established plantation forest (performance standard 9.6.16d.).
- 150m setback requirement between defined ‘sensitive activities’ (including dwellings) in a rural zone and certain listed rural activities, including livestock enclosures, dairy sheds, silage pits, on a site under separate ownership (performance standard 9.6.18).
- There are also existing performances standards requiring new plantation forests established in rural zones to be set back from buildings/dwellings, the boundary of residential zones and the boundary of Rural 2 and Rural 3 zone. However, it is my understanding these conflict with the national environmental standard and must be removed from the District Plan.

8.488 Noise is also the subject of various objectives and policies in the District Plan. These address both reverse sensitivity at zoning, as well as the need to minimise noise at source:

**Objective A11.3.1**

*A noise environment consistent with the character and amenity expected of the zone.*

**Policy 11.3.1.2** *Avoid the potential adverse effects of noise on noise sensitive activities by ensuring at the time of zoning the potential for noise reverse sensitivity is taken into account.*

**Policy 11.3.1.4** *Minimise, where practicable, noise at its source or on the site from which it is generated to mitigate adverse effects on adjacent sites.*

**Objective A11.3.2**

*Existing and permitted activities in the central city, rural and industrial zones are protected from noise reverse sensitivity*

**Policy 11.3.2.1** *Encourage activities to locate in areas where the noise generated from existing activities, or noise anticipated by the zone rules, is compatible with the proposed activity.*

**Policy 11.3.2.2** *Avoid, remedy or mitigate adverse effects generated by central city, industrial, infrastructural and rural activities through appropriate zone buffering, landscaped buffers, building*

*location and/or noise control boundaries to maintain the amenity of adjacent residential zones or marae and habitable buildings.*

*Other*

8.489 For context it is noted that the National Environmental Standards for Plantation Forestry require any new plantation forest to be setback:

- 10m from the boundary of an adjoining property under different ownership.
- the greater of 40m from a dwelling on a different property; or a distance where the species would shade a dwelling between 10am and 2pm on the shortest day of the year.
- 30m from the boundary of land zoned in a district plan as a papakāinga or an urban area.

8.490 It is worth noting with respect to issues of sensitivity to noise that the RMA includes a duty for every occupier of land to adopt the best practicable option to ensure that the emission of noise from that land does not exceed a reasonable level (section 16).

8.491 It is also noted that, outside the Resource Management Act 1991, there may be rights and actions available for those affected by adverse effects such as noise, risk to safety/structures. These also assist to balance the rights of landowners against the competing rights of other landowners. For example, injunctions for private nuisance, offences and abatement orders for nuisance noise (of a degree likely to be injurious to health) under the Health Act 1956 or orders to remove or trim a tree under the Property Law Act 2007.

**Evaluation**

*Rotorua Stock Car Club (Speedway)*

8.492 The Rotorua Speedway operates under a deemed resource consent under the Resource Management Act, issued in 1981. The consent has no limits to the maximum number of events, but events are understood to typically occur up to 25 times per annum (20 race meetings and 5 practice meetings between September and April).<sup>72</sup> The consent restricts events on Sundays and after 10.30pm without the prior consent of Council, but does not contain any conditions relating to noise emitted by the vehicles. Notwithstanding, Council has received few complaints about noise emissions from the speedway and, on this basis, the activity appears to be well-tolerated in the existing community.<sup>73</sup>

8.493 The nearest points of the plan change area are located about 600m from the Speedway. Parts of the existing residential zone have a similar proximity. The section 32 report found that ‘the site is well screened by from (sic) noise at Paradise Valley Speedway by land form, and these temporary effects are expected to be within an acceptable range’.

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<sup>72</sup> Comms. Sonja Hickey, Secretary/Promotions, Rotorua Speedway, 29 July 2020. *Response to questions from Rotorua Lakes Council about Speedway operations.*

<sup>73</sup> Council records indicate one complaint on two evenings in the last season (from the same complainant).



8.494 Following the submission by the Rotorua Stock Car Club, expert noise advice was commissioned from Marshall Day Acoustics (Marshall Day) to understand the noise effects of the speedway on the plan change area and the potential methods for mitigating reverse sensitivity.<sup>74</sup>

8.495 The Marshall Day report provides an indication of noise levels experienced inside the plan change area and surrounding land. Given events are not currently occurring and actual measurements could not be taken, indicative noise contours were estimated. These were based on a ‘worst case’ race with a conservative sound power prediction. The indicative contours suggest levels exceeding >65 dB L<sub>Aeq</sub> in a small area in the north of the plan change area, levels of 60-65 dB L<sub>Aeq</sub> in around half of the Sumner Block and reduced noise levels further south.

8.496 Marshall Day’s conclusions regarding the noise effects on the Development Area are:

Therefore, based upon:

- the conservatively calculated speedway noise levels, and
  - the intensity, frequency and duration of the current, and likely future, activity that occurs at the speedway,
- we consider that the noise levels received within PPC2 are reasonable but may cause annoyance to some of the new residents.

8.497 In respect of potential reverse sensitivity effects the report concludes:

However, new receivers, who move in to the PPC2 zones, may come with a different level of expectation. These new receivers give rise to the potential for reverse sensitivity effects upon the speedway.

Whilst the speedway is considered to be generating reasonable noise levels when received in the PPC2 area, there is a risk of new residents of the area becoming annoyed by the noise and complaining.

8.498 As a result of these conclusions, the report recommends the following changes to the plan change:

- Identification of Indicative Speedway Noise Areas;
- Additional rules requiring air conditioning for dwellings within the 60-65dB and over 65dB noise areas (equivalent to rules applying within the Airport Noise Controls); and
- Incorporating a no complaints covenant on property titles (‘ideally’ applying to the whole Development Area but at least to the 55-60dB, 60-65dB and over 65dB Noise Areas).

8.499 Legal advice was sought from Tompkins Wake in relation to the scope of the changes that can be made to address reverse sensitivity, given the relatively narrow scope of the submission by the Rotorua Stock Car Club.<sup>75</sup> In summary, the advice is:

- While the submission seeks that the rezoning takes into consideration an existing use right, rather than its lawful establishment under a consent granted in 1981, this is an issue of “legal nicety” which should not detract from the clear intent of the submission. The submission seeks that the plan change recognise that racing may result in an increased noise level in the area to be rezoned that needs to be considered in any future plans for the area.

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<sup>74</sup> Marshall Day Acoustics, 20 August 2020. Proposed Plan Change 2 – Pukehāngi Heights – Speedway Noise & Reverse Sensitivity. *Letter to Kim Smith, Rotorua Lakes Council.*

<sup>75</sup> T. Le Bas, W. Embling, Tompkins Wake, 20 August 2020. Proposed Plan Change 2 - Pukehāngi Heights - Speedway Noise and Reverse Sensitivity. *Letter to Kim Smith, Rotorua Lakes Council.*

- The submission indicates that the submitter's concerns would be met by including on any title issued a proviso that the speedway has existing use rights. While the submission specifies a possible decision by Council, this is not the only relief that can be imposed as a result of the submission. It is not uncommon for lay submitters to seek a form of relief that cannot in fact be imposed as part of the plan change process, and for a more suitable method to be identified in the course of the hearing and decision process that addresses the matters raised in the submission.
- There is jurisdiction to impose performance standards for dwellings within the 60-65dB noise contour to ensure that dwellings can achieve an appropriate internal noise environment, as well as assessment criteria to ensure that issues of reverse sensitivity and an appropriate noise environment can be considered when the performance standards are not met as this makes provision for the increased noise levels in the area as sought in the Stock Car Club's submission. A policy relating to reverse sensitivity and the need to establish an appropriate noise environment would also be within the scope of the Stock Car Club submission.
- As a question of jurisdiction, it would be possible for the plan change to include a performance standard for subdivision requiring a 'no complaints' covenant or consent notice be registered on the title. This would directly respond to the relief sought by the Stock Car Club. However the courts have expressed doubts in respect of requiring landowners to enter into covenants and a better approach is for Council to consider whether reverse sensitivity effects are likely to occur and whether an appropriate noise environment can be achieved. It would then remain open for the applicant to propose a no complaints covenant as a means of addressing the matter.

8.500 Based on this advice, it is considered that the appropriate relief is to add a policy to the plan change:

2.10 Reverse sensitivity associated with the Rotorua Speedway

Ensure that noise emission from the Rotorua Speedway are considered for subdivision in Area C and that measures are taken to reduce the potential for reverse sensitivity to the speedway and achieve an appropriate noise environment for residents.

8.501 A corresponding amendment is recommended to the structure plan to show 'Area C' over the Sumner Block, which approximately corresponds to the extent of land experiencing noise emissions of 55 dB or greater within the plan change area.

8.502 It is not considered appropriate to include any specific performance standards at this time to require air conditioning, no complaints covenants or other specific approaches. While this provides less certainty, leaving open the methods will provide opportunity to refine understanding of the extent of the area where the speedway noise needs to be addressed (e.g. using measurements taken during speedway events). While air conditioning and no complaints covenants are likely to be options proposed by applicants, leaving open the methods provides flexibility for other options to be proposed.

8.503 Assessment criteria are not considered necessary as all subdivision is at least a restricted discretionary activity and the matters of discretion reference the policies.

*Interface between residential/rural residential and rural activities*

8.504 It is considered that the relief sought of a 30m setback from the boundary of 37/275 Pukehāngi Road has merit. It is understood, from discussions with the landowners, that the forestry along the

northern boundary of this property is a mixture of species including redwood and other hardwoods planted for various reasons, including soil conservation and to meet landscaping conditions for subdivision. Requiring a separation distance between the plantings and new buildings on the neighbouring land would assist to protect the plantings from reverse sensitivity, consistent with policies 1.3.10.1 and 13.3.1.1 of the District Plan. A separation distance would also assist to protect future buildings and residents from the nuisance of tree litter and the risks associated with falling branches/trees.

- 8.505 It is understood that the vegetation along this boundary has been considered in nitrogen calculations for the property in the context of regional consents. In this regard, the protection of the forestry against reverse sensitivity from neighbouring residential development has relevance to the protection of the productive activities (grazing) in terms of policy UG 20B of the Regional Policy Statement.
- 8.506 It is considered that a new performance standard is required. The existing District Plan performance standard that requires new buildings to be set back from forestry only applies to buildings in Rural Zones, not the residential zone that applies to the adjacent upper terrace. Furthermore, it only applies in relation to 'plantation forestry'. Plantation forestry is not defined in the District Plan, but using the National Environmental Standards for Plantation Forestry as a guide suggests that the setback may not apply to at least some areas of the plantings due to the lack of commercial purpose for the plantings and absence of intention to harvest the trees.
- 8.507 As the plantings extend close to the boundary a new yard performance standard for the Residential 1 zone and Rural 2 Zones of the plan change is considered the clearest and most efficient approach to achieve the separation. It is not considered necessary to apply the yard to the Rural 1 Zone part of the plan change area because buildings are a non-complying activity.
- 8.508 30m is consistent with the separation required for plantation forestry and is considered reasonable. Indeed, it may not be sufficient to mitigate all the adverse effects given the species involved; however any additional setback would be beyond the scope of the submission.
- 8.509 Aside from the yard discussed above, it is considered that the relief sought by Utuhina Valley Farm of an increased 10m yard (instead of the proposed 5m for the Rural 1 Zone boundary) for buildings in the Residential 1 Zone or Rural 2 Zone where the boundary of the property adjoins a Rural 1 Zone should be rejected.
- 8.510 It is acknowledged that the objectives and policies of the District Plan seek to protect rural production activities from reverse sensitivity and that the existing yard requirement of 10m for sites in the Rural 1 zone provides a 'precedent' of sorts. However it is not considered that increasing the yards would provide any real protection from reverse sensitivity in the particular circumstances this plan change and could result in less efficient use of land zoned for residential development.
- 8.511 The plan change provides for Residential 1 Zone adjoining the Rural 1 Zone the south-west boundary of the upper terrace. Rural 2 Zone is proposed to adjoin the Rural 1 Zone in the north-west corner of the plan change area, adjacent to the mid-site escarpment; as well as where the southern slopes of the plan change area adjoin the Rural 1 Zone to the west.
- 8.512 Most of the Rural 1 zone interface with the proposed Residential 1 Zone on the upper terrace involves land included in the upper escarpment of the plan change, which is subject to the proposed subdivision performance standards and policies to promote partial re-vegetation to provide a

backdrop to development. This planting would assist to provide a buffer, as pointed out by the Hunt Family.

8.513 For the remainder of the interface between the Rural 1 Zone and the Residential 1 Zone or Rural 2 Zone it is considered an increased yard is not required because:

- The steep contour of the surrounding Rural 1 Zone land limits the intensity of rural production and the potential for reverse sensitivity.
- No specific sites or reasons for reverse sensitivity (such as sheds where animals would congregate) have been identified in the adjoining Rural 1 Zone.

8.514 For the reasons given above, it is also considered that vegetation screens are unnecessary.

**Recommendation**

8.515 Accept submissions 7.0 (Rotorua Stock Car Club) and 16.0 (D Witehira and J Mitchell) and further submission 4.3 (Rotorua District Residents and Ratepayers Association).

8.516 Partly accept further submission 6.36 (the Hunt Family).

8.517 Reject submissions 21.9 and 21.11 (Utuhina Valley Farm).

8.518 Amend the structure plan to show the location of a 30m yard along the northern boundary of the property at 37/275 Pukehāngi Road, where the boundary abuts Residential 1 Zone or Rural 2 Zone in the plan change area.

8.519 Make the following amendment to the performance standards for building yards:

**A5.2.3 Rules - Pukehāngi Heights Development Area - Residential 1**

...

**A5.2.3.3 Performance Standards - Land Use**

**2 Yards**

a. The minimum yard for buildings shall be as follows:

- i. Front yards: 3.0m
- ii. A garage door or carport shall be located at least 4.5m from the road boundary
- iii. Side and rear yards: 1.5m
- iv. Rear sites - south yard: 1.5m
- v. Rear sites - all other yards: 2.5m
- vi. Rural 1 Zone boundary: 5m

vii. Yards from boundary adjacent to forestry where indicated in the structure plan: 30m

- b. Except On side boundaries where there is an existing common wall between two semi-detached units on adjacent sites, or where a common wall is proposed, no yard setback is required along that part of the boundary covered by such a wall.

**A5.2.4 Rules - Pukehāngi Heights Development Area Mid Site Escarpment - Rural 2 Zone**

...

**A5.2.4.3 Performance Standards – Land Use**

1 The Rural 2 Zone provisions along with any other specific provisions apply in this Development Area unless otherwise specified below.

2 ...

**3 Yards**

The minimum yard for buildings shall be as provided for in the Rural 2 Zone provisions except as follows:

- i. Yards from boundary adjacent to forestry where indicated in the structure plan: 30m.

8.520 Amend the structure plan to show 'Area C' over the Sumner Block.

8.521 Insert the following policy:

2.10 Reverse sensitivity associated with the Rotorua Speedway

Ensure that noise emission from the speedway are considered for subdivision in Area C and that measures are taken to reduce the potential for reverse sensitivity to the speedway and achieve an appropriate noise environment for residents.

## INCLUSION OF ADDITIONAL LAND FOR MEDIUM DENSITY RESIDENTIAL DEVELOPMENT

### **Background**

8.522 When the plan change was initially proposed the entire Future Growth Area, including the Future Reserve 3, was intended to be included within the plan change area. It was anticipated that the Future Reserve 3 would continue to be identified as a school site. As such, a number of the reports that informed the Section 32 Evaluation Report addressed this site, with some exceptions discussed below.

8.523 However, Ministry of Education staff were not supportive of an additional school within the area as some of the existing schools were operating under capacity. Given the primary purpose of the plan change was to rezone land to enable residential development, the decision was made to exclude this area from the plan change area.

8.524 However, prior to the plan change being reported to Council in early 2019 staff became aware that the land owner was considering selling the site to enable the development of a retirement village. The following paragraph was included in the Section 32 Evaluation report to enable the inclusion of this area in the plan change to be considered:

*‘The owners of the area zoned Future Reserve 3 also wish to consider residential development of this area. The earlier proposal for an education-based activity has not proceeded. A residential zoning of this area would support the provision of further land supply for housing. This issue arose after plan change assessment work was completed. There may be scope to address this through a submission on the proposed plan change, subject to further assessments being completed to demonstrate appropriateness.’*

8.525 A resource consent application was lodged with Rotorua Lakes Council on 10 July 2020. The applicant seeks to establish a ‘lifestyle village’ on the site consisting of 194 permanent units and a Village Centre. This is being processed as a discretionary activity.

8.526 Council has requested that the relevant supporting reports provided with the resource consent application be provided to help support the submission. At the time of writing this information has not been provided.

### **Submissions**

8.527 Freedom Villages, who are in the process of purchasing the site, requests that the area identified with orange hatching in the figure below be identified for medium density residential development. The majority is land outside the plan change area and currently zoned Future Reserve 3 zone. A small area inside the current plan change boundary but without the medium density notation is also included.

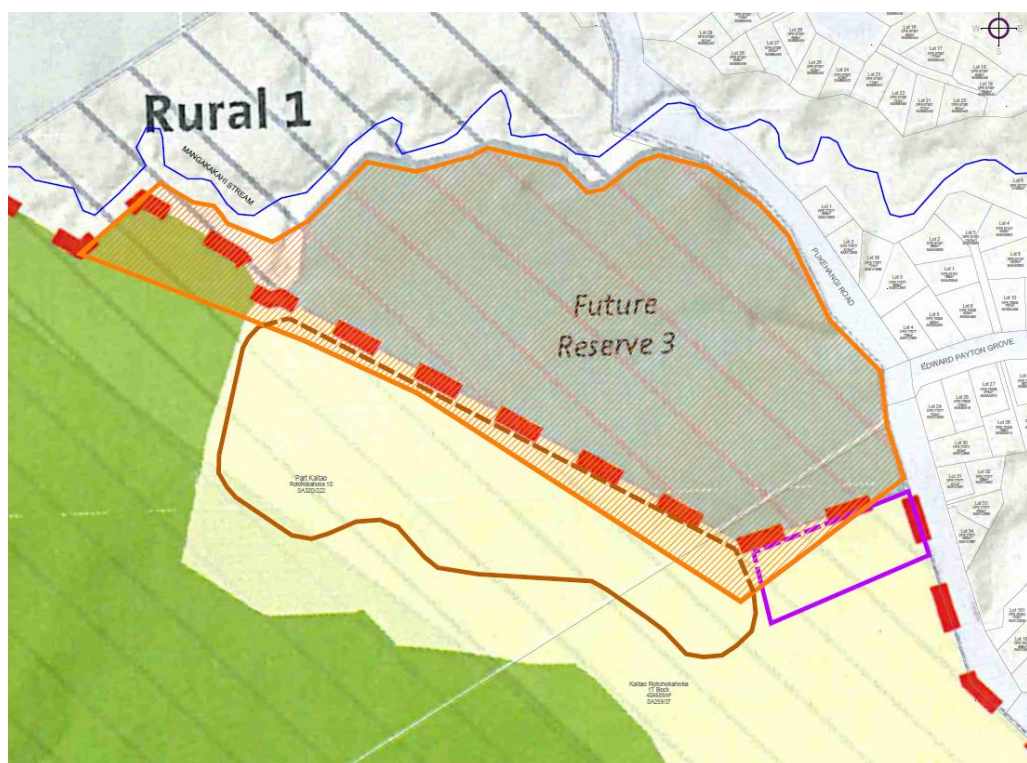


Figure 5 Proposed Medium Density Residential Area (orange hatching within orange outline).  
Red dashed line = existing boundary of plan change area.

8.528 The submitter explains that the land was initially intended as a school, which is consistent with the current Future Reserve 3 Zone. However, as the Ministry of Education have no recorded interest in this site for a school, the submitters are now seeking provisions that enable development of a retirement village.

8.529 The submitter states that the area sought for medium density within the proposed Rural 2 Zone is intended to be used for car parking and an overland flow path. As they do not intend to build any units within this area they would be open to special restrictions over this land (submission 13.0).

8.530 The submitter also requests that a Retirement Village within the medium density development area is classed as a Permitted Activity, and have requested a corresponding performance standard. A definition of Retirement Village is also proposed.

8.531 Should the resource consent be approved, the issues addressed below will be of limited relevance, although the underlying zoning and policy framework will assist with the ongoing management of the site. However, should the consent not be granted, or the development not occur, then any provisions approved through this plan change process will guide future land use within this area.

### Planning Framework

8.532 The Bay of Plenty Regional Policy Statement includes two key policy streams relating to growth. The first of these are the Urban and Rural Growth Management Policies which includes policies relating to implementing high quality urban design and live-work-play principles (UG 8B), co-ordination of new urban development with infrastructure, consideration of investment and infrastructure (UG 10B), and managing the effects of subdivision on the operation and upgrading of infrastructure. Finally, for land outside of the Western Bay of Plenty there is a focus on the efficient development

and use of land, setting of defined limits of urban development and providing for efficient, planned and co-ordinated use and development of infrastructure (UG 17B).

8.533 The second policy stream, which has been discussed elsewhere in this report is the policy framework associated with natural hazards.

8.534 There are a number of other policies also of relevance including those encouraging ecological restoration (MN 4B).

8.535 Method 18 is also very relevant. This requires the preparation of structure plans to coordinate development through the integrated provision of infrastructure, and the integrated management of environmental effects.

8.536 The District Plan includes the following Objectives and Policies of relevance:

**Objective 1.3.4**

*Subdivision, use and development consistent with the anticipated settlement pattern that maximises the efficient use of zoned and serviced urban land and is co-ordinated with the provision of cost effective infrastructure.*

**Policy 1.3.4.1** *Ensure that subdivision, use and development is directed to areas with existing or planned service connections and/or to land that is zoned for future growth.*

**Policy 1.3.4.2** *Identify and zone appropriate areas of land for urban purposes to guide the future provision of infrastructure within the Rotorua District.*

**Objective 1.3.5**

*Sufficient and suitable land zoned for future urban development that provides the residents of Rotorua with a range of lifestyle and development choices.*

**Policy 1.3.5.1** *Ensure that development in the areas identified for new growth is carried out in a manner that meets the community's needs and avoids, remedies or mitigates adverse environmental effects.*

**Policy 1.3.5.2** *Manage development to ensure it will not unduly conflict with existing activities on adjoining properties, compromise future urban development potential or give rise to reverse sensitivity effects.*

**Policy 1.3.5.3** *Identify the key infrastructural, community, cultural and environmental opportunities and constraints for each future growth zone and ensure that these are planned for in the development of each area.*

**Objective 12.3.1**

*Sufficient land area suited for future urban and economic development that provides the residents of Rotorua with a range of lifestyle and development choices.*

**Policy 12.3.1.1** *Identify areas within the district to meet future demand for residential development.*

**Policy 12.3.1.2** *Ensure that development in the areas identified for new growth is carried out in a manner that meets the community's needs and avoids, remedies or mitigates adverse environmental effects.*

**Objective 12.3.2**

*Subdivision and development within growth areas completed in a structured and integrated pattern, with the environmental qualities of the land fully identified and sustainably managed.*

**Policy 12.3.2.1** *Identify the key infrastructural, community, cultural and environmental opportunities and constraints for each new growth area and ensure that these are reflected in the development of each area.*

**Policy 12.3.2.2** *Ensure that the activities carried out in the future urban area do not generate adverse environmental effects and or compromise future land use.*

**Policy 12.3.2.3** *Avoid fragmented development that results in inefficiencies in the provision of infrastructure.*

8.537 Under the operative District Plan the area is identified as ‘Future Reserve 3’. This zoning anticipated ‘the future potential development of an education facility’. An Education Facility within this area is identified as a Controlled Activity subject to compliance with the performance standards for the Rural 1 zone<sup>76</sup>. Matters of control are limited to building design and site layout, parking, turning and on-site circulation and noise.

8.538 The existing rule framework does not explicitly provide for an activity other than an Education Facility on this site. But it would appear that the activity status of a retirement village would be Discretionary under either Rule 12.5.1 or under section 87B of the Act.

8.539 The Ngāti Kea Ngāti Tuarā Environmental Management Plan advocates for active involvement of Ngāti Kea Ngāti Tuarā in resource management processes and decisions that relate to the Utuhina Stream (Obj 7), advocate for improved access to and along waters within the rohe (Obj 10), pursue opportunities to be involved in or lead restoration projects associated with the Utuhina Stream (Obj 11).

8.540 Finally, the Ministers Statement of Expectations is relevant here:

*The recommended Plan Change 2: Pukehāngi Heights should provide sufficient development capacity for a minimum housing yield of approximately 790 dwellings, comprising a mix of densities and typologies that will meet demand, while recognising the constraints that apply to the land that is subject to the rezoning.*

8.541 The use of the streamlined planning process has been approved on the basis of the need for housing.

**Evaluation**

8.542 The site identified in the submission (referred to throughout this section as ‘the site’) is located at the north western end of the Sunnydowns Block, and is approximately 9ha in area. The land is currently grazed. The topography is a mixture of reasonably flat land along with more undulating land close the boundary with Pukehāngi Road. An overland flow path passes through the site

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<sup>76</sup> Of relevance are performance standards on site coverage (shall not exceed 25%), impermeable surfaces (40%), compliance with the Parking, Turning and Access provisions.



entering into a gully close to Pukehāngi Road. A larger gully containing the Mangakakahi Stream adjoins the northern boundary of the site.

8.543 Stock yards are located close to the southern boundary of the site.

8.544 There is a Land Improvement Agreement associated the Mangakakahi Stream.

8.545 Given the lack of support from Ministry of Education staff for the current zoning, the isolated nature of the site in relation to the remainder of the existing farming operation should the plan change be approved, and the need for housing; consideration of an alternative land use is considered appropriate.

8.546 In assessing the suitability of the wider plan change area for rezoning, consideration was given to the following in the Section 32 Report:

- Landscape Values
- Ecology
- Archaeology
- Cultural Values
- Three Waters
- Natural Hazards
- Transport
- Soil Contamination
- Nitrogen
- Reverse Sensitivity

8.547 The Landscape Assessment has not included the Freedom site. However, the site is located within the 'less sensitive landscape' and below the escarpment transition area. Elsewhere in the plan change area no specific provisions have been recommended in relation to landscape values at this elevation. However, this site adjoins the Mangakakahi Stream. As such, future residential development has the potential to affect the natural character and ecological values associated with the stream. In addition, consideration of access along the stream needs to be considered.

8.548 Both the archaeological assessment and the Cultural Impact Assessment included this area. No archaeological sites were identified. Note, the stream channel and the land to the north of the stream were not included in the archaeological assessment. Elsewhere in the plan change area performance standards have been included to protect cultural identity and cultural sites, including in relation to the potential identification of new sites.

8.549 Water and Wastewater assessments for the wider plan change area have been based on district-wide growth rates and as such are equally applicable to this site. Council's Land Development Engineer has confirmed that:

*'With regard to water supply, there should be no issues supplying water with adequate quantity and pressure to this site considering the existing and proposed contours.'*

*For wastewater, upgrading of a number of downstream wastewater lines will be required as a result of the plan change area including the retirement village. A financial contribution will be required and Infrastructure intends to add the requirement for FC as a condition of consent in the lodged consent, proportioned on the basis of effects.'*

*With regard to access, there are no issues providing that the recommendation of the traffic report doesn't allow individual access to Pukehāngi Road.*<sup>77</sup>

8.550 In addition, the Freedom site has been included in the stormwater modelling undertaken by OPUS (on the basis of the land being developed as a retirement village) and ponds have been modelled based on this work. It is noted that the modelling assumed imperviousness of 80%.

8.551 However, the Land Stability Assessment undertaken by OPUS does not appear to extend across this site. Contact has been made with Freedom Villages' consultant to request a risk assessment in relation to land instability and liquefaction to the Regional Policy Statement to support their submission. It is understood that this will be provided before the hearing.

8.552 The traffic modelling for the plan change areas has also included traffic volumes based on the potential residential development of this site (as Residential 1).

8.553 In relation to soil contamination, the approach in the wider plan change area recognised that past rural activities meant that there was some potential for areas of contamination within the plan change area. The specific site investigations are anticipated to occur at the subdivision stage in line with the *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*. The same approach is considered appropriate here.

8.554 The recommended rule framework for water quality would address nitrogen discharges from the use of the site.

8.555 Finally, in relation to reverse sensitivity issues associated with the Rotorua Speedway, the assessments undertaken have also included this site. The recommendations above are equally applicable to this site.

8.556 Therefore in principle, and subject to the site being shown to be suitable from a natural hazard: land instability and liquefaction perspective, it is considered that some form of urban zoning is appropriate.

8.557 The submitter has requested that:

- the Future Reserve 3 is identified for Medium Density Residential Development along with a small area of land to the north-west,
- a retirement village is classed as a permitted activity within the Medium Density Development Area;
- a definition of retirement village is included; and
- the following performance standard be included:

**11 Retirement Villages**

*Location: Within the areas as indicated on the Pukehāngi Heights Development Area Structure Plan as Medium Density Development Area, retirement villages may occur.*

*They shall meet the minimum requirements:*

- a. *Minimum net site area: 1500m<sup>2</sup>*
- b. *These shall be at a minimum density of 1 unit per 250m<sup>2</sup> gross site area*

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<sup>77</sup> Comms, Wafa Dine, Land Development Engineering Manager – Infrastructure, Rotorua Lakes Council, August 2020.

- c. *All buildings shall comply with performance standards for yards (A5.2.3.3 – 2), Impervious Area (A5.2.3.3 – 4), Passive Surveillance of Streets (A5.2.3.3 – 5)*
- d. *All buildings shall be a maximum height of 9m.*

8.558 The area of land that the submitter has requested be rezoned is approximately 9ha in area.

8.559 These specific provisions along with some alternatives are discussed below.

*Proposed Framework for Medium Density development within the Plan Change*

8.560 The place-specific principles describe medium density as follows:

*Medium density residential development located on land of easy contour adjacent to local services and open space, and sleeved with lower density residential development, commercial development or open space to provide a harmonious transition with existing low density residential development along Pukehāngi Road.*

8.561 Policy 2.1 relates specifically to medium density development on the lower terrace. The policy states:

*Enable medium density development that delivers the following qualities and characteristics:*

- *Buildings with design qualities appropriate to higher density living;*
- *Visual and aural privacy;*
- *Diversity of built form;*
- *Smaller household units and apartment style living;*
- *Outdoor space of a high quality; and*
- *Amenity planting to reduce the dominance of the built environment.*

8.562 The rule framework classes medium density development as a Restricted Discretionary Activity within the Medium Density Residential Development Area. Performance standards require an urban design assessment and include bulk and location standards including a minimum net site area per dwelling of 200m<sup>2</sup> and a maximum height of 9m.

8.563 The plan change, as notified, identified 3.9ha over the entire structure plan area with the potential for medium density development.

8.564 Given the location and size of the site, the inclusion of an additional 9ha of medium density development potentially raises issues in terms of the character of the surrounding residential and rural environments and of the stream. A medium density overlay would also need to be considered in light of the effect on the road network. This has not been assessed in relation to the work undertaken to date.

8.565 However, in correspondence with the submitter they have confirmed that the intention of the submission is to amend the zoning to enable the development of the site for a retirement village as a Permitted Activity. This could be achieved through rezoning the land to Residential 1 and providing for a retirement village on this site (through an overlay).

8.566 As is discussed elsewhere in the report, there are a number of issues that need to be resolved or considered before development of sites within the plan change area can occur. This includes stormwater management, natural hazard risk assessments, and in the case of medium density development, urban design assessments. These are all issues where Council needs to retain the ability to decline an application if there is not an acceptable solution. As such, a permitted (or controlled) activity status, as requested by the submitter, is not considered appropriate.

- 8.567 However, one of the key drivers of this plan change has been to facilitate residential development. Providing greater certainty through the rule framework will assist in this. Consideration has therefore been given to whether a retirement village on this site could be considered as a Restricted Discretionary Activity or whether full Discretionary status is more appropriate.
- 8.568 Elsewhere in the District Plan, retirement villages are classed as a Discretionary Activity in all of the Residential Zones and in the Rural 3 Zone: Rural Villages. Under the current Reserve 3 Zoning alternative activities are not clearly provided for, and it would appear that the activity status is Discretionary under section 87B of the RMA.
- 8.569 In terms of a comparison with how other councils classify retirement villages, the Auckland Unitary Plan identifies retirement villages as a Discretionary Activity in their *Single House Zone*; and as a Restricted Discretionary Activity in their Mixed Housing Suburban Zone with associated performance standards. In Hamilton, retirement villages are classed as a restricted discretionary activity in their General Residential Zone with a wider range of performance standards, while in Hamilton's Intensification Zones they are classed as a Non-Complying Activity.
- 8.570 Alternatively, a Retirement Village could simply be assessed as a Discretionary Activity. This would require very few changes to the plan change text as under Rule A5.2.3.1.1 the Residential Zone Rules apply unless there is a specific rule for the Development Plan Area. However, the boundary of the Freedom site currently extends into the Rural 2 Zone which would make the activity Non-Complying. Amending the boundary would address this issue.
- 8.571 An alternative would be to classify a retirement village as a Restricted Discretionary Activity on this site. The submitter has suggested performance standards. These would enable significant density and height but have limited control on the quality of development. One of the key drivers of the plan change has been to achieve a quality urban environment, and as such, this approach is not supported.
- 8.572 However, the proposed Medium Density provisions could be used as a template to create provisions. These provisions have been drafted below (see Recommendation Section). The overall approach would enable a retirement village as a restricted discretionary activity within the Freedom Site. This would provide a level certainty to potential developers, but would also provide a level of certainty to the community given the proposed provisions which address urban design, natural character, ecological values, natural hazard risk assessments etc.
- 8.573 The primary differences between the medium density provisions and the recommended retirement village provisions include:
- Consideration of the accessibility of the environment for older people;
  - Provision for smaller units balanced by quality common amenity areas;
  - A focus on building orientation for solar gain; and
  - Connectivity with the stream.
- 8.574 The recommended performance standards limit retirement villages to the Freedom site. Consideration was given to whether the provisions should apply more broadly, which was within the scope of the submission. However, this was discounted on the basis of wanting to encourage a range of housing typologies.
- 8.575 As with medium density development, the performance standards requires an urban design and ecological assessment.

- 8.576 It should be noted that the submitter requested a Permitted Activity performance standard of 1 unit per 250m<sup>2</sup> gross site area. Given the potential size of the stormwater detention areas using a gross site area calculation may not be appropriate. Instead of specifying a density, it is recommended that the urban design assessment specifically address the relationship between built form and open space, the liveability of spaces and privacy achieved within buildings.
- 8.577 The recommended performance standards also reference the proposed stormwater management, natural hazard risk assessment, and cultural identity subdivision performance standards.
- 8.578 Finally, assessment criteria are proposed reflecting the above.
- 8.579 Under this scenario, the underlying zoning would be Residential 1. The same provision for the Residential 1 Zone would apply, including the stormwater management and natural hazard risk assessment provisions. In addition, a performance standard is recommended to protect the ecological and natural character values associated with the Mangakakahi Stream.
- 8.580 In terms of the Structure Plan, an overland flow path is shown through the site and a road linkage is also identified to the rest of the structure plan area to provide integration.
- 8.581 Given the limited supporting information and public process associated with the recommended zoning of this site it is recommended that the non-notification provisions in A5.2.3.2 do not apply, and notification is determined at the time of consent.
- 8.582 Finally, the submitter has requested the inclusion of a definition of Retirement Village. The District Plan currently includes a definition of Rest Home<sup>78</sup>, which will need to be replaced with the definition in the National Planning Standards for retirement village<sup>79</sup>.
- 8.583 It is recommended that if specific rules or an overlay are proposed for a Retirement Village within the Structure Plan Area that the following definition is included in Section 17: Definitions as an interim measure:

*Retirement Village: See “Rest Home”*

- 8.584 This would just avoid the need to update the maps when the Definitions are updated to reflect the National Planning Standards.

### **Recommendation**

- 8.585 That the plan change be amended as follows:

The place-specific principles are:

Lower Terrace

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<sup>78</sup> A multi-unit housing facility intended for the elderly where additional facilities are provided which may include provision of meals, gathering spaces, recreation, and some form of wellness or medical facilities.

<sup>79</sup> ‘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.’

- Low density residential development;
- Medium density residential development located on land of easy contour adjacent to local services and open space, and sleeved with lower density residential development, commercial development or open space to provide a harmonious transition with existing low density residential development along Pukehāngi Road;
- Small commercial areas for local convenience retail, a cafe and or childcare located near to intersections with Pukehāngi Road; ~~and~~
- A retirement village at the northern end of the structure plan area, close to a commercial area, public open space and public transport on Pukehāngi Road; and
- A transitional area along the base of the Mid-site Escarpment where additional landscape and building controls apply (Escarpment Transition Area 1).

Policy 1.2 Lower Terrace – Medium Density Residential Development and Retirement Village

Enable medium density residential development and a retirement village within their respective defined locations where the development is designed to provide diversity and choice in housing and to integrate with the character of the surrounding area.

Policy 2.1a Lower Terrace – Retirement Village

Enable the development of Retirement Village within the Retirement Village Overlay that delivers the following qualities and characteristics:

- An accessible environment for older people including those with mobility and visual limitations;
- Privacy achieved within buildings;
- Diversity of built form;
- Smaller household units balanced by high quality common amenity areas such as community reserves, bowling greens and common buildings;
- Liveability of housing;
- Amenity planting to reduce the dominance of the built environment;
- Buildings orientated to ensure good solar gain in winter while minimising over-heating in summer; and
- Good connectivity for all modes to commercial areas, public open space, public walkways and public transport on Pukehāngi Road.

Policy 2.2a Ecological Values

Ecological and natural character values associated with the Mangakakahi Stream shall be protected and enhanced while providing pedestrian access if practical.

<u>Rules</u>	<u>Activity Status</u>
<u>Land Use</u>	
<u>8a. Retirement Village within the Retirement Village Area shown on the Structure Plan that meets performance standard A5.2.3.3.11</u>	<u>RD</u>
<u>Subdivision</u>	

<u>10a. Subdivision within the Retirement Village Overlay that meets Performance Standard A5.2.3.4.</u>	<u>RD</u>
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A5.2.3.3

**11 Retirement Villages**

- a. Location: Within the areas as indicated on the Pukehāngi Heights Development Area Structure Plan.
- b. Urban Design Assessment: An Urban Design Assessment shall be provided with any resource consent application. The assessment shall be prepared by a suitably qualified urban design professional and shall set out the development objectives and design and address all matters of discretion in A5.2.6.2a.
- c. Ecological Assessment: An Ecological Assessment shall be provided with any resource consent application. The assessment shall be prepared by a suitably qualified ecologist and shall assess the effects of development on the stream corridor, including mitigation measures proposed, and in combination with the urban design assessment whether public access can be achieved..
- d. Yards: As per A5.2.3.3.2
- e. Impervious Area: 80%
- f. Passive Surveillance of Streets: As per A5.2.3.3.5
- g. Storage and Service Space: A minimum of 5m<sup>2</sup> of open space per dwelling that can accommodate a 2m diameter circle.
- h. Stormwater Management: As per A5.2.3.4.7
- i. Natural Hazard Risk Management: As per A5.2.3.4.8
- j. Protection of Cultural Identity and Sites of Archaeological or Cultural Importance: As per A5.2.3.4.9

A5.2.3.4

**5a Protection of Ecological Values associated with the Mangakakahi Stream**

- a. An Ecological Assessment shall be provided for sites adjoining the Mangakakahi Stream, prepared by a suitably qualified ecologist and shall assess:
  - i. How ecological values associated with the stream corridor will be protected and enhanced;
  - ii. The effects of urban development on the stream corridor and how these effects will be mitigated to achieve (i) above;
  - iii. The potential for pedestrian access along the stream corridor.

**6a Retirement Villages**

- a. Subdivision for a Retirement Village assessed under Rule A5.2.3.1.8a

**A5.2.6.3a Land Use within the Pukehāngi Heights Development Area – Retirement Village within the Retirement Village Overlay**

1. The extent to which the principles of the Pukehāngi Heights Development Area Structure Plan will be achieved;
2. The extent to which the objectives and policies of the Pukehāngi Heights Development Area and the underlying zone will be met;
3. The compatibility between surrounding properties and the proposed development, having regard to the protection of visual and aural privacy and visual dominance of buildings, and potential reverse sensitivity issues;
4. The visual impact of earthworks on amenity values along Pukehāngi Road e.g. large exposed retaining walls.
5. The extent to which the design of the development, including any revegetation, respects and enhances the natural character of the Mangakakahi Stream; and
6. The quality of the environmental outcomes achieved for residents within the development having regard to:
  - a. The layout and design of the development in relation to people with mobility and visual limitations;
  - b. The density of development;
  - c. Visual and aural privacy;
  - d. Access to and quality of common amenity areas;
  - e. On-site amenity planting;
  - f. Connectivity for all modes;
  - g. Safe and convenient access and parking for vehicles; and
  - h. Solar access, passive heating and ventilation.

8.586 That the Future Growth Chapter is deleted as a consequential change (as there will be no longer be any land zoned for Future Growth).

## ACTIVITY STATUS

### ***Submissions***

8.587 The Hunt Family, Te Arawa Group Holdings Limited and the joint submission by the Hunt Family, Te Arawa Group Holdings Limited and P Sumner (Sunny Downs Farm) submit that some activities classified as restricted discretionary activities, particularly subdivision complying with the performance standards, could be classified as controlled activities to provide more certainty for development (submissions 26.0, 26.1, 26.2, 26.3, 20.2, 20.10, 28.1 and 28.2 and further submission 6.28). The submitters note that management of stormwater presents uncertainty and understand this is a reason the Council did not provide for subdivision as a controlled activity. The submitters seek that stormwater management be progressed alongside the plan change (submission 20.3, 26.0 and 28.3 and further submission 6.29). The Hunt Family acknowledges there may be concern about achievement of other objectives, e.g. in relation to design, but considers the performance standards provide strong protections and provision for subdivision that meets performance standards as a controlled activity is consistent with the approach for subdivision in other areas (submission 26.1).



8.588 MARIS opposes the submission of the Hunt Family, Te Arawa Group Holdings Limited, stating a restricted discretionary activity status is preferred at the very least (further submissions 5.2, 5.6, 5.7). It seeks to comment on any matters of control or changes to any matters of discretion.

### ***Planning Framework***

8.589 The proposed plan change provides for subdivision as restricted discretionary activity in both the Residential 1 and Rural 2 Zones.

### ***Evaluation***

8.590 If the district plan has clearly indicated standards such as minimum site size and shape, access and suitability of building platforms, then the controlled activity category is the most appropriate category for subdivisions.

8.591 The restricted discretionary category gives applicants less certainty because consents can be refused. However, from a council's perspective it provides the option of refusal if an important standard is not met, and the imposition of conditions is not enough to mitigate any adverse effects.

8.592 This Restricted Discretionary Activity status was assessed as appropriate because of the range of discretions that need to be exercised by the Council in relation to matters including landscape values in escarpment transition areas, stormwater management, natural hazard management, cultural effects and traffic issues.

8.593 The regulatory efficiency of this is addressed through applications being non-notified where the plan provisions were being given full effect in the subdivision design.

### ***Recommendation***

8.594 Submissions Hunt Family, Te Arawa Group Holdings Limited and the joint submission by the Hunt Family, Te Arawa Group Holdings Limited and P Sumner (Sunny Downs Farm) (submissions 26.0, 26.1, 26.2, 26.3, 20.2, 20.10, 28.1 and 28.2 20.3, 26.0 and 28.3 and further submission 6.28 and 6.29) be rejected.

8.595 Further submissions by MARIS (5.2, 5.6, 5.7) be accepted.

8.596 No changes be made to the plan provisions.

## **PRE-INTENSIFICATION SUBDIVISION**

### ***Submissions***

8.597 Te Arawa Group Holdings Limited and the joint submission by the Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm) seek the ability to subdivide off development areas or blocks from the parent site to enable and facilitate development without the detail and assessments required under the subdivision performance standards. For example, 'subdividing a 5-10 hectare block from the parent site to be on-sold to a developer'. They call this 'pre-intensification subdivision' - intended to break up the parent site into manageable areas for sale to developers.

8.598 They are concerned that this will not be seen as consistent with the principles of the structure plan (submissions 20.4, 28.4). Amendments to the introduction (submission 20.7, submission 28.8), policies (submission 28.10) rule framework for the Residential 1 Zone (submissions 20.11 and 28.12)

and Rural 2 Zone (submission 20.17 and 28.18). The further submission by the Hunt Family also supports these points (further submission 6.29).

8.599 These submitters also seek thresholds for when detailed technical reports addressing stormwater management, natural hazard risk management, construction traffic and protection of landscape values are required with subdivision (submissions 20.14, 20.18, 28.15 and 28.19 and further submission 6.29).

8.600 BOPRC opposes these submission points. It states Council should not allow subdivision prior to a comprehensive assessment of stormwater effects and opposes the proposed amendments to allow for pre-intensification subdivision (further submission 7.6, 7.7).

### ***Planning Framework***

8.601 The Planning Framework for the Development Area does not make specific provision for ‘pre-intensification’ subdivision of the land in the manner described in the submissions.

8.602 This is the case for other urban zones in the District Plan where pre-intensification subdivision is proposed. There are no specific provisions in the Subdivision Chapter (Part 13) that provide for subdivision requirements to be waived or thresholds to be set in these circumstances. Subdivisions that do not meet relevant performance standards are generally a discretionary activity<sup>80</sup> assessed under Rule 13.19.

8.603 As notified, this form of subdivision would be a Discretionary Activity in the Pukehāngi Height Development Area. However, proposed amendments would make this form of subdivision a non-complying activity where the stormwater performance standards are not met.

### ***Evaluation***

8.604 As described, pre-intensification subdivision, being solely for the purpose of ownership transfers to enable future development, would lead to no change of use. On that basis, such subdivision will have no environmental effects provided the neutral land use outcome was secured via controls such as covenants or consent notices. A potential issue might arise from land fragmentation that inhibited delivery of structure plan outcomes (e.g, key road linkages or services access). This issue could be addressed through masterplanning to prove the new parcels would not inhibit long term outcomes.

8.605 Retaining a Discretionary (or Non-Complying activity status) does not prevent pre-intensification subdivision. Where effects are proven to be negligible, and the subdivision is consistent with objectives and policies, consent can foreseeably be granted. On this basis the existing provisions are generally appropriate, consistent with the District Plans general approach, and should not be changed.

### ***Recommendation***

8.606 Reject the submissions by the Hunt Family, Te Arawa Group Holdings Limited and Paul Sumner (Sunny Downs Farm) (20.4, 28.4, 20.7, 28.8, 28.10, 20.11, 28.12, 20.17, 28.18 20.14, 20.18, 28.15 and 28.19 and further submission 6.29) be rejected. .

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<sup>80</sup> See for example Table 13.5.1 Subdivision in Residential Zones. 3

8.607 Accept the submission by BOPRC (7.6 and 7.7).

8.608 Make no changes as a result of these submissions.

## NON-NOTIFICATION PROVISIONS

### **Background**

8.609 The proposed provisions include non-notification rules for the area covered by the Residential 1 Zone, mid-site escarpment (Rural 2 Zone) and upper escarpment (Rural 2 Zone). Under these rules applications for resource consent for the following activities will not be subject to public or limited notification or the need to obtain written approval from affected parties if consistent with the principles of the Pukehāngi Development Area Structure Plan:

- Residential 1 Zone - Various restricted discretionary land use and subdivision activities, including subdivision where the site includes a site of archaeological or cultural importance.
- Mid-site escarpment - Infrastructure consistent with the structure plan; subdivision complying with the performance standards; and subdivision where the site includes a site of archaeological or cultural importance.
- Upper escarpment - Subdivision complying with performance standards.

### **Submissions**

8.610 Neighbours of the plan change area, D Witehira and J Mitchell, submit that there are many unknowns as to how development will occur and it is difficult to anticipate the effects on their property. They seek limited notification be provided to immediate properties (submission 16.2).

8.611 Te Arawa Lakes Trust and Ngāti Whakaue - Te-Kōmiro o te Utuhina seek that the non-notification provisions are reworded to provide for tangata whenua as affected parties (submissions 10.3 and 42.3). Te Arawa Group Holdings Limited supports Te Arawa Lakes Trust's submission to the extent that inclusive and meaningful consultation is undertaken with Te Arawa Lakes Trust (further submission 2.4).

8.612 The Hunt Family support Te Arawa Lakes Trust's submission in part. The family state that to ensure efficient supply and development of residential land the provisions need to be very clear on where and when consultation with tangata whenua is required; and that it is not efficient for tangata whenua to be consulted on every consent application. It urges the Council itself to undertake sufficient consultation so that the plan change can include appropriate provisions to limit consultation to where the development has the potential to affect a known or identified area of cultural importance / value (further submission 6.31).

## OTHER

8.613 This section evaluates submissions on various topics (a to f) that are not covered by the above evaluation.

### **a. Principles**

#### **Background**

8.614 The plan change proposes the following principles to guide the development of the plan change area.

*The general principles are:*

- *Development that responds to the landscape values of the Caldera Rim and the topography of the area;*

- *Development that recognises, protects and provides for the expression of the cultural and archaeological values of the area;*
- *Roads, walkways and cycleway connections throughout the area and connecting with adjoining sites;*
- *Comprehensively designed low impact stormwater management integrated with development;*
- *Enhancement of ecological values by including indigenous vegetation plantings; and*
- *Excellent urban design outcomes for solar access and passive surveillance of public spaces.*

*The place-specific principles are:*

*Lower Terrace*

- *Low density residential development;*
- *Medium density residential development located on land of easy contour adjacent to local services and open space, and sleeved with lower density residential development, commercial development or open space to provide a harmonious transition with existing low density residential development along Pukehāngi Road;*
- *Small commercial areas for local convenience retail, a cafe and or childcare located near to intersections with Pukehāngi Road; and*
- *A transitional area along the base of the mid-site escarpment where additional landscape and building controls apply (Escarpment Transition Area 1).*

*Mid-site Escarpment*

- *Partially re-vegetated native bush and specimen tree network to form a backdrop to the development on the lower terrace;*
- *A visual character that is dominated by areas of re-vegetation near the Parklands Estate development transitioning through to an open space character close to Matipo Avenue and Paradise Valley Road;*
- *Large lot residential development;*
- *Landscape design that integrates development with the surrounding environment including the 'Parklands Estate' Development; and*
- *Design controls on buildings.*

*Upper Terrace*

- *Low density residential development; and*
- *A transitional area along the front of the upper terrace where additional landscape and building controls apply (Escarpment Transition Area 2).*

*Upper Escarpment*

- *No development on the upper escarpment; and*
- *Partial re-vegetation to form a coherent transition from the Parklands Estate development and to create a backdrop to development on the Upper Terrace.*

*Pukehāngi Southern Slopes*

- *Rural 2 Zone provisions apply.*

8.615 The principles are referenced in:

- objectives for landscape values (A5.2A.2)
- subdivision rules (subdivision that is consistent with the principles and complies with the performance standards is restricted discretionary (A5.2.3.1.9, A5.2.4.1.16 and A5.2.5.1.3))
- matters of discretion for restricted discretionary subdivision (A5.2.6.5)
- performance standards (A5.2.4.3.8)

- matters of discretion for land use activities triggering consent (A5.2.6.2.1, A5.2.6.3, A5.2.6.4); and
- non-notification rules (A5.2.3.2, A5.2.4.2 and A5.2.5.2)

### **Submissions**

8.616 BOPRC submits that the plan change places significant weight on developments being ‘consistent with the principles of the Pukehāngi Development Area Structure Plan’. It considers suitable headings should be provided rather than the principles being included within the introduction (submission 44.9).

### **Evaluation**

8.617 It is agreed that a heading for the principles would assist readers.

### **Recommendation**

8.618 Include a heading in the plan change provisions ‘[Principles](#)’ and amend the introductory sentence to the principles to read ‘The general principles [for the Pukehāngi Heights Development Area](#) are’.

### **b. Performance standards for impervious surfaces**

#### **Submissions**

8.619 Rotorua Lakes Council’s submission includes several points seeking improvements in the mechanics of the plan change to improve clarity and avoid non-compliance with the performance standards for activities consistent with the intention of the plan change. The first submission point seeks that performance standard A5.2.3.3 is amended to allow a higher percentage of impermeable area for semi-detached units and medium density development to reflect the likely site coverage for these forms of development as follows (submission 43.1):

*The maximum site coverage for impermeable surfaces shall be 55%, except for: semi-detached units and medium density residential development where the site coverage for impermeable surfaces shall be 80%.*

8.620 The further submission by the Hunt Family partly supports the Rotorua Lakes Council. They support a higher percentage of impermeable area for semi-detached units and medium density development, but are cognisant that increased impermeable surfaces will also affect stormwater and the family urges the Council to complete the additional stormwater modelling (further submission 6.25).

#### **Evaluation**

8.621 It is considered that performance standard A5.2.3.3 should be amended, as sought in the Rotorua Lakes Council submission, to allow a higher percentage of impermeable surface area for semi-detached dwellings or medium-density development in the area indicated. Higher impervious surfaces levels are consistent with the nature of the intended development. It is acknowledged, as pointed out by the Hunt Family, that impervious surfaces can increase stormwater peak flows and therefore downstream flooding. However, stormwater design will take into account the expected level of impervious surfaces and amending the performance standard consistent with the intended development form will assist to ensure appropriate assumptions are included the stormwater design process and stormwater management plan. The modelling undertaken by OPUS to date has assumed 80% imperviousness within the medium density overlay. No specific provision has been made for

semi-detached units, but it is not anticipated that these would form a significant proportion of the new housing constructed and would be within the level of imperviousness assumed.

8.622 A small change in wording for the amendment to the performance standard is recommended from that in the Rotorua Council submission to:

- clarify that the impervious surfaces relates to the site on which the semi-detached dwelling or medium density development activity is located.
- clarify that medium density development qualifying for the higher levels of maximum impervious surfaces is limited to that meeting the performance standards in A5.2.3.3 – 9 (including being located in the area indicated for medium density development).

***Recommendation***

8.623 Submission 43.1 (Rotorua Lakes Council) and further submission 6.25 (the Hunt Family) be accepted.

8.624 Amend the proposed performance standard for impervious surfaces in the Residential 1 Zone of the Pukehāngi Heights Development Area A5.3.3.3.4 as follows:

**A5.2.3.3 Performance Standards – Land Use**

**4. Impervious Area**

The maximum site coverage for impermeable surfaces shall be 55%, except that the maximum site coverage for impermeable surfaces shall be 80% on sites with:

- Semi-detached dwellings; or
- Medium Density Residential Development located within the Medium Density Residential Development Area.

***c. Definition of semi-detached unit and meaning of medium density development***

***Submissions***

8.625 Rotorua Lakes Council's submission also seeks that a definition of semi-detached unit is included in Part 17 to provide clarity to the performance standard and differentiate between detached (stand-alone) dwellings and terraced dwellings (submission 43.2).

8.626 The Hunt Family partly supports this point, stating a definition of semi-detached unit is supported but that they cannot fully support the Council without the definition being provided (further submission 6.26).

8.627 Rotorua District Residents and Ratepayers Association sought clarification of what is meant by medium density housing (submission 18.2).

***Evaluation***

8.628 The term semi-detached unit is used in the performance standards for yards, dwelling density and minimum lot area. A definition would assist to clarify these provisions and improve efficiency. It is intended to refer to two dwelling units joined on one side with a common wall and regardless of whether the units are on the same title. It is not intended to include more than two joined units (terraced housing) or dwelling units on different floor levels of a building.

8.629 Medium density development is not defined in the definitions but the intent is expressed through the performance standards including the minimum net site area per dwelling of 200m<sup>2</sup>, height of up to 9m and provision of minimum standards of outdoor living space.

**Recommendation**

8.630 Submission 43.2 (Rotorua Lakes Council) and further submission 6.26 (the Hunt Family) be accepted.  
Submission 18.2 (Rotorua District Residents and Ratepayers Association) be partly accepted.

8.631 Include a definition in Part 17 of the District Plan for semi-detached unit as follows:

Term	Definition
<u>Semi-detached unit</u>	<u>A household unit joined by a common wall to one other household unit. This includes household units with an attached garage where the garage also shares a common wall with a separate household unit or its attached garage. It does not include dwelling units with detached accessory buildings that share a common wall with separate dwelling units or their accessory buildings. It does not include dwelling units on separate floor levels of the same building (that is, attached vertically). It also does not include units that are in a group of three or more attached units.</u>

**d. Minimum lot sizes for medium density development**

**Submissions**

8.632 The third submission point of the Rotorua Lakes Council seeking changes to the mechanics of the provisions seeks that the performance standards for minimum lot sizes are reworded to clarify the intent by using the term ‘parent site’ or other term with like effect (submission 43.3).

8.633 The Hunt Family partly supports these submission points, stating the performance standards for minimum lot sizes should be reworded to clarify the intent but the Council hasn’t provided detail how this is to be done (further submission 6.27).

**Evaluation**

8.634 Medium density development in the areas indicated in the structure plan is a restricted discretionary activity if it meets the performance standards. The performance standards include minimum site size requirements (A5.2.3.3.9), as follows:

**A5.2.3.3 Performance Standards – Land Use**

**9. Medium Density Residential Development**

...

c. Minimum net site area: 1,500m<sup>2</sup>

d. Minimum net site area per dwelling: 200m<sup>2</sup>

8.635 The intention of clause c is to set a minimum size for the parent site so that the creation of units is considered in larger clusters (of say 5 or 6 units minimum), rather than individually or in smaller groups. Considering the development in larger clusters is intended to achieve more comprehensive design solutions. Clause d, in turn, is intended to set the minimum site area for each dwelling in the development.

8.636 It is considered that the terminology minimum net site area in clause c is unclear and ‘parent site’ would be clearer. It is noted that the use of the term ‘parent site’ is also consistent with the approach in the Wharenui Road Development Plan Area.

**Recommendation**

8.637 Submission 4.3.3 (Rotorua Lakes Council) and further submission 6.27 (the Hunt Family) be accepted.



8.638 Amend the proposed performance standards relating to minimum site area and medium density residential development in A5.2.3.3.9 as follows:

**A5.2.3.3 Performance Standards – Land Use**

**9. Medium Density Residential Development**

...

c. Minimum ~~net site~~ ~~parent site~~ area: 1,500m<sup>2</sup>

d. Minimum net site area per dwelling: 200m<sup>2</sup>

***e. Staging***

***Submissions***

8.639 Utuhina Valley Farm note that the plan change removes the staging mechanisms that were included for the Future Growth Area. The relief sought in relation to this submission point requires clarification (submission 21.1). Te Arawa Group Holdings Limited support the submission to the extent that the Council give further consideration to staging, which would alleviate potential constraints on the development of their land (Area A) until Area B is developed. It states alleviating of constraints to develop Area A would be beneficial (further submission 2.12).

***Evaluation***

8.640 Constraints on the timing of land development in relation to the development of neighbouring land blocks occur as a matter of course due to the need to obtain access from roads on neighbouring land and integrate infrastructure. Council has aimed to reduce these staging constraints through its identification of options to provide water reticulation independently on each land block (independent booster pumps identified) and the identification in the structure plan of an area for stormwater detention for the Area A in Area B.

8.641 No further options to assist alleviate constraints to develop Area A have been identified by Te Arawa Group Holdings Limited.

8.642 In addition, Council can also impose conditions on the staging of development in order to assist achieve objectives such as efficient or safe infrastructure. In the case of the Te Arawa Group Holdings Limited land (Area A), the performance standards for vehicle access and construction traffic access to Matipo Avenue presents such a restriction, which was imposed for amenity and traffic reasons.

***Recommendation***

8.643 Submission 2.12 (Te Arawa Group Holdings) be partly accepted. No changes be made to the plan change.

8.644 It is considered that the relief sought by Utuhina Valley Farm in relation to the staging of development (submission 21.1) requires clarification so at this stage no recommendation is given in regards to this submission.

***f. Discretionary activity assessment criteria***

***Submissions***

8.645 Utuhina Valley Farm also submit that there is no discretionary assessment criteria and it is unknown what discretion Council will have for any discretionary activity (submission 21.12). This is opposed by the Hunt Family, which states that discretionary criteria are not required and also explains that

existing sections of the plan would apply in any case (for example 4.9 discretionary activities: methods of assessment) (further submission 6.37).

***Evaluation***

8.646 The submission of Utuhina Valley Farm is acknowledged. However it is agreed with the further submission of the Hunt Family that discretionary criteria are not required in any case.

***Recommendation***

8.647 Submission 21.12 (Utuhina Valley Farm) be partly accepted and the further submission by the Hunt Family be accepted.

8.648 Make no changes in response to these submissions.

***g. Walking tracks***

***Submissions***

8.649 G and H Bell oppose any walking tracks in the vicinity of their property as they state experience shows this allows access to less desirable elements (submission 46.2).

8.650 D Witehira and J Mitchell, who own the rural property above the 385m contour, which was subdivided as part of the Parklands Estate, object to the future walkway shown in the structure plan up to the boundary of their property. They state this would adversely affect the character and amenity values of the property, health and safety and would provide expectations that any future development on their property must provide for public access across the property. They consider this would be a de-facto expectation of public work without public compensation. They note while the RMA provides for protection of public access along water bodies there is no such provision for future general public access across private property (submission 16.2).

8.651 Other landowners within the Parklands Estate, W Derrick, L Harvey, M Shasha and K Johnston for Johnston Family Trust also object to the future walkway shown in the structure plan. They state that it would bring intensive activity close to their boundary without an adequate buffer for amenity and security reasons. The submitters seek that the plan change be withdrawn, but that if it proceed there should be at least a 50m separation between any walkway with planting (submissions 27.2, 29.2, 30.2 and 31.2).

8.652 Utuhina Valley Farm opposes linking the development to Great West Road for walkers. It states this link will result in safety issues as there are blind corners, rural stock movements, rural stock trucks, rural contractors and forestry vehicles using the road (submission 21.8).

***Evaluation***

8.653 There is no walking track indicated in structure plan in the vicinity of the Bell property in the structure plan. Therefore, no changes need be considered.

8.654 It is considered that the future walkway indicated in the structure plan near the upper part of the Parklands development (adjacent to Lots 36 and 37 DP 367989) should be retained. No buffer or 50m separation is considered necessary. Providing the future walkway in the structure plan is intended to encourage the creation of boundaries or rights with subdivision of the plan change area (e.g. easements or reserves) that will facilitate the creation of this walkway in the future. The structure plan also contains a note that the walkway would not be formed unless legal access is created to join the segments in the plan change area through Lot 37 DP 367989 and Lot 36 DP 367989. It is agreed

with D Witehira and J Mitchell that this will create an expectation with regard to the provision of this access with future development of their property. However, this is not considered inappropriate. The role of the structure plan is to guide future development and identify opportunities that may not be realised for many years.

8.655 It is also considered that the future walkway connection to and along Great West Road indicated in the structure plan should be retained. The walkway will provide a connection between the plan change area and the reserve alongside the Utuhina Stream associated with the Baxendale subdivision. While there are rural vehicles also using the road, vehicle numbers are low and walkers can make use of the shoulders if they hear vehicles approaching.

***Recommendation***

8.656 Submission 46.2 (G and H Bell) be partly accepted.

8.657 Submissions 16.2 (D Witehira and J Mitchell) and 27.2, 29.2, 30.2 and 31.2 (W Derrick, L Harvey, M Shasha and K Johnston) be rejected.

8.658 Make no changes in response to these submissions

8.659 Correct the minor error in the structure plan to read ‘Not formed unless legal access over Lot 36 DP 367989 and Lot [37](#) DP 367989 is created’.

***h. Twin Oaks***

***Submissions***

8.660 MARIS and Te Arawa Group Holdings Limited support the deletion of the Twin Oaks Development Plan in the District Plan (submission 12.10 and further submission 2.8).

***Evaluation***

8.661 The support of MARIS and Te Arawa Group Holdings Limited in relation to the deletion of the Twin Oaks Development Plan is acknowledged. No further changes need to be considered.

***Recommendation***

8.662 Submission 12.10 (MARIS) and further submission 2.8 (Te Arawa Group Holdings Limited) be accepted.

8.663 Make no changes in response to these submissions.

***i. Recreational component of stormwater management area***

***Submissions***

8.664 W Derrick, L Harvey, M Shasha and K Johnston for Johnston Family Trust question the stormwater / recreation area adjacent to the Parklands Estate on the upper terrace, stating it is not clear what the recreation component of this area will involve. They are opposed to any active recreation due to the potential for adverse effects, and state this is not appropriate due to the current passive use of the area. They seek that the “recreation” notation be removed from the structure plan (submissions 27.2, 29.2, 30.2 and 31.2).

***Evaluation***

8.665 The notation for stormwater / recreation signals an intention to use the area for a dual purpose; not only to manage stormwater, but also to provide recreation opportunities. It is anticipated that the

areas indicated in the structure plan will likely contain attenuation features that leave much of the land dry for the majority of the time. The details of how the sites will be developed is not provided in the plan change and left to be determined through the subdivision process.

- 8.666 The existing plan provides for Future Rural 2 Zone on the land where the stormwater / recreation area is identified; and it is acknowledged that the incorporation of any active recreation may potentially lead to increased noise and could reduce perceptions of privacy and amenity for neighbouring properties. On the other hand, the landscaping of the stormwater / recreation feature could potentially provide a visually pleasing feature. Additional recreation opportunities may also have some positive impacts for the residents of the neighbouring properties. Whether the effect on neighbouring land is overall positive or negative is likely to be subjective and will depend on how the area is developed.
- 8.667 The houses closest to the stormwater / recreation area are set back from the boundary (the patio area on the eastern house is approximately 9 metres from the boundary). There is also existing vegetation that is likely to assist to mitigate any adverse effects.



*Figure 6 Approximate location of stormwater / recreation feature (blue)*

- 8.668 To further mitigate potential effects of any active recreational use of the stormwater / recreation area on the amenity values of the neighbouring Parklands Estate properties it is considered that the structure plan should signal privacy planting of the stormwater / recreation area along the boundary with Parklands Estate properties. (Refer also to the submissions addressed in the Landscape and Amenity section of this report). It is considered that signalling this intention on the structure plan would assist to implement Policy 1.5 – providing a visual character dominated by areas of re-vegetation near the Parklands Estate.

### **Recommendation**

- 8.669 Submissions 27.2, 29.2, 30.2 and 31.2 be partly accepted.
- 8.670 Amend the structure plan to indicate screen planting along the boundary of with the Parklands Estate properties adjacent to the stormwater / recreation area on the upper terrace.

***j. Greenspace and habitat***

***Submissions***

8.671 M Reesby, who lives on Pukehāngi Road, is concerned about losing rural views and loss of amenity due to increased noise and traffic and seeks that the plan change not go ahead (submission 1.0). Her further submission notes, amongst other concerns, loss of greenspace and habitat (further submission 1.4).

***Evaluation***

8.672 In terms of ecological values, the initial plan change evaluation notes that the plan change area has been farmed for many years and has limited terrestrial ecological values. It identified there is an opportunity for revegetation of areas to enhance ecological values.

8.673 It is not agreed with M Reesby that the plan change should be opposed on the grounds of loss of greenspace and habitat. Rather, it is considered that the revegetation sought for the upper and mid-site escarpment will enhance greenspace and habitat.

***Recommendation***

8.674 Submission 1.0 and further submission 1.4 (M Reesby) be rejected with respect to loss of greenspace and habitat.

8.675 Make no changes in response to these submissions.

***k. Compensation and Residential Tenancies Act 1986***

***Submissions***

8.676 M Reesby, who lives on Pukehāngi Road, is concerned about losing rural views and loss of amenity due to increased noise and traffic, devaluation of her property. She asks what compensation she will get and seeks that the plan change not go ahead (submission 1.0). Her further submission also notes breach of Residential Tenancies Act 1986 (further submission 1.1).

***Evaluation***

8.677 Evaluation of plan changes is focused on the costs, benefits, efficiency, effectiveness to achieve the objectives, and implementation of higher order planning documents to ultimately achieve Part 2 of the RMA. It is considered that issues of compensation are outside the scope of the plan change and delegations of the hearings committee. Applications for compensation can be made to the Environment Court under section 85 of RMA.

8.678 The Residential Tenancies Act 1986 governs the interactions between landlords and tenants and no such relationship of relevance to this plan change is identified.

***Recommendation***

8.679 Submission 1.0 and further submission 1.1 (M Reesby) be rejected in respect of request for compensation and relevance of the Residential Tenancies Act 1986

***l. Submission points in support***

8.680 The following submission points are also noted that express general support for the plan change. In some instances this support is subject to specific concerns discussed elsewhere in the report:

- Te Arawa Group Holdings Limited (submissions 20.1, 20.8, 20.12 and 20.13) and the supporting further submissions by the Hunt Family (further submission 6.29)
- Joint submission by The Hunt Family, Te Arawa Group Holdings Ltd. and Paul Sumner (Sunny Downs Farm) (submissions 28.1, 28.9, 28.13, 28.14)
- MARIS (submission 12.0) and the related further submission by Te Arawa Group Holdings Limited (further submission 2.7).

***Evaluation***

8.681 Submissions supporting the plan change more generally or specific aspects are noted and require no specific evaluation.

***Recommendation***

8.682 Accept submissions 20.1, 20.8, 20.12 and 20.13 (Te Arawa Group Holdings Limited), 28.1, 28.9, 28.13, 28.14 (joint by the Hunt Family, Te Arawa Group Holdings Ltd. and Paul Sumner (Sunny Downs Farm)), 12.0 (MARIS) and further submissions 6.29 (the Hunt Family) and 2.7 (Te Arawa Group Holdings Limited).

8.683 Make no changes in response to these submissions.

## 9. SUBMISSIONS RELATING TO PROCESS

- 9.1 This section evaluates submissions relating to the plan change process. Section 32 of the RMA does not provide specific evaluation criteria for submissions that do not deal with the content of the proposal. The evaluation below is therefore limited to clarification of the process used, where necessary.

### *Submissions*

#### *Consultation*

- 9.2 BOPRC's submission notes that consultation had not yet occurred with Te Arawa Lakes Trust and sought that the Council consider engagement with the Trust to take into account their environmental management plan, in particular Section 5 (Waiora: Lake Health and Wellbeing) (submission 44.1). This is supported by Te Arawa Group Holdings Limited (further submission 2.18).
- 9.3 BOPRC's submission also notes that Ngāti Whakaue iwi and hapū have cultural associations with the Utuhina River and seeks that Council engage with Te Kōmiti Nui o Ngāti Whakaue to ensure they endorse the cultural impact assessment prepared by Ngāti Kea Ngāti Tuarā (submission 44.0).
- 9.4 The Hunt Family submission opposes these further submission points in part, stating it questions whether it is BOPRC's role or mandate to speak on behalf of tangata whenua. The Hunt Family do encourage the Council to work with all relevant iwi and hapū (further submission 6.1 and 6.2).
- 9.5 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust submit that the iwi is disappointed with some aspects of the consultation undertaken by Council, in particular (submission 22.3):
- That the plan change was finalised and presented to Council prior to completion of the cultural impact assessment.
  - The section 32 report provided to Council and the Minister could therefore not include the advice of iwi and how the proposal responds to the advice, which iwi state is required under the RMA.
  - The cultural impact assessment was not prepared at an early stage.
- 9.6 Te Arawa Group Holdings Limited supports the submissions of the BOPRC and Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust to the extent that the Council ensures consultation with tangata whenua is inclusive and meaningful to develop appropriate plan provisions in relation to cultural heritage issues (further submissions 2.16 and 2.17).

#### *Streamlined Planning Process*

- 9.7 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust submit that they are disappointed that the streamlined planning process was progressed despite the iwi expressing concern in their initial feedback about the use of the process and without an attempt to better understand the iwi's position. The Trust is not convinced that the streamlined planning process (in which there is no recourse the Environment Court) is 'appropriate and proportionate' as asserted by the Council. The Trust is concerned that their position was not accurately presented to the Minister before he made his decision (submission 22.4).
- 9.8 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana are concerned that the streamlined planning process takes mana away from tangata whenua and residents and places it in the hands of a Minister in Wellington because the tangata whenua and residents will not have the option, as is

usually the case, to appeal the proposal in the Environment Court. This is one of the grounds on which they oppose the plan change and the ‘fast tracking’ of it (submission 8.6, 23.6, 24.6 and 25.6).

## **Evaluation**

### *Consultation*

9.9 In relation to the Regional Council’s submission points, Te Arawa Lakes Trust was notified of the plan change, have submitted and have been involved in ongoing discussions. Te Kōmiti Nui o Ngāti Whakaue were involved in consultation prior to notification, were notified, have submitted and have also been involved in ongoing discussions.

### *Consultation – Information provided to Council*

9.10 In relation to the submission points from Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust, the intention of consultation with Ngāti Kearoa Ngāti Tuarā has been genuine. The information sent to the Minister to support the streamlined planning process is available in the bibliography on the Council webpage and includes the Joint Memo between Ngāti Kearoa Ngāti Tuarā and Council<sup>81</sup>. (The one exception to this is that the cultural impact assessment is not provided on the webpage as the full version which is not public was sent to the Minister.) The key discussion is provided below:

### **Consultation following Council meeting 28 March 2019**

1. *Following a Council resolution<sup>82</sup> on 28 March 2019, further consultation has been undertaken with the Bay Of Plenty Regional Council and Ngāti Kea Ngāti Tuarā.*
2. *Two meetings were held with the Regional Council resulting in changes in relation to the flood hazard provisions and other minor changes to better reflect the provisions of the Regional Policy Statement.*
3. *Council received the final Cultural Impact Assessment from Ngāti Kea Ngāti Tuarā in May 2019. Following this there have been further discussions with Ngāti Kea Ngāti Tuarā resulting in:*
  - *Amended plan change provisions – including:*
    - *Inclusion of a paragraph providing a brief outline of the cultural significance of the area to Ngāti Kea Ngāti Tuarā, along with a reference to the Cultural Impact Assessment to ensure the information is available for applicants and Council in future.*
    - *Amendments to Policy 2.9: Cultural: Identity, Landscapes and Values and the associated Performance Standards (A5.2.3.4.10 and A5.2.4.4.6), with:*
      - *clear guidance that applicants consult with Tangata Whenua prior to lodging their subdivision application;*
      - *much greater focus on the expression of cultural identity through the subdivision and recognising the development area forms part of a wider cultural landscape;*
      - *similar provisions relating to archaeological sites to those previously identified, but inclusion of specific provisions addressing access to archaeological sites for tangata whenua, and requiring specific consideration be given to the potential for additional*

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<sup>81</sup> Application for use of streamlined planning process – application form and reports, reference: RDC-1044044, Application for use of streamlined planning process – App 4: Greenfield Zoned Land, reference: RDC-1044043; CIA and Memo between NKNT and Council available to Commissioners on request.

<sup>82</sup> The Council resolution enabled the RMA Policy Committee to agree final changes that were not substantive in nature to the proposed plan change provisions after consideration of the reports on stormwater, the Cultural Impact Assessment and any additional reports or information received.



*archaeological sites to be found and measures to ensure contractors are aware of this possibility.*

- *Other minor references throughout, for example, greater reference to the expression of cultural values in subsequent development.*
- *Significant progress on matters outside the scope of the plan change but of high importance to NKNT:*
  - *On resolving a grievance relating to the Karamū Tākina Springs;*
  - *Towards signing a Memorandum of Understanding between the Ngāti Kea Ngāti Tuarā and Rotorua Lakes Council.*
  - *On improving access to Pukehāngi Pa (which is landlocked).*
- 4. *Following this Ngāti Kea Ngāti Tuarā suggested that Council summarise what progress had been made as an addendum to the Cultural Impact Assessment (see Appendix 4).*
- 5. *Ngāti Kea Ngāti Tuarā are still not comfortable with the use of the SPP.*

9.11 The cultural impact assessment was also provided to the RMA Policy Committee when they approved the final changes to the draft plan change. Both the streamlined planning application and the report to the RMA Policy Committee outlined the changes to the plan change as a result of the cultural impact assessment and subsequent discussions with Ngāti Kearoa Ngāti Tuarā.

9.12 In relation to the timing of the cultural impact assessment, this was initiated as soon as Council became aware of the potential cultural significance of the site. It is noted that it took some time for the CIA and archaeological assessment to be approved due to funding issues.

#### *Streamlined Planning Process*

9.13 Te Rūnanga o Ngāti Kearoa Ngāti Tuarā Trust have also submitted on the use of the streamlined planning process. The decision on the use of the Streamlined Planning Process lies with the Minister.

9.14 N Kiriona-Winiata, R Pureti Kiriona, N Khan and H Honana have raised concerns that the streamlined planning process takes away mana from tangata whenua and residents. The submission is noted.

#### **Recommendation**

9.15 The submission points above all relate to the process associated with the plan change. The commentary is intended to clarify the process that has been undertaken by Council.

## 10. OTHER MATTERS

- 10.1 This section addresses other minor changes to the plan change text that are not raised in submissions. These changes sit outside the streamlined plan change process and would be made to Council, rather than the Minister.

### PERFORMANCE STANDARDS FOR RESTRICTED DISCRETIONARY ACTIVITIES

- 10.2 An error has been identified in the application of performance standards for restricted discretionary activities. Proposed Rule 5.2.3.1(3) states ‘Any activity listed above as a Restricted Discretionary Activity (RD) that does not meet the performance standards in A5.2.3.3’ is a discretionary activity. It is recommended that the hearings panel recommend Council remove the word ‘above’, as it is unnecessary and the restricted discretionary activities are listed below the rule not above. It is considered that this amendment can be processed by Council as a minor amendment (correction of a minor error) under clause 16 of Schedule One, which continues to apply despite the streamlined planning process (section 80B(2)).
- 10.3 There is also ambiguity around the application of some of the proposed performance standards to non-residential activities provided for as restricted discretionary activities under proposed rules 5.2.3.1(5) to (8) (medium density development in the areas indicated; and child care centres, convenience retail and offices and café’s in the retail/commercial area indicated in the structure plan). Therefore, it is recommended that the following amendments also be recommended to Council as minor amendments under clause 16:
- A.5.2.3.3(3) *Outdoor Recreation and Amenity Space* – insert additional words to clarify that the performance standard only applies to residential activities:  
*The outdoor recreation and amenity space (including decks) for dwellings shall be...*
  - A5.2.3.3(6) *Density* – Amend the heading to ‘Household Unit Density’ consistent with the equivalent performance standards in Part 4 Residential Zones.

### PARKING

- 10.4 Policy 11 of the recently gazetted National Policy Statement on Urban Development 2020 requires that district plans do not set minimum car parking rate requirements, other than for accessible car parks. The implementation section states that if a district plan contains objectives, policies, rules, or assessment criteria that have the effect of requiring a minimum number of car parks to be provided for a particular development, land use, or activity, the territorial authority must change its district plan to remove that effect, other than in respect of accessible car parks; and the plan must be changed without using the Schedule 1 plan change process (3.38). The change must be made as soon as reasonably practicable, but also within 18 months from commencement of the national policy statement (20 February 2022) and without the Schedule 1 process (4.1).
- 10.5 Although there are no submissions on this issue, it is considered appropriate for the hearings panel to recommend changes with respect to the plan change provisions that will assist the Council to give effect to the national policy statement.

10.6 The recommended change is:

**A5.2.6.2 Land Use within the Pukehāngi Heights Development Area – Medium Density Residential**

...

4 The quality of the environmental outcomes achieved for residents within the development having regard to:

...

f. Safe and convenient access and parking for vehicles *(if provided)*; and

10.7 The intention is that parking will only be matter for discretion if it is proposed as part of the application with Council retaining the potential to consider aspects of parking aside from the minimum numbers, such dimensions and manoeuvring standards, and the relationship of parking areas to the street.

10.8 Broader changes to the District Plan to complete the removal of minimum parking requirements will be progressed separately.

**OTHER MINOR ERRORS**

10.9 There are currently no assessment criteria for Restricted Discretionary Activities in the Rural 1 Zone. It is proposed that clause 16 be used to correct this error as follows:

**A5.2.6.5 Subdivision within the Pukehāngi Heights Development Area – Residential 1 Zone, Rural 1 and 2 Zone and Passive Open Space Overlay**

1. The extent to which the principles of the Pukehāngi Heights Development Area Structure Plan will be achieved;
2. The extent to which the objectives and policies of the Pukehāngi Heights Development Area and the underlying zone will be met; and
3. The appropriateness of ownership and management measures to ensure the required re-vegetation is maintained in perpetuity

10.10 Archaeological sites identified in the structure plan should also be added to the schedule of archaeological sites in Appendix 1 of the District Plan.

NZAA and Map Site Reference	Planning map	Site	Location
<u>U16/ 184</u>	<u>323</u>	<u>Midden</u>	<u>Pukehāngi</u>
<u>U16/ 185</u>	<u>342</u>	<u>Obsidian</u>	<u>Pukehāngi</u>
<u>U16/ 186</u>	<u>342</u>	<u>Midden</u>	<u>Pukehāngi</u>

10.11 The following change is also recommended to be made under clause 16 to correct a minor error:

9. The location of the following features shall, where relevant to the subdivision, be delineated on the plan of subdivision and identified in a Consent Notice by an appropriate legal instrument ~~on a~~ on the relevant Certificate of Title:

- a. Escarpment Transition Areas; and
- b. All Lots to be used for Community, Retail and Commercial Activities in accordance with Rule A5.2.3.3 – 9

## 11. CONCLUSIONS AND RECOMMENDATIONS

- 11.1 The evaluation presented in this report is intended to assist the hearings panel to prepare its report to the Minister addressing the consideration of submissions and evaluation required under sections 32 and 32AA of the RMA.
- 11.2 Based on this evaluation, and subject to further information to be presented at the hearing, it is considered that the hearings panel should recommend to the Minister that:
- Plan Change 2 be adopted with the changes detailed in sections 6 to 9 of this report in response to submissions.
  - Submissions and further submissions be accepted, accepted in part, or rejected, as detailed in sections 6 to 9 of this report.
- 11.3 It is also recommended that the hearings panel recommend to Rotorua Lakes Council that it:
- Amend the proposed matters of discretion in A5.2.6.2 to assist the Council to give effect to the parking requirements of the National Policy Statement for Urban Development 2020, as detailed in section 10 of this report.
  - Make several minor amendments under clause 16 of the RMA, as detailed in section 10 of this report.

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21 August 2020

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**Appendix One: Annotated Text of the Rotorua District Plan**



**Appendix Two: Recommended Zoning and Structure Plan**