

RECOMMENDATION OF AN INDEPENDENT HEARING PANEL

PROPOSED CHANGE 6 TO BAY OF PLENTY REGIONAL POLICY STATEMENT (NPS-UD)

Recommendation Report of the Independent Hearing Panel appointed by the
Bay of Plenty Regional Council pursuant to section 30 of the Resource
Management Act 1991

19 October 2023

Commissioners:

Robert Scott (Chair)
Commissioner Rawiri Faulkner
Commissioner Councillor Jane Nees
Commissioner Councillor Paula Thompson

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Introduction and Background

1. The Bay of Plenty Regional Council (**BOPRC**) has notified Change 6 (NPS-Urban Development) (**Change 6**) to the Bay of Plenty Regional Policy Statement (**BOPRPS**) to implement the requirements of the National Policy Statement – Urban Development (**NPS-UD**).

Appointment of Hearing Panel and Delegations

2. At its meeting on 23 June 2022 Council approved, in principle, a three person Hearing Panel: being one BOPRC Councillor, one expert in tikanga Māori and one urban growth technical expert. On 14 February 2023 the Strategy and Policy Committee of the Council recommended that the Council appoint one independent hearing panel member with urban growth technical expertise to the hearing panel and one independent panel member with tikanga Māori expertise along with two elected councillors. The appointed Commissioners are:

Robert Scott – Independent Commissioner (Chairperson)

Rawiri Faulkner – Independent Commissioner (tikanga Māori)

Councillor Jane Nees – Commissioner

Councillor Paula Thompson - Commissioner

Schedule 1 Process or Streamlined Planning Process

3. The Resource Management Act 1991 (**RMA**) enables councils to make a request to the Minister for the Environment (**Minister**) to use a Streamlined Planning Process when preparing planning instruments. This can avoid the standard Schedule 1 planning process, for a proposed policy statement, plan change or variation, and avoid the need to go through a lengthy appeals process.
4. The intent of this legislation is to provide greater flexibility and speed in planning processes and timeframes and allow them to be tailored to specific issues and circumstances.
5. We were advised by Council staff that the Regional Council had explored the option of utilising the Streamlined Planning Process for Change 6 and had consulted iwi and hapū and stakeholders on its use during 2021. Some opposition to the use of the Streamlined Planning Process was expressed during this consultation process, due to the removal of rights of appeal to the Environment Court. As a result, the Regional Council resolved not to use the Streamlined Planning Process and Change 6 is being progressed using the standard RMA Schedule 1 process.

Notification

6. Change 6 was publicly notified for submissions on 9 August 2022 with a closing date of 6 September 2022. A total of 35 submissions were received and most submissions contained multiple submissions points and requested relief.

7. A summary of decisions requested in submissions was publicly notified on Tuesday 25 January 2023. The period for receiving further submissions closed on 10 February 2023 and 13 further submissions were received.
8. A copy of the publicly notified provisions of Change 6 is annexed as **Attachment 1** and a summary of decisions requested and further submissions is annexed as **Attachment 2**. We note that copies of each submission (listed by submission number) are on the Council website for Change 6 and can be accessed here:

<https://www.boprc.govt.nz/your-council/plans-and-policies/policies/regional-policy-statement/proposed-change-6-nps-ud>
9. We were advised by Council staff that two submissions received were determined to be invalid: one being submitted on a blank page and the other being submitted on a Tauranga City Council Plan Change.
10. We were advised that submitters #27 and #10 notified the Council on 24 May 2023 that their submissions were withdrawn. This notification was received after the completion of the hearing report and accordingly, those submission points remain within the recommendation reports.
11. Council staff also advised us that submitters #4 and #34 raised matters considered out of scope of Change 6. Staff advised that follow up letters were sent to both submitters to arrange a meeting to discuss their concerns but did not receive a response.

Procedural Matters and Late submissions

12. Two submissions by Element IMF Ltd and Toi Te Ora Public Health were received two days late. Council officers advised that no persons are considered to be adversely affected by the late receipt of these submissions and staff recommend these are accepted. We endorse that recommendation.
13. No other procedural matters were raised by any party.

Council Officer Reports

Section 32 and Section 32AA

14. Before notifying a Change to the Regional Policy Statement, the Council is required to prepare an evaluation report(s) in accordance with section 32 of the Resource Management Act.
15. The Bay of Plenty Regional Council undertook that evaluation¹ which:
 - Examined whether the provisions in the proposal are the most appropriate way to achieve the objectives of the Bay of Plenty Regional Policy Statement by

¹Section 32 Report - Proposed Change 4 - Tauriko West Urban Limits Change - May 2018.

identifying other reasonably practicable options; assessing the efficiency and effectiveness of the provisions; and summarising the reasons for deciding on the provisions.

- Contained a level of detail that corresponds to the scale and significance of the effects anticipated from implementing the proposal.
 - Identified and assessed the benefits and costs of implementing the proposal in terms of the environmental, economic, social and cultural effects that are anticipated, including opportunities for economic growth and employment.
 - Assessed the risk of taking or not taking action if there is uncertain or insufficient information about the identified issues; and
 - Included a summary of all advice concerning the proposal received from iwi authorities and a summary of the response to that advice, including any provisions of the proposal that are intended to give effect to the advice.
16. Having reviewed the Section 32 Report, we generally accept that it had been prepared in accordance with the requirements of that section of the RMA, and the guidance on section 32 produced by the Ministry for the Environment². We have considered this report as part of the hearing and deliberations process. That said, the adequacy of the section 32 assessment was called into question by one submitter regarding a specific matter addressed in evidence and we specifically address that matter later in this recommendation report.
17. In its recommendation, the Hearing Panel is required to include a further evaluation of the proposed changes in accordance with section 32AA of the Resource Management Act. This evaluation is only necessary for changes that we recommend be made and is undertaken at a level of detail that corresponds to the scale and significance of the changes.
18. Section 32AA Requirements for undertaking and publishing further evaluations states (as relevant to Proposed Change 6):
- (1) *A further evaluation required under this Act—*
 - (a) *is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes)*
 - (d) *must—*
 - (i) *be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national*

²Ministry for the Environment. 2017. A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017. Wellington: Ministry for the Environment.

planning standard), or the decision on the proposal, is notified; or

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

(2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*

19. A section 32AA assessment was provided to us prior to the hearing by Ms Pottage as Council staff had recommended a number of changes in response to submissions. As part of the Council staff response to evidence Ms Pottage recommended further changes which we accept would require a further section 32AA analysis by us. In that regard, we note that the entire hearing process and the Hearing Panel's deliberations have constituted a review for the purposes of section 32AA of the RMA. We also note that the hearing enabled the Hearing Panel to ask questions of submitters to better understand the evidence given, the changes sought and the costs and benefits of any changes sought.

Hearing Reports

20. At the start of the hearing, we were provided the following reports from Council officers:
- Staff overview report for Change 6 (NPS-UD) to the Bay of Plenty Regional Policy Statement
 - Proposed Change 6 (NPS-UD) to the RPS Version 5.0 - staff recommendations redline version for hearings;
 - Section 32AA report for Change 6 (NPS-UD) to the Bay of Plenty Regional Policy Statement
21. These reports were read by the Hearing Panel prior to the hearing and placed on the Council Change 6 website.
22. Following the hearing of evidence, we were supplied a memo from the reporting planner responding to the evidence presented. This is also available on the Council Change 6 website.

Field Trip

23. The Hearing Panel undertook a field trip following the hearing of evidence (and prior to deliberations) on 18 July 2023. On that trip we visited a number of sites including future residential growth areas as well as new business areas including:
- Bell Road - Papamoa
 - Te Tumu Kaituna - Papamoa
 - WMNZ – Mt. Maunganui
 - Whareroa Marae– Mt. Maunganui

- Balance Agri-Nutrients– Mt. Maunganui
- Fonterra Port Stores – Port of Tauranga
- Smiths Farm
- Tauranga Crossing
- Bell Road Industrial Park
- Tauriko West – Keenan Road

Hearing and Appearances

24. The hearing was held on Tuesday 18 June 2023 and on the morning of Wednesday 19 June 2023. The hearing commenced with a karakia provided by Commissioner Faulkner and then each Panel member declared that no one had any conflicts of interest.
25. The reporting planner (Ms Pottage) read an opening statement outlining the proposed change and stated that the scope of Change 6 was limited to changes considered necessary to give effect to the NPS-UD.
26. A list of those submitters heard is set out below:

Submitter	Represented by
Tauranga Crossing Limited (via Zoom)	Mark Arbuthnot - Bentley and Co Ltd
Royal Forest and Bird Protection Society	Dr Chantel Pagel (Regional Conservation Manager) Richard James (Tauranga Branch Chair)
Kiwi Rail Holdings Ltd	Jacob Burton, Julia Fraser (Counsel) Cath Heppelthwaite (Planner) Mike Brown (KiwiRail)
Ngāti He hapū	Des Heke
Tauranga City Council	Simon Banks (Planner)
Fonterra Ltd (via Zoom)	Daniel Minhinnick (Russel McVeagh) Suzanne O'Rourke (Fonterra) Abbie Fowler (Planner)
Tumu Kaituna 14 Trust Ford Land Holdings Pty Ltd	Jeff Fletcher
Newman Group Ltd Vercoe Holdings Ltd Classic Developments Ltd	Aaron Collier (Planner) Scott Adams

Urban Task Force for Tauranga	
Ballance Agri-Nutrients Ltd	Dominic Adams (Balance) Barbara Mead (Counsel)
Element IMF Bluehaven Investments Bell Road Limited Partnership	Craig Batchelor (Planner)
Waste Management NZ Ltd (WMNZ)	Simon Pilkinton (Counsel) James Jefferis (WMNZ) Te Teira Rawiri (Cultural Advisor)

27. While not all of the submitters were heard before the Hearing Panel (some having indicated they did not wish to be heard), the Hearing Panel has read and considered all of the submissions and evidence (both tabled and presented).

Conflicts of Interest

28. Conflicts of Interest were declared as part of the appointment process and this was repeated at the start of the hearing. The following declarations were made:
- a. Cr Jane Nees declared her position as a member of the Smart-Growth Leadership Group and Hearing Panel member for the Future Development Strategy for Rotorua.
 - b. Cr Paula Thompson declared her position as a member of the Smart-Growth Leadership Group, Chair of the BOPRC Strategy and Policy Committee and member of the Mount Maunganui Air Quality Working Party.

Proposed Change 6 – NPS-UD

29. The NPS-UD came into effect on 20 August 2020. It requires all Tier 1, 2 and 3 local authorities to amend their district plans and regional policy statements to give effect to its provisions as soon as practicable. District plan changes were required to be notified no later than 2 years after the commencement date to give effect to Policies 3 and 4 (the intensification policies) relating to Tier 1 urban form and density to reflect housing and business use demand in city centre and metropolitan centre zones. To ensure compliance with the direction to make changes as soon as practicable, and to align with the timeframes with the region's Tier 1 urban environments (Tauranga City Council and Western Bay of Plenty District Council), the Regional Council notified the Proposed Change 6 on 20 August 2022.
30. The NPS-UD recognises the national significance of the following matters:
- a. Having well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing; and
 - b. Providing sufficient development capacity to meet the different needs of people and communities.

31. The NPS-UD requires:
- a. Urban development to occur in a way that takes into account the principles of Te Tiriti o Waitangi.
 - b. That plans make room for growth both 'up' and 'out'.
 - c. That there is an evidence base about demand, supply and prices for housing to inform planning decisions; and
 - d. Aligning and coordinating planning across urban areas, regardless of boundaries.
32. The stated purpose of Proposed Change 6 in the section 32 report is to implement the following requirements of the NPS-UD:
- The responsive planning requirements.
 - The intensification planning requirements.
 - The requirement to take into account the principles of Te Tiriti o Waitangi (**Te Tiriti**) in urban planning.
33. The stated outcomes for Change 6 are:
- Implement Policies 3, 5, 8 and 9 of the NPS UD, covering urban intensification, responsive planning and the principles of Te Tiriti o Waitangi, insofar as they apply to the RPS.
 - Contribute to the Urban Growth Agenda's objectives addressing restrictive RMA planning practices.
 - Provide support to Toi Moana, and the region's city and district councils in achieving the relevant objectives in the NPS UD.
34. The relevant NPS UD objectives and policies listed above are as follows:

Objective 3:

Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:

- (a) The area is in or near a centre zone or other area with many employment opportunities.
- (b) The area is well-serviced by existing or planned public transport.
- (c) There is high demand for housing or for business land in the area, relative to other areas within the urban environment.

Objective 6: Local authority decisions on urban development that affect urban environments are:

- (a) Integrated with infrastructure planning and funding decisions, and
- (b) strategic over the medium and long term, and
- (c) responsive, particularly in relation to proposals that would supply

significant development capacity.

35. Objective 5 is a new specific objective requiring Treaty principles to be taken into account in urban development decisions:

Objective 5:

Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

36. The policies that support these objectives in the NPS-UD and specifically refer to the RPS are Policies 3, 5, 8 and 9. They are as follows:

Policy 3:

In relation to Tier 1 urban environments, regional policy statements and district plans enable:

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

Policy 5:

Regional policy statements and district plans applying to Tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

- (a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services, or*
- (b) relative demand for housing and business use in that location.*

Policy 8:

Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well- functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents, (...) or*
- (c) out-of-sequence with planned land release.*

Policy 9:

Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:

- (a) involve hapū and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori, and*
- (b) when preparing RMA documents and FDSs, take into account the values and aspirations of hapū and iwi for urban development, and*
- (c) provide opportunities in appropriate circumstances for Māori involvement in decision-making on resource consents, designations, heritage orders and water conservation orders, including in relation to sites of significance to Māori and issues of cultural significance, and*
- (d) operate in a way that is consistent with iwi participation legislation.*

37. To give effect to these NPS-UD policies the following changes to the RPS were considered necessary:

- Amend the Urban and Rural Growth Management policy framework to enable more land and infrastructure supply, growth (up and out) of urban centres and support well- functioning urban environments.
- For the Western Bay, remove the urban limits and amend policies to be more flexible/responsive (in relation to the criteria referred to in the bullet point below).
- Include criteria for determining what district plan changes will be treated as adding significantly to development capacity including out of sequence or unplanned private development proposals.
- Include policy support for greater intensification of development in urban environments.
- Include policy to implement the principles of Te Tiriti o Waitangi in urban planning.

38. The section 32 report also states that a secondary purpose of Change 6 is to address housing capacity shortfalls. Consistent with the reasoning behind the introduction of the NPS UD, the current policy settings in the western Bay of Plenty and, Rotorua in particular, have been assessed as not adequately delivering sufficient residential land capacity. The section 32 report reports that the Housing and Business Capacity Assessment (**HBA**) for Tauranga and the Western Bay of Plenty (July 2021) identifies a shortfall of capacity compared to demand in Tauranga City in the short, medium and long term. The assessment also identified a small shortfall identified in Western Bay of Plenty District.

Bay of Plenty Regional Policy Statement

39. The current RPS for the Bay of Plenty became operative on 1 October 2014. The RPS provides a framework for sustainably managing the region's natural and physical resources. It highlights regionally significant issues with our land, air, fresh and coastal water, infrastructure and biodiversity, including issues of significance to iwi. It sets out what needs to be achieved (objectives) and how it will be achieved (policies and methods).
40. The RPS does not contain rules; instead, it sets out how regional, city and district councils, need to manage these resources. It is a directive policy document in relation to regional and district plans and the consideration of resource consents. The RPS currently contains urban limits within the western Bay of Plenty sub-region to manage the timing and location of urban development. The supporting policy framework provides certainty over the timing and sequencing of urban growth management and to manage the efficient development and use of finite rural land resources.

Statutory Framework

41. The Resource Management Act (sections 59-62) sets out the requirements on the content and preparation of a Regional Policy Statement change or variation. It, amongst other things, must:
- give effect to:*
- a national policy statement or
 - New Zealand coastal policy statement
- shall have regard to:*
- Any management plans and strategies prepared under other Acts
 - relevant entries on the New Zealand Heritage List/Rarangi Kōrero register required by the Heritage New Zealand Pouhere Taonga Act 2014
 - regulations relating to ensuring sustainability, or the conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing).
- take into account:*
- any relevant planning document recognised by an iwi authority and lodged with the council.
 - the matters in a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 that relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.
42. We accept that Proposed Change 6 has been developed in accordance with the relevant sections of the RMA, and this is set out in the Section 32 Report.

Strategic Context and Growth Initiatives

43. The Bay of Plenty Region is subject to a number of regional growth strategies and initiatives that have helped inform the current RPS provisions and the development of Change 6 and these are summarised in Section 6.0 of the section 32 report. We acknowledge these initiatives and summarise them as follows.

SmartGrowth

44. SmartGrowth is a Western Bay of Plenty initiative that provides a vision for developing the western Bay of Plenty into a great place to live, learn, work and play. It includes a leadership group comprising the three partner councils (Tauranga City Council, Western Bay District Council and Bay of Plenty Regional Council), tāngata whenua, the Ministers for Local Government and Housing, the NZ Transport Agency, and the Bay of Plenty District Health Board. The Group is responsible for prioritising, reviewing and monitoring the implementation of the SmartGrowth Strategy 2023-2073 and this has recently been approved for public consultation.
45. SmartGrowth has developed an evidenced based settlement pattern focusing on:
- growth projections and demographic analysis,
 - staged development,
 - residential land supply,
 - business land supply,
 - sub-regional infrastructure, and
 - transport.
46. The SmartGrowth Settlement Pattern is set within a corridor approach where integration is sought between the transport network, land use, the supply of land for urban development, infrastructure delivery, infrastructure funding and the consideration of the commercial viability of development. The SmartGrowth Settlement Pattern has been given effect to in a number of ways, including through the RPS by way of urban limits and growth areas in the Operative RPS.

Urban Form and Transport Initiative

47. The Urban Form and Transport Initiative (**UFTI**) is a collaboration between SmartGrowth and Waka Kotahi NZ Transport Agency formed in 2019, aimed at unlocking much-needed capacity for housing development and resolving transport issues in the sub-region.
48. Urban Form and Transport Initiative's task was to develop a long-term, integrated masterplan for urban development and transport in the western Bay of Plenty, that is fully aligned with the Government's transport policy statement and urban growth agenda.

49. The Connected Centres programme, released in July 2020, was chosen as it offers the best outcome for people to live and move around the sub-region and connect to the upper North Island in the future. The programme articulates two main concepts:

- Increasing the number of houses in existing urban and new growth areas, to maximise use of available land and support a well-functioning transport system, and
- Enable everyone to access local social and economic opportunities within a 15-minute journey time, and sub-regional social and economic opportunities within 30-45 minutes.

These concepts encourage strong local centres and connected neighbourhoods. On the ground this would translate to:

- Creating four high frequency public transport routes in the existing North, East, West and Central corridors which better link people to their place of living, work, and recreational locations.
- Further developing urban communities around Ōmokoroa, Matua/Otūmoetai, Arataki, Pāpāmoa, Wairakei, and around wider Te Puke, which will also be connected by safe and accessible walking and cycling facilities.

50. The approval of the Connected Centres programme business case concluded the work of UFTI, and was received by all SmartGrowth partners, Waka Kotahi, Kāinga Ora and the Ministry of Housing and Urban Development.

Assessment of Submissions

Structure of our Assessment

51. We have read all the submissions, and tabled and verbal evidence presented to us and have determined that there is general support from most submitters to the changes proposed to the RPS. However, the submissions and evidence received raised issues or sought changes to most provisions in Change 6 and in that regard we have accepted that Change 6 is in contention in its entirety. Accordingly, we have addressed the submissions as they relate to each provision notified in Change 6. That said, the principal changes sought by submitters primarily relate to the specific policies in Change 6 with the changes sought to issues, objectives and methods being essentially corresponding changes stemming from those requested policy changes.

Support for Change 6

52. While a number of submissions were opposed to specific aspects of Change 6 and sought those various elements be withdrawn, we only identified one submission (Ian and Elizabeth Gargan – Submission # 4) that sought to refuse Change 6 in its entirety. This was based on concerns relating to consultation, timing and their ability to understand the Change as notified. There was one submission (Bayliss Ham Group Ltd – submission #2) that sought that Change 6 be adopted in its entirety.

53. As is set out in our recommendations to follow we have determined that Change 6 be approved but with some changes as sought by submitters and further recommended by Council staff, as well some recommendations of our own based on evidence received. With regard to the submission from Ian and Elizabeth Gargan, we have determined that there is insufficient justification to support the refusal of Change 6.

Avoid Duplication of Provisions

54. There were a number of submissions that sought relief which we agreed with in terms of their importance to the RPS, and in particular, the urban growth components that were amended to give effect to the NPS-UD. However, we have not adopted many of these on the basis that these issues were already addressed in other provisions of the RPS. This was a common thread in the Council staff responses to submissions and this approach has been generally adopted by us as well. In our view, the RPS is to be read as a whole and we consider it important to avoid unnecessary duplication of provisions or definitions if they are adequately referenced elsewhere in the RPS. This approach is not intended to diminish or disregard the importance of any of these issues raised by submitters, rather it is intended to avoid unnecessary repetition and duplication.
55. These related mostly to the issue of reverse sensitivity and the inclusion of specific policies in a number of policies or definitions to recognise, avoid or otherwise manage reverse sensitivity conflicts between sensitive urban development (primarily residential development) and established rural production or industrial activities. These matters were raised in the submissions by Fonterra, Horticulture New Zealand, WMNZ, Federated Farmers NZ and Kiwi Rail and we received extensive submissions and evidence on this matter including suggested wording to the issues, objectives, policies and methods included in Change 6.

Changes to Issues and Objectives

56. A number of submissions sought changes to the Issues and Objectives (Part Two) in addition to the Policies and Methods (Part Three) that form the principal changes to the RPS. Our evaluation has focussed primarily on the submissions relating to the policies and methods as those changes appeared to us to be the main thrust of the submissions received, with changes sought to Part Two – Issues and Objectives comprising subsequent or consequential relief.

Matters out of Scope

57. We received submissions seeking that Change 6 also include provisions that give effect to the National Policy Statement – Highly Productive Land (**NPS-HPL**) (Federated Farmers NZ, Horticulture NZ). Council Staff advised us that the Council were already in the process of preparing a further change to the RPS to specifically provide for NPS-HPL and on that basis, Council staff were of the view that these submissions were out of scope on the basis that Change 6 was narrowly focussed to giving effect to the NPS-UD directions and that there was a risk that people not involved in PC 6 would not appreciate that it could result in changes to give effect to the NPS:HPL. We received evidence from both these submitters that the Waikato

Regional Policy Statement had included NPS-HPL provisions in its Change to give effect to the NPS-UD and that this demonstrated that scope was not an issue and the Council should adopt that process as well.

58. We considered this matter carefully and agree, in principle, that there is an overlap between NPS-UD and NPS-HPL with regard to the appropriateness of urban expansion into rural areas containing versatile soils and highly productive land. However, while we do not challenge the validity of the Waikato Regional Council process, we do not consider it appropriate to appreciably amend Change 6 to address NPS-HPL matters where people may not have anticipated that to be an outcome of this process. We are also confident that a separate change to the RPS will be forthcoming to address the NPS-HPL specifically. In our view, this is an equally valid approach to implementing this national policy statement and on that basis, we have determined that the Council is entitled to implement it under this method. Accordingly, while not limiting the importance of the NPS-HPL and its interrelationship with the NPS-UD, we have determined that those submissions seeking it be incorporated into this RPS change to be out of scope but have confidence that the forthcoming separate RPS change process will achieve a similar or better outcome.

Changes to Policies

59. Part Three of the RPS sets out the policies and methods that, when implemented, will achieve the objectives of this Statement and address the regionally significant resource management issues (including the issues of significance to iwi authorities). The changes to these policies primarily concern Urban and Rural Growth Management Policies which have the Topic Reference of “UG” preceding each numbered policy.
60. Change 6 proposed to delete the following policies:
- Policy UG 4A: Providing for residential development yields in district plans – western Bay of Plenty sub-region;
 - Policy UG 5A: Establishing urban limits - western Bay of Plenty sub-region;
 - Policy UG 6A: Sequencing of efficient use of land and infrastructure for urban growth and development - western Bay of Plenty sub-region;
 - Policy UG 7A: Providing for the expansion of existing business land - western Bay of Plenty sub-region;
 - Policy UG 15B: Accommodating population growth through greenfield and residential intensification development – western Bay of Plenty sub-region;
 - Policy UG 16B: Providing for new business land – western Bay of Plenty sub-region;
 - Policy UG 17B Urban growth management outside of the western Bay of Plenty sub-region.

61. Change 6 proposes to partially delete and amend the following policies:

~~Policy UG 6A Sequencing of~~ Efficient use of land and infrastructure for urban growth and development – western Bay of Plenty sub-region;

~~Policy UG 14B Restricting urban activities outside~~ urban environments ~~the urban limits – western Bay of Plenty sub-region;~~ and

~~Policy UG 22B Providing for papakāinga~~ Te Tiriti o Waitangi Principles;

62. Change 6 proposes the following new policies:

- Policy UG 7A Providing for unanticipated or out-of-sequence urban growth – urban environments;
- Policy UG 7Ax Enable increased-density urban development – urban environments

63. We address of these proposed changes in term.

Delete Policy UG 4A, UG 5A, UG 7A, UG 15B, UG 16B and Method 14

Council Approach

64. As set out above, these policies are proposed to be deleted from the RPS. Associated with the deletion of these policies it is also proposed to delete Method 16, the definition of “Urban Limits” Appendices C, D and E.
65. The section 32 report states that these policies are inconsistent with the requirements of Policy 8 of the NPS-UD. Central to these policies is the use of “Urban Limits” within Western Bay of Plenty (set out in Appendix E) to guide urban expansion and development. However, the section 32 report acknowledges that there is no policy support to develop urban residential activities outside the urban limits except for limited ability to expand existing business land under Policy UG 7A. Furthermore, the section 32 report states that this approach is not consistent with Policy 8 of the NPS-UD which requires local authorities to be ‘responsive’ to plan changes that will add significantly to development capacity and contribute to well-functioning urban environments.
66. The section 32 analysis refers to guidance from the MfE Responsive Planning Guidance Fact Sheet that a *hard rural urban boundary without the ability to consider change or movement of that boundary would not meet the requirements of the responsive planning policy.*³

³ National Policy Statement on Urban Development 2020 – responsive planning fact sheet – Page 2 -

67. Accordingly, the approach taken in Change 6 with regard to existing urban limits is to remove them in order to enable local authority decisions affecting urban environments to be responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is unanticipated by RMA planning documents; or out-of-sequence with planned land release.

Submissions and Evidence

68. No submitters opposed the removal of Policies UG 4A, UG 7A, UG 15B, UG 16B, UG 17B as notified. However, Forest and Bird opposed the removal of Policy UG 5A on the grounds that urban limits assist with protecting indigenous biodiversity and protecting these areas from exotic plant and pest species. It was the evidence of Forest and Bird that the removal of Policies UG 5A and UG 14B would not accord with Part 2 of the RMA on the basis that it would disregard s6(c) to protect significant indigenous biodiversity and councils' functions to maintain indigenous biodiversity. Its evidence stated that the priority for growth should be driven by the need to protect and maintain biodiversity. In our questioning to Dr Pagel and Mr James, both representatives for the submitter acknowledged that a national policy statement on indigenous biodiversity was forthcoming (and we note was gazetted after the hearing of evidence) and that inclusion of any of these matters in Change 6 was outside the scope of this change.

Panel Determination

69. Having considered this submission and evidence, we agree with Council Staff that removing the urban limits within the western Bay of Plenty sub-region is the most practical approach to enable more land and infrastructure supply to give effect to the NPS-UD. We also agree with the Council section 32 assessment that the urban limit provisions have not been effective at providing for sufficient urban growth and on that basis keeping urban limit policies would be inconsistent with the Government's direction in the NPS-UD.

Amendments to Policy UG 6A

70. The notified amendments to policy UG 6 are as follows:

Policy UG 6A: ~~**Sequencing of Efficient use of land and infrastructure for urban growth and development – western Bay of Plenty sub-region**~~

Manage urban development within each identified management area in a way that provides for:

- ~~(a) The efficient use of land and infrastructure within the immediately preceding growth area stage before the development of the subsequent growth area stage as shown in Appendix C and Appendix D; and~~
- ~~(b) The integration of land use and infrastructure provision.~~
- ~~(b) Network infrastructure is able to be provided to serve the proposed new growth area, or new infill/intensification areas shown in Appendix C and Appendix D.~~

~~Urban growth area development may proceed in a manner other than sequential growth as per (a) where it can be demonstrated that concurrent development of a subsequent growth area stage will provide more efficient use of land and network infrastructure overall and the conditions in (b) are met.~~

~~For the purpose of this policy, efficient use of land and infrastructure shall include consideration of the matters referred to in Policy UG 10B.~~

~~Appendices C and D are indicative guides for the expected timing and sequencing of growth areas.~~

Explanation

~~The servicing sequencing and timing of urban development within the urban limits for the western Bay of Plenty is critical to achieving integrated and sustainable growth management. Each Large -scale urban growth (greenfield and brownfield) area in Appendix C and Appendix D and shown on Maps 5 to 15 (Appendix E) must be subject to detailed structure planning to address, among other matters, urban design, and provisions and funding of network infrastructure and funding of that infrastructure.~~

Council Approach

71. The Council approach to this policy is to amend it to better align with the provisions of the NPS-UD with regard to the provisions of infrastructure. It also removes references to “sequencing” of development and identified growth and urban limit maps in Appendix C and D.

Submissions and Evidence

72. There were number of submissions that supported the amendments to this policy as notified (i.e. Kainga Ora, Toi Te Ora Public Health, Forest and Bird, Fonterra) and many submissions seeking amendments. The main issues identified in submissions seeking further amendments are summarised as seeking:

- Changes to clarify that servicing of urban development includes provision for access.
- Changes to include ‘high-level’ in reference to the matters to be addressed for urban growth and development.
- Outcomes sought to refer to development capacity being plan enabled and infrastructure ready.

Tauranga Crossing Limited

73. The submission from Tauranga Crossing Ltd sought amendment to the policy to specifically refer to the provision of “*sufficient plan enabled infrastructure ready development capacity to meet expected demand for housing and business over the short term, medium term and long term*”. We note that this submitter also sought changes to Policy UG 10B to include that development capacity be plan-enabled and infrastructure ready.
74. The evidence of Mr Arbuthnot stated that the changes sought by this submitter were more directive as this better reflected the directiveness to local authorities in the NPS-UD. In his view, the RPS plays a critical role in setting the overall framework and strategic direction for the region as set out in section 59 of the RMA.
75. The Council staff response to this submission and evidence is that the definition for “plan-enabled” and “infrastructure ready” is provided under section 3.4 of the NPS-UD. In terms of being plan-enabled, the Council staff are of the view that the NPS-UD defines this through existing or proposed district plan changes or an FDS or other relevant local authority strategy. Council staff added that being “infrastructure-ready” is relevant to existing infrastructure, funding in a long-term plan and local authority infrastructure strategies. On that basis, the Council staff are of the view that such directive policies are more relevant to district plans, growth strategies and infrastructure plans and not for an RPS.
76. While not part of the notified changes to Change 6, this submitter also sought changes to Policy UG 10B to also provide more directive wording to the provision of infrastructure. For similar reasons, Council staff did not support these changes on the grounds that the sequencing of development capacity for housing and business land or infrastructure is not the role of the RPS, but rather a process for territorial authority plans.
77. We have carefully considered the submission and expert evidence from Tauranga Crossing Limited as well as the Council staff response. We agree with Mr Arbuthnot that the NPS-UD provisions contain directive wording regarding development capacity being “plan-enabled and infrastructure-ready” in section 3.4, 3.25 and 3.29 and it is appropriate for directive wording to be contained in relevant planning instruments. However, we also agree with staff that the role of the RPS in implementing the NPS-UD is more of an enabling role across the region. In particular, we refer to Objective 3 which states:

Objective 3: *Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

- (a) *the area is in or near a centre zone or other area with many employment opportunities*
- (b) *the area is well-served by existing or planned public transport*

- (c) *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

(Our Bold emphasis)

78. While we have determined that it is appropriate for the RPS provisions to focus on enabling growth and intensification, we see the role for more directive policies (as sought by Tauranga Crossing Limited) as being within the provisions of district plans as these can also be integrated better with their own FDS (Future Development Strategy) and HBA (Housing and Business Development Capacity Assessment). On the basis we recommended that this aspect of the submission be rejected.

Transpower

79. The submission from Transpower sought specific reference to the national grid in Policy UG 6A. We have reviewed this submission and the Council staff responses, and we agree with the staff assessment which is that the operative RPS Policy EI 3B - "Protecting nationally and regionally significant infrastructure" adequately protects the ability to develop, maintain, operate and upgrade existing, consented and designated nationally and regionally significant infrastructure from incompatible subdivision, use or development.
80. As outlined in our determination above, we agree with the Council staff that provisions should not be added to the RPS if they are already adequately provided for elsewhere. In this case, while we agree that the National Grid is important infrastructure, we are satisfied that this aspect is recognised in existing Policy EI 3B.

High Level Urban Design

81. A number of submitters (and further submissions) sought that reference to "urban design" in the explanation section of Policy UG 6A be amended to "high level urban design" to reflect the scale of urban design focus required at the structure planning stage. The staff recommendation in response to this relief is that it is not appropriate to describe urban design input in these broad terms as it would be ambiguous and would not offer a clear understanding of what is expected in terms of urban design.
82. We agree with the Council staff and note further that the reference to urban design is within the context of the policy explanation and not directive. We therefore do not recommend the changes sought by these submissions.

Recommended Staff Changes

83. Following consideration of submissions, the Council staff have recommended minor changes to the Explanation text of UG 6A for reasons of clarification and we agree with and recommend these changes and are set out below (in red text):

The servicing sequencing **(including the provision of access)** and timing of urban development ~~within the urban limits for the western Bay of Plenty~~ is critical to achieving integrated and sustainable growth management. ~~Each~~ **Large-scale urban growth development** **(greenfield and brownfield)** area in

~~Appendix C and Appendix D and shown on Maps 5 to 15 (Appendix E) must be subject to detailed structure planning to address, among other matters, urban design, and provisions and funding of network infrastructure and funding of that infrastructure.~~

New Policy UG 7A

84. Existing operative Policy UG 7A is proposed to be deleted by Proposed Change 6. It is the policy in the operative RPS that makes specific provision for urban development outside the urban limits. However, it is strictly limited to the expansion of existing business activities or business land only and does not provide for the expansion of other urban activities (e.g. residential) outside existing urban zoned areas or the urban limits (in the western Bay of Plenty sub-region).

Council Approach

85. As set out in the s32 report, the new proposed Policy UG 7A, is intended to implement Policy 8 and Clause 3.8(3) of the NPS-UD. It sets out criteria for determining whether unanticipated or out of sequence urban development proposals will add significant development capacity, and how the merits of individual proposals will be consistently assessed. It applies to both residential and business development proposals.
86. Policy UG 7A is intended to be a gateway policy to consider unanticipated and out-of-sequence developments to give local authorities criteria to consider large scale private plan changes that would add significant development capacity to an urban environment. If the criteria in Policy UG 7A can be met, local authorities will still need to consider the existing rural environment that the proposed urban development will interface with. The new policy is as follows:

Policy UG 7A: Providing for unanticipated or out-of-sequence urban growth – urban environments

Private plan changes, submissions on plan changes, or submissions on plan reviews providing for development of urban environments and urban growth that forms part of an urban environment, that is unanticipated or out-of-sequence, will add significantly to development capacity based on the extent to which the proposed development satisfies the following criteria:

- (a) The development is of large enough scale to contribute to meeting demand for additional urban land identified through the HBA for the area, including meeting housing bottom lines or meeting needs for specific housing typologies or price points, or business types. Where there is no HBA, there is evidence that there is a need for additional urban land, and
- (b) For Tauranga City and Western Bay of Plenty District urban environments, the development is large scale (5 hectares or more), and sufficient to support multi modal transport options, and

- (c) For all other urban environments, the development is at a scale commensurate with the size of the urban environment and includes a structure plan for the land use change that meets the requirements of Method 18, and
- (d) The development is located with good accessibility between housing, employment, community and other services and open space, and
- (e) The development is likely to be completed earlier than the anticipated urban development and/or land release sequence, and
- (f) Required development infrastructure can be provided efficiently, including the delivery, funding and financing of infrastructure without materially reducing the benefits of other existing or planned development infrastructure, or undermining committed development infrastructure investment.

Submissions and Evidence

87. Submitters raised concerns with the criteria set for unanticipated and out of sequence developments. The main concerns raised can be summarised as:
- That references to growth strategy, Long Term Plan or 30-year infrastructure are inappropriate;
 - That the policy should only reference Future Development Strategies (**FDS**) and RMA plans;
 - Housing and Business Development Capacity Assessments (**HBA**) should not be referred to within Policy UG 7A;
 - For the western Bay of Plenty sub-region, submitters are concerned with the 5 hectares minimum land size area for developments (including Māori owned land) to meet the “large-scale” threshold;
 - Accessibility applies within a development area which can provide self-sustaining services.
88. No submissions sought the retention of the existing Policy UG 7A and a number of submissions sought the retention of the wording as notified. In that regard, we accept in principle, the removal of existing Policy UG 7A and its replacement with one that implements the NPS-UD.

Reference to HBA and FDS

89. We heard a range of evidence on whether this policy should refer to the HBA or a FDS to guide the assessment or implementation of out-of-sequence plan changes. The evidence of Mr Collier for Tauranga Urban Task Force, Blue Haven Investments Ltd and Classic Developments Ltd stated that Policy UG 7A incorrectly relies on an HBA to determine the need for additional urban land and that this would be better

informed through an FDS. Mr Collier set out a number of provisions of the NPS-UD (policies 3.13 and 3.14) that referred to the purpose of FDS's and in support that an FDS should be the main determinant informing out of scope plan changes.

90. We put this question to Ms Pottage during the hearing and she responded:

The HBA referencing within Policy UG 7A is crucial to the identification of land that is anticipated for urban growth as this then shows what is not anticipated and provides an avenue for unanticipated and out of sequence developments to be considered, when meeting the relevant criteria. As detailed within subpart 5 of the NPS-UD, it is the intent that the HBA will inform the next long-term plan, which will then influence other local authority growth and infrastructure strategies as well as the FDS. These local authority strategies are listed within the explanation statement of Policy UG 7A. As detailed in the sections above, the explanation statement provides greater context and clarification to assist understanding the policy.⁴

91. Having considered this evidence and response, we are mindful that the primary purpose of this policy is to enable out-of-sequence urban development and in that regard, it should be focussed on those developments that have not been included in a FDS or other Council endorsed strategy. We also note that this policy sets a high threshold to consider the appropriateness of development that has not been tested and consulted on through an FDS or other Council process to ensure that such developments contribute to a well-functioning and connected environment.
92. In contrast, we see the purpose of an HBA (as set out in 3.20 of the NPS-UD) is to provide information on demand and supply of housing and business land, while quantifying the development capacity that is sufficient to meet demand for housing and business land. Accordingly, we prefer the approach taken by Council staff that an HBA be the document that informs out of sequence plan changes.

Large Scale Development (5ha minimum)

93. Several submissions questioned the inclusion of a 5ha minimum under Policy UG 7A(b). As worded, the policy relates to Tauranga City and Western Bay of Plenty urban areas and requires an out of sequence development to be "large scale" (5 ha or more) and "sufficient to support multi modal transport options".
94. The evidence of Mr Collier stated that there was no valid planning justification for the inclusion in (b) of the policy (a 5ha minimum) as a criteria for implementing Policy 8 of the NPS-UD. He added that as there was no FDS in place (or drafted) a more enabling approach should be adopted with regard to minimum land areas for out-of-sequence developments. In particular, he opined:

⁴ Council Planner supplementary memo to the Proposed Change 6 Hearing Panel – 7 July 2023 paragraph 34

- a. There are large numbers of smaller parcels of land in Tauranga City which are not large enough to be included in the FDS, but which cumulatively, have the ability to deliver large numbers of houses; and
 - b. Given the critical shortage of urban land and housing supply faced by the sub region, the inclusion of such a provision was contrary to Policy 3.7 of the NPS-UD given the acknowledged shortfalls under the Tauranga Housing capacity assessment.
95. We were advised by Ms Pottage (in her response memo) that a draft FDS for Rotorua had been released for public comment and that an FDS for Western Bay of Plenty and Tauranga City was under way and due to be released in October 2023. In that regard, we are satisfied that district level FDS's will be drafted and/or in place to guide development in the interim.
96. Regarding the need for a 5ha minimum, we have considered this issue carefully. We agree with the Council staff that any out-of-sequence urban development needs to be planned and designed in an integrated manner to ensure that transport networks and other critical infrastructure can be provided and implemented efficiently. While it may appear to some to be a somewhat arbitrary limit, we note that the 5ha limit follows the current definition of "large scale" in the operative RPS provisions:
- Large-scale:*** *In the context of land-use change involving the proposed development of land for urban purposes including proposed changes in zoning, refers to an area greater than or equal to 5 ha.*
97. We agree that a minimum threshold needs to be established to ensure that integrated urban development occurs. We are also of the view that an RPS should provide direction on what minimum land size is necessary to significantly add to development capacity so that local authorities can focus resources and attention on opportunities that will support well-functioning urban environments. We note that the policy, as drafted, does not limit itself to a single 5 ha parcel of land. Therefore, the minimum 5ha area can be potentially achieved through the combination of multiple parcels of adjoining land under 5ha in area.
98. We therefore recommend that the 5ha minimum land size remain as set out in Policy UG 7A(b).

Long Term Plan or 30-Year Infrastructure Strategy

99. Several submissions sought the removal of any reference to a long-term plan or 30-year infrastructure strategy from the policy Explanation on the basis that the only reference relevant to consider was an FDS as required by Subpart 4 of the NPS-UD.
100. In response Council staff noted that an FDS was only required under Tier 1 and 2 Local Authorities and that the Bay of Plenty Region also includes Tier 3 authorities where an FDS was voluntary. In that regard, long term plans, 30-year infrastructure strategy and other growth strategy documents are important to those Tier 3 authorities to guide how housing demand would be met. We would add that these

instruments are also of assistance to the Tier 1 and 2 authorities in addition to the preparation of an FDS. On that basis we recommend that these references remain in the Explanation of Policy UG 7A.

Recommended Staff Changes

101. In response to submissions Council staff have recommended a change to UG 7A(b) as follows:

For Tauranga City and Western Bay of Plenty District urban environments, the development is large scale (5 hectares or more), and ~~sufficient~~ able to support multi modal transport options, and

102. A number of other minor changes were also proposed to the Explanation statement to clarify those provisions and we support and recommend those changes be adopted as follows (in red text).

(b) For Tauranga City and Western Bay of Plenty District urban environments, the development is large scale (5 hectares or more), and ~~sufficient~~ able to support multi modal transport options, and

Explanation

Policy UG 7A implements Policy 8 and Clause 3.8(3) of the National Policy Statement on Urban Development 2020. It requires that the RPS include criteria for determining whether unanticipated or out-of-sequence urban development proposals will add significantly to development capacity,

This policy applies to Māori urban development enabled by Policy UG 22B: Te Tiriti o Waitangi Principles, where that development is unanticipated or out-of-sequence.

This policy does not apply to small scale alterations to urban environments that have minor effects.

In addition to these criteria the development must be well-connected to existing or planned multi modal transport corridors and must contribute to a well-functioning urban environment.

Unanticipated ~~urban~~ development is ~~urban development (subdivision, use and development)~~ that is not ~~identified as being~~ provided for in an adopted local authority Future Development Strategy, growth strategy, RMA plan, Long Term Plan, or 30-year infrastructure strategy. Out of sequence development is development that is not consistent with the development sequence set out in one or more of those documents.

The criteria apply to private plan changes ~~requests~~, submissions on plan changes and submissions on plan reviews seeking additional greenfield or

brownfield urban development. Plan changes and plan reviews initiated by local authorities do not fall within this policy, as they are anticipated.

Where urban development satisfies the criteria, local authorities must respond by removing unnecessary constraints and focusing resources and attention to expedite decision making processes.

These criteria do not negate the requirement for urban development to give effect to the RPS as a whole, including all other relevant objectives and policies, satisfying other criteria, and implementing relevant methods.

Policies UG 6A, 9B, 10B and 11B and Method 18 are particularly relevant to ensure proposals are designed so that infrastructure, including **multi-modal** transport and three-waters infrastructure, provides for longer-term development

Climate change and natural hazards can have significant impacts on the region's urban growth aspirations and on people, property and infrastructure. Prior to 'live zoning' land for structure planning and development purposes, consideration is to be given to whether a site is significantly constrained by the effects of climate change or natural hazards.

For avoidance of doubt, **giving effect to meeting the criteria in** Policy UG 7A does not negate the requirement to prepare a risk assessment (Policy NH 9B) and achieve a low level of risk as required by Policy NH 4B on the development site without increasing risk outside of the development site. Further consideration of hazards and infrastructure related matters are set out in RPS Policies IR 5B, UG 10B and UG 11B.

103. We have also made a further change to the Explanation of this policy setting out that this policy does not apply to papakāinga housing, community and social housing, marae and community facilities enabled by Policy UG 22B: Te Tiriti o Waitangi Principles and the reasoning for this change is described in our evaluation and recommendation of Policy UG 22B.

New Policy UG 7Ax

Council Approach

104. This new policy enables increased density within existing urban environments and is intended to give effect to the NPS-UD policies 3 and 5. While the existing RPS is silent on the matter of development intensity, this policy is intended to provide support for intensification initiatives being undertaken by local authorities.
105. We acknowledge that no submitter sought the removal of Policy UG 7Ax and a large number of submitters sought the retention of the policy as notified and a number of submissions seeking changes and amendments. We therefore recommend retention of this policy in principle.

Submissions and Evidence

106. We note that a number of submissions sought inclusion of references relating to reverse sensitivity, the recognition of multimodal transport corridors, recognition of significant natural areas and recognition that infrastructure and related funding to support development in the short, medium and long-term is recognised.
107. We have considered these submissions carefully and are of the view that each of these matters are important considerations in the wider context of enabling increased density. However, matters associated with infrastructure and transportation modes are best addressed at the district planning level in our view. With regard to recognition of significant natural areas, we are of the view that these are also best determined at the district level but note that there is already clear direction at regional and district level, that intensification within existing natural areas of significance is not appropriate.
108. Regarding the matter of reverse sensitivity, as with our general findings above, we are satisfied that while reverse sensitivity is an important and relevant matter, it is adequately provided for elsewhere in the RPS and does not necessitate further specific inclusion in this policy.
109. Our overall determination is that it is appropriate for Policy UG 7Ax to be broadly focussed on enabling increased density with an emphasis on achieving a well-functioning urban environment, increased density in areas of identified demand and well served by existing or planned development infrastructure and public transport.
110. That said, we note that Council staff recommend some minor changes in recognition of submissions to clarify sub-policy (c). We agree with these changes and recommend that they be adopted.

Changes to Policy UG 8B

111. The changes sought to this policy remove the reference to Western Bay of Plenty and adds the words “well-functioning” prior to the words “urban environment to reflect the purpose of the NPS-UD.
112. We note that the Council staff do not recommend any changes to this notified policy, and we agree and recommend that it be adopted as notified.

Changes to Policy UG 9B

113. The changes proposed to this policy remove references to Tauranga City and Western Bay of Plenty District with regard to co-ordinating growth and removes other references so that the policy has a regional-wide focus. We note that Toi Te Ora Public Health sought specific reference to other core public health sanitary services such as cemeteries, and waste management including waste minimisation in the policy. However, we agree with the Council staff assessment of this submission that the RPS already provides sufficient provision for the integration of services and infrastructure, while recognising that it is the territorial authorities and network utility operators that plan the delivery of services.

114. Accordingly, we recommend that this aspect of the submission be rejected and the policy be adopted as notified.

Amendments to Policy UG 13B

Council Approach

115. The amendments to Policy UG 13B relate to the integration of land use and transportation which we acknowledge is a specific focus of the NPS-UD under Objective 6, Policy 10 and is a purpose of an FDS. We also acknowledge that most submitters supported the changes sought, albeit with some amendments.

Submissions and Evidence

116. Submissions generally sought amendments as follows:
- a. Amendments to provide greater clarity in relation to areas of high amenity within clause (c);
 - b. Reference to existing and proposed proximity to commercial centres within clause (c);
 - c. References to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (**MDRS**); and
 - d. Insert 'travel' at the beginning of clause (d) to clarify that the policy intent describes travel demand management.
117. We note that the Council staff recommend one change to address a typo but disagree with other changes sought. We have considered these submissions and agree with the Council staff recommendations to retain the policy as notified but with recommended staff amendments.

Amendments to Policy UG 14B

Council Approach

118. The essence of this amendment is to remove references to urban limits from Policy UG 14B so that it refers to "urban environments" rather than the Western Bay of Plenty. It sets out broad criteria for supporting urban growth and updates the Explanation statement to set out the circumstances where urban growth can be supported.
119. As with many of the policies, we acknowledge broad support for the amendments with a number of submissions seeking that it be adopted without amendment. Submissions seeking further amendments generally sought the following:
- a. That this policy is a re-establishment of urban limits, and conflicts with Policy UG 7A;

- b. That there may be circumstances where expansions to existing settlements may be appropriate where currently such settlements are not serviced by reticulated services; and
- c. That the policy needs to clarify whether it applies to existing small settlements and villages.

Conflicts with Policy UG 7A

120. The submission from Tauranga City Council (**TCC**) raised a concern that Policy UG 14B was in effect a reinstatement of the urban limits policy under Policy UG 7A (prior to notification). The issue was set out further in the planning evidence of Simon Banks where he opined that private plan changes for urban development (on land greater than 5 ha in area) could be assessed differently under Policy UG 7A and UG 14B. TCC sought that Policy UG 14B be amended to make it clear that the intention is to “restrict” urban development outside urban environments unless certain conditions are met. TCC also stated that the term “sound resource management” in the policy was too broad and needed clarification.
121. In response, Council staff are of the view that Policy UG 7A is a “gateway policy” to consider unanticipated and out-of-sequence developments and to give local authorities criteria to consider large scale private plan changes that would add significant development capacity to an urban environment. Council staff add that the amended explanation statement for Policy UG 14B clarifies that while development outside urban environments is not desirable (and can create sporadic settlement patterns and result in an inefficient use of natural and physical resources), it also acknowledges that in some circumstances development proposals could be acceptable.
122. We have considered this submission carefully and acknowledge TCC’s concerns. However, we see the two policies complementing each other rather than working in conflict. We agree with the Council staff that Policy UG 7A is a gateway policy centred on enabling out of sequence urban growth under certain circumstances whereas Policy UG 14B is focussed on limiting urban growth outside urban areas which also includes the rural environment. In this regard, we recognise the linkage of Policy UG 14B with Objective 26 relating to rural productive potential:

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.

123. We have also had regard to the proposed staff amendments to the policy Explanation statement for Policy UG 14B which we set out below:

While areas outside urban environments have not been and are unlikely to face the same growth pressures, some urban growth pressures can be expected. Outside of urban environments and urban growth that forms part of an urban environment, new urban areas (or urban zoning) is not desirable as

it can create a sporadic settlement pattern and result in an inefficient use of natural and physical resources.

There are however, some limited circumstances where such proposals could be acceptable such as extensions to existing towns that have reticulated water and wastewater services. Therefore, the same overarching growth principles of the National Policy Statement on Urban Development (2020) should apply in other areas to ensure proposals result in an efficient use of land and resources. For the avoidance of doubt, this policy does not enable development in villages and settlements that do not have reticulated water and wastewater services.

There may be other provisions in this Regional Policy Statement to consider in proposals to urbanise land which may mean a particular location is unsuitable. These include, but are not limited to, topographical constraints, natural hazards and natural freshwater features.

124. In our evaluation, this explanation provides sufficient clarification and explanation that this policy would not act like a default urban limit contrary to the enablement in Policy UG 7A.
125. Turning now to the question of what “sound resource management” means, we are satisfied that this concept includes the recognition that the land is a finite resource and that it needs to be developed in an integrated, efficient, planned and coordinated manner, including necessary infrastructure. We recognise that there is no definition of what sound resource management is (in the RPS or the RMA) however, we recognise that it is a well-known concept with relevant case law also providing guidance.
126. Having considered the submissions and evidence relating to this policy we are satisfied that the provisions as notified are appropriate and do not recommend any changes.

Settlements Not Serviced by Reticulated Services

127. The submission by Toi Te Ora Public Health supports this policy but raised concern that the policy could enable or encourage development in villages and settlement where there is no, or limited, water and wastewater reticulation. In that regard, we are satisfied that amended clause (b) to this policy which states:

(b) *Providing for the efficient, planned and co-ordinated use and development of infrastructure.*

provides sufficient guidance on the provisions of infrastructure. We also note that the Explanation statement also recognises this issue through the inclusion of the following words:

*There are however, some limited circumstances where such proposals could be acceptable such as extensions to existing towns **that have reticulated water and wastewater services.***

(our emphasis)

128. Overall, and in line with our recommendation above, we are satisfied that the provisions as notified are appropriate and do not recommend any changes.

Amended Policy UG 18B

129. This policy relates to the rural environment and the protection of versatile land. We received a number of submissions regarding this policy and these broadly fell into the following issues:
- a. Inclusion of reverse sensitivity matters in the policy;
 - b. Include a definition for “rural-based industry”;
 - c. Inclusion of the National Policy Statement – Highly Productive Land in the policy; and
 - d. Recognition that versatile land may be appropriate for urban development.

Submissions and Evidence

Reverse Sensitivity and rural based industry

130. We received detailed submissions and evidence from Fonterra Limited as it relates to this policy. The Fonterra evidence was that it supported the intent of the amended policy, but it was imperative that reverse sensitivity be recognised if the RPS was to contemplate an increase in residential development or intensity around established rural industrial, commercial or farming activities. Fonterra also sought specific recognition of rural industrial based activities to be included within this policy. Fonterra sought these changes in recognition of a number of rural industry type activities that occur within the rural environment including dairy factories and other processing activities.
131. While we appreciate that the rural environment within the Bay of Plenty Region includes a number of established rural industrial activities, we are also mindful that the purpose of this policy is protection of rural production activities (i.e. farming) that rely on the versatility of that land. In that regard, the policy is not intended to recognise and protect rural industries within that rural environment as those industries do not rely directly on the versatility of the land. For that reason we do not recommend the additional wording proposed or the inclusion of a definition of rural based industry.
132. Similarly, with regard to reverse sensitivity we are of the view that this policy relates to the protection of versatile land for rural production and not a policy relating to the adverse effects of sensitive activities encroaching on established rural production activity. We have more to say about reverse sensitivity in our discussion regarding Policy UG 20B, being a policy specifically about that environmental effect.

NPS-HPL

133. As discussed above regarding the NPS-HPL we are of the view that while it is valid for an RPS change to give effect to the NPS-UD to include provisions relating to the NPS-HPL, this approach is not necessary as the Council has signalled that it will be notifying Change 8 to the RPS to specifically give effect to the NPS-HPL. On that basis we are not recommending any further amendments regarding this submission.

Versatile Land May be Appropriate for Urban Development

134. The submission from Bell Road Partnership seeks changes to this policy to recognise the use of versatile land for urban development may be justified where there are limited alternatives available and efficient use (i.e. high intensity use) is made of that land to achieve a well-functioning urban environment. We note that no wording was proposed in the submission or the planning evidence of Mr Batchelor.
135. In response to this submission, Council staff have advised that the policy already recognises the link between the need to balance the protection of versatile land with the potential for development in the areas where there is a justifiable need. This is set out the first paragraph of the Policy which we repeat here (proposed changes included):

The productive rural land resource shall be protected for rural production activities by ensuring that to the extent practicable subdivision, use and development in rural areas does not result in versatile land being used for non-productive purposes outside existing and planned urban-zoned areas, or outside the urban limits for the western Bay of Plenty shown in Appendix E, unless it is for regionally significant infrastructure which has a functional, technical or locational need to be located there, or it is urban development that has satisfied the criteria in Policy UG 7A.

136. Having read these changes in the notified version of Change 6, we are satisfied that there is adequate cross-reference between this policy and Policy UG 7A which sets out the limited circumstances where out of sequence urban development can occur. We therefore do not recommend any further changes to this policy.
137. Finally, we note and accept the Council staff recommendation to add the word “Policy” to the reference to UG 7A in this first paragraph and accept this this is essentially the correction of a typo.

Amended Policy UG 19B

Council Approach

138. Policy UG 19B provides for “rural lifestyle activities” while also ensuring that versatile land is not compromised. It has been amended to remove reference to “Western Bay of Plenty sub-region”, delete references to the maps in Appendix E and add the following text:

In the catchments of the Rotorua Te Arawa Lakes, land-use change to achieve reduced nutrient losses may justify over-riding this policy. Any such changes in land use must meet the nutrient management rules.

Submissions and Evidence

139. The submissions by Toi Te Ora Public Health sought amendments to protect areas that are not yet impacted by nutrient runoff although no wording was suggested. Council staff noted that the RPS provides direction for managing the reduction of nutrient losses under Policy WL 6B where it is recognised that the managed reduction in the amount of nutrients derived from land use activities is necessary to halt the decline in water quality in at-risk catchments. Policy WL 6B states:

Policy WL 6B: Managing the reduction of nutrient losses Require, including by way of rules, the managed reduction of any nutrient losses that are in excess of the limits established under Policy WL 3B by ensuring that:

- (a) *Rural production land use activities minimise their loss of nutrients as far as is reasonably practicable by implementing on-farm best management practices;*
 - (b) *Any land use change that is required within the Rotorua Te Arawa lakes catchments to achieve the limits takes into account an equitable balancing of public and private costs and benefits; and*
 - (c) *No discharges shall be authorised beyond 2032 that result in the limit for Lake Rotorua being exceeded. A catchment intermediate target for the managed reduction of nitrogen loss is to be set to achieve 70% of the required reduction from 746 t/yr to 435 t/yr by 2022.*
140. We agree with the Council staff that this policy adequately addresses the issue of nutrient runoff and on that basis Policy UG 19B does not need to be amended. As discussed at the start of our evaluation of Change 6, it is our view that the RPS needs to be read as a whole and the repetition of policies should be avoided, in the first instance. We therefore do not recommend any further changes to this policy.
141. The submission by Forest and Bird seeks that this policy recognise the potential of rural land, particularly versatile land, and that it is not compromised. The submission by Horticultural NZ seeks similar relief that rural lifestyle development on highly productive land be restricted. As discussed elsewhere in the report, we consider this matter to be out of scope of Change 6 and will be specifically addressed in the forthcoming Change 8 process to incorporate the NPS-HPL in the RPS. Accordingly, we recommended no further changes in relation to this submission.

Amended Policy UG 20B

Council Approach

142. The policy relates to the management of reverse sensitivity on rural activities and infrastructure in rural areas. The Council approach to this policy was to keep it in its current form and remove reference to “the urban limits” in line with its approach to not include defined urban growth limits. No changes to the policy Explanation were proposed.

Submissions and Evidence

143. The submissions by Fonterra Ltd generally supports the policy but sought a number of changes to ensure rural activities are not impacted by reverse sensitivity effects and to insert a new definition for rural based industry. The evidence and legal submissions presented to us at the hearing acknowledged that the Council staff response that reverse sensitivity was addressed elsewhere in the RPS and could be further addressed in the forthcoming Change 8 – NPS-HPL process. However, Fonterra submitted that it was still appropriate to address reverse sensitivity within Change 6 for the following reasons:
- a. Intensifying residential activities necessitates a planning response to protect existing activities that could face reverse sensitivity effects as a direct and immediate result of increased residential intensity.
 - b. Various objectives and policies of the NPS-UD require urban environments to be 'well-functioning' and provide appropriate business land while still enabling intensification.
 - c. The section 42A report only refers to a single policy (Policy AQ 1A) in the Bay of Plenty RPS that protects industrial and commercial activities against reverse sensitivity effects and this policy only relates to the reverse sensitivity effects of air quality and not other effects such as noise, visual effects, and traffic, which are often responsible for reverse sensitivity effects.
 - d. Reverse sensitivity effects can occur in urban areas as well as rural environments.
 - e. It is not appropriate to wait until Proposed Change 8 to the Bay of Plenty RPS (giving effect to the National Policy Statement on Highly Productive Land) or some other future, speculative plan change to address reverse sensitivity effects.
144. We asked Council staff to clarify which provisions within the RPS addressed reverse sensitivity and we were advised that the following RPS policies (including Policy UG 20B are as follows:
- Policy UG 20B: Managing reverse sensitivity effects on rural production activities and infrastructure in rural areas.
 - Policy EI 7B: Managing the effects of infrastructure development and use.
 - Policy AQ 1A: Discouraging reverse sensitivity effects associated with odours, chemicals and particulates.
 - Policy EI 3B: Protecting nationally and regionally significant infrastructure
145. We have reviewed these policies and essentially agree with the Council staff that these four policies provide broad reverse sensitivity recognition and protection to a range of activities including rural production, infrastructure and air quality.

146. We have reviewed the provisions of the NPS-UD and while we agree that reverse sensitivity is a matter of relevance to urban development in existing rural areas it does not provide a specific direction regarding the management of reverse sensitivity effects. In contrast, we have also reviewed the provisions of the NPS-HPL and note that Policy 3.13 specifically directs territorial authorities to include objectives, policies, and rules in their district plans that:
- a. identify typical activities and effects associated with land-based primary production on highly productive land that should be anticipated and tolerated in a productive rural environment; and
 - b. require the avoidance if possible, or otherwise the mitigation, of any potential reverse sensitivity effects from urban rezoning or rural lifestyle development that could affect land-based primary production on highly productive land (where mitigation might involve, for instance, the use of setbacks and buffers); and
 - c. require consideration of the cumulative effects of any subdivision, use, or development on the availability and productive capacity of highly productive land in their district.
147. We also note that the RPS includes a definition of “reverse sensitivity” in Appendix A which is:

the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment of other activities which are sensitive to the adverse environmental effects being generated by the pre-existing activity.

148. While we accept that reverse sensitivity is an important matter relating to management of natural and physical resources in the Bay of Plenty region and for Fonterra Ltd’s operations, we agree with the Council staff that any further changes to the RPS to further recognise and address reverse sensitivity matters is best pursued through the forthcoming Change 8 process and other changes to the RPS. We were also advised by Council staff that the Council is in the process of undertaking a wider review of the RPS and the Regional Natural Resources Plan to implement the National Policy Statement for Freshwater Management (NPS-FM) and the National Policy Statement for Indigenous Biodiversity (NPS-IB) which was gazetted on 7 July 2023 and came into force on 4 August 2023. We were also advised that other amendments to the RPS rural growth management provisions will be necessary to align with NPS-HPL terminology and policy directions. While the legal submissions from Fonterra Ltd questioned our reliance on an upcoming process, we are confident that this change is proposed to be notified shortly and without unreasonable delay.

New Policy UG 22B

Council Approach

149. Existing Policy UG 22B relates to the provisions of papakainga housing within the Region. Change 6 proposes to remove this policy in its entirety and replace it with a new policy with a wider focus that gives effect to Objective 5 and Policy 9 of the NPS-

UD which specifically directs that the principles of Te Tiriti be taken into account in planning decisions relating to urban environments. The new policy includes recognition of papakainga housing within it.

150. The issues raised in submissions and evidence are summarised as follows:

- Cultural redress and off-setting.
- Māori Urban Development;
- Existing use rights and section 32
- Principles of Treaty of Waitangi
- Wānanga Report

Submissions and Evidence

Cultural Off-Setting

151. Several submitters have raised concerns with the use of cultural off-setting that is referenced within the explanation text of UG 22B and seek that reference to it be removed. The submission from Mr Des Heke sought that the Council develop a cultural heritage and mahinga kai site process to deal with the net loss of these sites in a similar manner to transferable development rights.
152. We are conscious that cultural offsetting is still a novel process and specific provision for it as a method or policy was also opposed by a number of tāngata whenua representatives consulted. We are conscious that this will be one of the methods be taken into account under the principles of Te Tiriti is to offset the impacts of urban development on culturally significant values or sites. Council staff advised us that it was not the intention for the inclusion of this reference to suggest that offsetting would be appropriate in all circumstances, nor that it should be the default position (ie, instead of avoiding, remedying or mitigating effects on cultural sites or values). We were also advised that a cultural offsetting research project is being progressed by the SmartGrowth Combined Tāngata Whenua Forum which should hopefully build a better understanding of how it can be applied in practice.
153. While we acknowledge the potential utility of this method, we also accept that this approach may not always be appropriate and references to offsetting in isolation may give the impression that it is an appropriate starting point. In that regard, we accept that it is for tāngata whenua to identify what they consider to be an appropriate approach through their involvement in specific processes and in their cultural impact assessments, and this may or may not involve offsetting.
154. For these reasons, we agree with Council staff that the relief sought by submissions seeking the removal of reference to cultural off-setting in the Policy Explanation be accepted.

Māori Urban Development

155. As notified, Policy UG 7A applies a minimum threshold for out of sequence urban developments and this would apply to Māori development projects. The intention of Policy UG 22B is to enable the development of Māori land including papakāinga housing, marae and community facilities. We were advised by Council staff that while Māori development would be captured by Policy UG 7A, the provision of papakāinga housing, marae and community facilities would be excluded as it would not require a plan change to establish it.
156. The submission from TCC sought that all Māori urban development be excluded from Policy UG 7A. The evidence of TCC states:

The staff recommendations confirm that a 5ha threshold for determining whether urban development is “large-scale” under Policy UG 7A will apply to unanticipated or out-of-sequence development of Māori land. TCC maintains that this may place restrictions on development of papakāinga under 5ha within the Tauranga City and Western Bay of Plenty District urban environments (i.e. Greater Tauranga).

(...)

TCC therefore asks the panel to further consider whether the application of Policies UG 7A and UG 22B in relation to Māori land, as proposed, would place unintended restrictions on the type of development that Policy UG 22B seeks to enable.

157. We have considered this matter carefully and are mindful of the Council’s obligations under Section 8 of the RMA and Objective 5 and Policy 9 of the NPS-UD. We are also conscious of the need to ensure that any out-of-sequence development (including Māori development) is appropriately integrated and co-ordinated with the need to provide adequate infrastructure and public transport networks. On that basis, we agree with the Council staff the Māori development proposals also be subject to the 5 ha minimum threshold in Policy UG 7A.
158. That said, we are also conscious that Policy UG 22B clearly enables the establishment of papakāinga housing, marae and community facilities without being captured by the Policy UG 7A 5ha minimum threshold. In that regard, we recommend the inclusion of additional Explanation text to Policy UG 7A specifying that papakāinga housing, marae and community facilities are excluded and adding to Policy UG 22B(a) a specific reference to “*papakāinga housing, community and social housing, marae and community facilities*” and a similar insertion to the explanation text of the policy.
159. Our recommended wording is as follows:

Policy UG 7A: Providing for unanticipated or out-of-sequence urban growth – urban environments

Explanation

Policy UG 7A implements Policy 8 and Clause 3.8(3) of the National Policy Statement on Urban Development 2020. It requires that the RPS include criteria for determining whether unanticipated or out-of-sequence urban development proposals will add significantly to development capacity,

Clause (b) of this policy does not apply to papakāinga housing, community and social housing, marae and community facilities enabled by Policy UG 22B: Te Tiriti o Waitangi Principles.

Policy UG 22B: Te Tiriti o Waitangi Principles

Ensure planning decisions provide for Te Tiriti o Waitangi principles by:

- (a) Enabling Māori to develop their land, including but not limited to papakāinga housing, community and social housing, marae and community facilities;*

Explanation

Objective 5 and Policy 9 of the National Policy Statement on Urban Development 2020 seeks to ensure planning decisions relating to urban environments take into account Te Tiriti o Waitangi principles and Treaty settlement outcomes. This policy extends those principles to all Māori development. Local authorities must consider iwi and hapū values and aspirations for urban development and provide opportunities for hapū and iwi involvement in decision making.

Policy UG 7A applies to Māori development where it relates to urban environments and is unanticipated or out of sequence but does not apply to papakāinga housing, community and social housing, marae and community facilities.

Existing Use Rights and Section 32

160. The legal submissions of Waste Management New Zealand (**WMNZ**) presented by Simon Pilkington raised the issue of existing use rights in relation to air discharge consents associated with their operations. The submissions refer to the reference in the policy explanation to industrial activity undertaken around marae that have been “existing for decades”. Mr Pilkington stated that WMNZ acknowledged the nearby presence of Whareroa Marae and the desire to work with the marae and interested persons to address their concerns while not unduly impacting on the lawful existing industrial activities in proximity to the Marae. He submitted that the section 32 assessment carried out by the Council has not assessed the costs to the region of lawfully established WMNZ activities if they were to be significantly constrained or otherwise made prohibited due to the need to “protect” Whareroa Marae from potential effects. Mr Pilkington made specific reference to the use of the words “protect” and “incompatible” in the context of UG 22B(e) which, as notified, states:

- (e) **Protecting** marae and papakāinga from **incompatible** uses or development and reverse sensitivity effects;*

161. In his submission, the use of such “directive” language requires a careful and robust section 32 assessment. The Council response to the WMNZ submission was essentially that wording of UG 22B(e) was appropriate as existing lawfully established activities such as WMNZ could rely on existing use rights under section 10 of the RMA. However, Mr Pilkington submitted that air discharges were not protected by existing use rights and were regional discharge consents that were only issued for a maximum term of 35 years. On that basis he submitted that the section 32 analysis undertaken by the Council was flawed and could not be relied upon.
162. We acknowledge these submissions and agree with Mr Pilkington that WMNZ, being an activity that currently has an air discharge consent, cannot rely on any existing use rights.
163. We sought clarification from Council staff on the use of the term “incompatible” in the context of this policy. In the post hearing planning statement, Ms Pottage stated:

This word is used within Policy UG 22B(e) in reference to protecting marae and Papakāinga from incompatible uses or development and reverse sensitivity effects. In the context of this policy, incompatible is understood by its normal dictionary meaning: ‘(of two things)’ so different in nature as to be incapable of co-existing’. In the context of submissions, as at section 4.9 of the Waste Management New Zealand legal submission, the submitter notes that there has not been an evaluation of what may be a development or use that is ‘incompatible’. The explanation statement for Policy UG 22B sets out that industrial development undertaken around marae have compromised culturally significant viewshafts and the enjoyment of normal cultural activities.

164. Ms Pottage goes on to refer to a number of policies within the operative RPS that have used the term “incompatible” in relation to air discharges, coastal marine area, nationally and regionally significant infrastructure, and effects on matters of significance to Māori. However, in relation to this matter she has acknowledged that the use of the term is problematic and has suggested alternative wording with regard to UG 22B(e) as follows:

(e) *Protecting marae and papakāinga from adverse effects of new or expanded subdivision, use or development that constrain their continued use ~~incompatible uses or development and reverse sensitivity effects~~; and*

165. We have considered this alternative wording and are in agreement with the Council planner that this would address the concerns of WMNZ while also ensuring an appropriate level of protection to marae and papakāinga. We therefore recommend that these changes be adopted. In our assessment this also resolves any issue with the section 32 evaluation carried out by the Council.

Principles of Treaty of Waitangi

166. The legal submissions from Balance Agri-Nutrients (**Balance**) took issue with the use of the words “provide for” in reference to Te Tiriti o Waitangi Principles. The legal submissions presented by Barbara Mead stated that there was a directive hierarchy

from Section 8 of the RMA, through the NPS-UD with regard to Te Tiriti o Waitangi principles and that the RPS had a duty to follow that. In particular Ms Mead submitted that section 8 of the RMA used the words:

“shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”

and that this was also the terms used in Objective 5 of the NPS-UD where it states:

“Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

And in Policy 9 where it states:

“Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:”

167. Ms Mead submitted that the Courts have found that:

Deliberative use of such wording when drafting must be intentional, that is, if Parliament requires ‘actual provision’ to be made for any matter, it says so in the words ‘recognise and provide for’. In contrast where it elects to use the words ‘take into account’ the obligation is not intended to be higher than an obligation to consider the particular factor in making a decision, to weigh it up with other relevant factors, and to give it whatever weight is appropriate in the circumstances.

168. In response to these submissions, Ms Pottage in her post hearing planning statement stated that it was her opinion that subsidiary planning documents like the RPS are not required to use or repeat the exact wording of Part 2 of the RMA. She opined that one document might ‘give effect to’ and not be inconsistent with another document without having to repeat it word for word. In her view, the words “provide for” should not be considered in isolation from the remainder of the policy and its substantive effect. She goes on to state:

When looked at as a whole, the policy direction in Policy UG 22B does not go beyond the parameters of the RMA. Using the words “provide for” in the framing of the provision is of no real substantive effect. It is the directions at a) to f) of the policy that are to be implemented. Balance has not suggested that the directions in a) to f) exceed the vires of the RPS.

169. We have considered this matter in some detail and are of the view that planning instruments are not rigidly bound to the wording of the hierarchical provisions that sit above. That said, we are also of the view that in some cases this hierarchy should apply. However, in this circumstance we consider the use of the term “provide for” is appropriate and not incompatible with the NPS-UD or section 8 of the RMA.

170. In coming to this conclusion, we are mindful of the use of the term in other sections of the RPS policies that do not have a corresponding wording in Part 2 of the RMA. We also have come to the conclusion that in “taking into account” the principles of Te

Tiriti o Waitangi at Part 2 of the RMA or national policy statement that may require that those principles be “provided for” at the RPS, regional plan or district plan level. It is our evaluation that when it comes to the implementation of Te Tiriti o Waitangi Principles a more directive policy direction is sometimes appropriate. On this basis, while acknowledging the rigour of Ms Mead’s submissions, and not disputing that this approach may be appropriate in some circumstances, we conclude that wording in relation to Policy UG 22B is appropriate.

171. We note that the Council staff have recommended a number of other amendments to Policy UG 22B(b) as well as some amendment to the Explanation text which we support and are set out as follows (in red text):

Policy UG 22B: Te Tiriti o Waitangi Principles

Ensure planning decisions provide for Te Tiriti o Waitangi principles by:

- (a) Enabling Māori to develop their land, including but not limited to papakāinga housing, **community and social housing**, marae and community facilities;
- (b) Providing for tikanga Māori and opportunities for Māori involvement in Council’s decision-making processes, including the preparation of RMA planning documents and Future Development Strategies, **and in appropriate circumstances decision making on resource consents, designations and heritage orders;**
- (c) Enabling early and ongoing engagement with iwi, hapū and affected Māori land trusts;
- (d) Identifying and protecting culturally significant areas and view shafts
- (e) Protecting marae and papakāinga from **adverse effects of new or expanded subdivision, use or development that constrain their continued use incompatible uses or development and reverse sensitivity effects;** and
- (f) Demonstrating how Māori values and aspirations identified during consultation in (c) have been recognised and provided for.

Explanation

(...)

Policy UG 7**AB** applies to Māori development where it relates to urban environments and is unanticipated or out of sequence.

The difficulties involved in developing multiple owned Māori land remains a real and significant barrier for many whānau. Loan criteria from lending institutions are stricter **then than** for lending against general title land. Governance structures for Māori land blocks vary and can be difficult to contact and administer. Obtaining formal occupation rights is often time consuming and can generate tension amongst whānau, particularly in relation to those with competing interests.

(...)

One of the means of giving effect to these principles is through methods developed in conjunction with tangata whenua to offset the impacts of urban development on culturally significant values, sites or areas.

Recommendations

172. Based on the Hearing Panel’s consideration of all the material before it, including the Council Section 42A report, submissions, further submissions, evidence presented at the hearings and following consideration of the requirements of section 32AA and other relevant statutory matters, and for the reasons set out in this recommendation report Change 6 to the RPS is accepted as notified and as amended as set out in this recommendation report as set out in Appendix 1.
173. Our recommendation on the 35 submissions and 13 Further submissions are set out below:

Submissions

Submitter	Submission number	Submission relief	Recommendation
Element IMF Ltd	1.1	Oppose	Reject
Element IMF Ltd	1.2	Oppose	Reject
Element IMF Ltd	1.3	Oppose	Reject
Element IMF Ltd	1.4	Support in Part	Accept in part
Bayliss Ham Group Ltd	2.1	Support	Accept
Retimana Whanau Trust	3.1	Oppose	Accept in part
Retimana Whanau Trust	3.2	Neutral	Accept in part
Retimana Whanau Trust	3.3	Support in Part	Accept in part
Retimana Whanau Trust	3.4	Oppose	Reject
Ian and Elizabeth Gargan	4.1	Oppose	Reject
Kainga Ora	5.1	Support	Accept in part
Kainga Ora	5.2	Support in part	Accept in part
Kainga Ora	5.3	Support in part	Accept in part
Kainga Ora	5.4	Support in part	Accept in part
Kainga Ora	5.5	Support in part	Accept in part

Submitter	Submission number	Submission relief	Recommendation
Kainga Ora	5.6	Support in part	Accept in part
Kainga Ora	5.7	Support in part	Accept in part
Federated Farmers NZ	6.1	Support in part	Reject
Federated Farmers NZ	6.2	Support in part	Reject
Federated Farmers NZ	6.3	Support in part	Accept in part
Federated Farmers NZ	6.4	Support	Accept
Toi Te Ora Public Health	7.1	Support in part	Accept
Toi Te Ora Public Health	7.2	Support in part	Accept in part
Toi Te Ora Public Health	7.3	Support	Accept
Toi Te Ora Public Health	7.4	Support	Accept in part
Toi Te Ora Public Health	7.5	Support	Accept
Toi Te Ora Public Health	7.6	Support in part	Accept in part
Toi Te Ora Public Health	7.7	Support in part	Accept in part
Toi Te Ora Public Health	7.8	Support	Accept
Toi Te Ora Public Health	7.9	Support	Accept
Toi Te Ora Public Health	7.10	Support in part	Accept in part
Toi Te Ora Public Health	7.11	Support in part	Accept in part
Toi Te Ora Public Health	7.12	Support	Accept
Toi Te Ora Public Health	7.13	Support in part	Accept in part
Julian and Joy White	8.1	Support	Accept in part
Tauranga City Council	9.1	Support in part	Accept in part
Tauranga City Council	9.2	Support in part	Accept in part
Tauranga City Council	9.3	Support in part	Accept in part
Tauranga City Council	9.4	Support	Accept
Tauranga City Council	9.5	Support	Accept

Submitter	Submission number	Submission relief	Recommendation
Tauranga City Council	9.6	Support in part	Accept in part
Tauranga City Council	9.7	Support	Accept
Tauranga City Council	9.8	Support	Accept
Tauranga City Council	9.9	Support	Accept
Tauranga City Council	9.10	Support in part	Accept in part
Tauranga City Council	9.11	Support	Accept
Tauranga City Council	9.12	Support in part	Accept in part
Tauranga City Council	9.13	Support in part	Accept in part
Tauranga City Council	9.14	Support in part	Accept in part
Tauranga City Council	9.15	Support	Accept
Tauranga City Council	9.16	Support in part	Accept in part
Tauranga City Council	9.17	Oppose	Reject
Tauranga City Council	9.18	Support	Accept
Tauranga City Council	9.19	Support	Accept
Tauranga City Council	9.20	Support in part	Accept in part
Tauranga City Council	9.21	Support	Accept
Tauranga City Council	9.22	Support	Accept
Tauranga City Council	9.23	Support	Accept in part
Tauranga City Council	9.24	Support in part	Accept in part
Tauranga City Council	9.25	Support	Accept
Tauranga City Council	9.27	Support	Accept
Tauranga City Council	9.28	Support	Accept
Tauranga City Council	9.29	Support	Accept
Tauranga City Council	9.30	Support	Accept
Tauranga City Council	9.31	Support in part	Accept

Submitter	Submission number	Submission relief	Recommendation
Tauranga City Council	9.32	Support	Accept
Tauranga City Council	9.33	Support	Accept
Tauranga City Council	9.34	Support	Accept
Tauranga City Council	9.35	Support	Accept
Balance Agri-Nutrients	10.1	Oppose	Reject
Balance Agri-Nutrients	10.2	Oppose	Reject
Balance Agri-Nutrients	10.3	Oppose	Reject
Balance Agri-Nutrients	10.4	Oppose	Reject
Bell Road Limited Partnership	11.1	Support	Accept
Bell Road Limited Partnership	11.2	Oppose	Accept in part
Bell Road Limited Partnership	11.3	Oppose	Reject
Bell Road Limited Partnership	11.4	Oppose	Reject
Bell Road Limited Partnership	11.5	Oppose	Reject
Bell Road Limited Partnership	11.6	Oppose	Accept in part
Bell Road Limited Partnership	11.7	Support	Reject
Bell Road Limited Partnership	11.8	Oppose	Reject
Bell Road Limited Partnership	11.9	Support in part	Accept in part
Bluehaven Investments Limited	12.1	Oppose	Reject
Bluehaven Investments Limited	12.2	Oppose	Reject

Submitter	Submission number	Submission relief	Recommendation
Bluehaven Investments Limited	12.3	Oppose	Reject
Bluehaven Investments Limited	12.4	Oppose	Reject
Bluehaven Investments Limited	12.5	Support in part	Accept in part
Classic Developments Limited	13.1	Support	Accept
Classic Developments Limited	13.2	Support	Accept
Classic Developments Limited	13.3	Support in part	Accept in part
Classic Developments Limited	13.4	Support in part	Reject
Classic Developments Limited	13.5	Oppose	Reject
Classic Developments Limited	13.6	Oppose	Reject
Classic Developments Limited	13.6	Oppose	Reject
Classic Developments Limited	13.7	Oppose	Reject
Classic Developments Limited	13.8	Oppose	Reject
Classic Developments Limited	13.9	Oppose	Reject
Des Heke – Ngāti He hapū	14.1	Support in part	Accept in part
Des Heke – Ngāti He hapū	14.2	Support in part	Accept
Des Heke – Ngāti He hapū	14.3	Support	Accept in part
Des Heke – Ngāti He hapū	14.4	Support in part	Reject
Fonterra Limited	15.1	Support in part	Reject

Submitter	Submission number	Submission relief	Recommendation
Fonterra Limited	15.2	Support	Accept
Fonterra Limited	15.3	Support	Accept
Fonterra Limited	15.4	Support in part	Accept in part
Fonterra Limited	15.5	Support in part	Reject
Fonterra Limited	15.6	Support	Accept
Fonterra Limited	15.7	Support in part	Reject
Fonterra Limited	15.8	Support in part	Reject
Fonterra Limited	15.9	Support	Accept
Fonterra Limited	15.10	Support in part	Reject
Fonterra Limited	15.11	Support in part	Accept in part
Fonterra Limited	15.12	Support in part	Accept in part
Ford Land Holdings Pty	16.1	Support	Accept in part
Ford Land Holdings Pty	16.2	Support in part	Reject
Ford Land Holdings Pty	16.2	Support in part	Reject
Ford Land Holdings Pty	16.3	Support	Accept
Ford Land Holdings Pty	16.4	Support	Accept
Ford Land Holdings Pty	16.5	Support	Accept
Ford Land Holdings Pty	16.6	Support	Accept
Ford Land Holdings Pty	16.7	Support	Accept
Ford Land Holdings Pty	16.8	Support	Accept
Ford Land Holdings Pty	16.9	Support	Accept
Ford Land Holdings Pty	16.10	Support	Accept
Ford Land Holdings Pty	16.11	Support	Accept
Ford Land Holdings Pty	16.12	Support	Accept
Ford Land Holdings Pty	16.14	Support in part	Accept in part

Submitter	Submission number	Submission relief	Recommendation
Ford Land Holdings Pty	16.15	Support in part	Accept in part
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.1	Support in part	Accept in part
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.2	Oppose	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.3	Support	Accept in part
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.4	Oppose	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.5	Support in part	Accept in part
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.6	Support in part	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.7	Support	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.8	Support	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.9	Support	Accept

Submitter	Submission number	Submission relief	Recommendation
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.10	Oppose	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.11	Support in part	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.12	Support	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.13	Support	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.13	Support	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.14	Support in part	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	17.15	Support in part	Reject
Horticulture New Zealand	18.1	Support	Reject
Horticulture New Zealand	18.2	Support in part	Reject
Horticulture New Zealand	18.3	Support in part	Reject
Horticulture New Zealand	18.4	Support in part	Reject
Horticulture New Zealand	18.5	Support in part	Reject
Horticulture New Zealand	18.6	Support	Accept
Horticulture New Zealand	18.7	Support in part	Reject

Submitter	Submission number	Submission relief	Recommendation
Horticulture New Zealand	18.8	Support	Accept
Horticulture New Zealand	18.9	Support	Accept
Horticulture New Zealand	18.10	Support in part	Reject
Keith Warwick	19.1	Oppose	Accept in part
KiwiRail Holdings Ltd	20.1	Support in part	Accept in part
KiwiRail Holdings Ltd	20.2	Support in part	Reject
KiwiRail Holdings Ltd	20.3	Support in part	Reject
KiwiRail Holdings Ltd	20.4	Support in part	Reject
KiwiRail Holdings Ltd	20.5	Support	Reject
KiwiRail Holdings Ltd	20.6	Support in part	Reject
KiwiRail Holdings Ltd	20.7	Support in part	Reject
KiwiRail Holdings Ltd	20.9	Support in part	Reject
KiwiRail Holdings Ltd	20.10	Support in part	Reject
KiwiRail Holdings Ltd	20.11	Support	Accept
KiwiRail Holdings Ltd	20.13	Support in part	Accept
Mitre 10 Holdings	21.1	Support	Accept in part
Mitre 10 Holdings	21.2	Support	Accept
Mitre 10 Holdings	21.3	Support	Accept
Mitre 10 Holdings	21.4	Support	Accept
Mitre 10 Holdings	21.5	Support	Accept in part
Mitre 10 Holdings	21.6	Support	Accept
Mitre 10 Holdings	21.7	Support	Accept
Mitre 10 Holdings	21.8	Support	Accept
Mitre 10 Holdings	21.9	Support	Accept
Mitre 10 Holdings	21.10	Support	Accept

Submitter	Submission number	Submission relief	Recommendation
Newman Group Limited	22.1	Support	Accept
Newman Group Limited	22.2	Oppose	Reject
Newman Group Limited	22.3	Oppose	Reject
Newman Group Limited	22.4	Oppose	Reject
Newman Group Limited	22.5	Oppose	Reject
Ngā Potiki a Tamapahore Trust	23.1	Support	Accept in part
Ngā Potiki a Tamapahore Trust	23.2	Support	Accept
Ngā Potiki a Tamapahore Trust	23.3	Support	Accept
Ngā Potiki a Tamapahore Trust	23.4	Support	Accept
Ngā Potiki a Tamapahore Trust	23.5	Support	Accept
Ngā Potiki a Tamapahore Trust	23.6	Support	Accept
Ngā Potiki a Tamapahore Trust	23.7	Support	Accept
Ngā Potiki a Tamapahore Trust	23.8	Support	Accept in part
Tony Wihapi – Ngati Moko	24.1	Oppose in part	Accept in part
Tony Wihapi – Ngati Moko	24.2	Oppose	Accept
Rotorua Lakes Council	25.2	Support	Accept in part
Rotorua Lakes Council	25.3	Support	Accept
Rotorua Lakes Council	25.4	Support	Reject
Rotorua Lakes Council	25.5	Support	Accept in part
Rotorua Lakes Council	25.6	Support	Reject
Rotorua Lakes Council	25.7	Support	Reject

Submitter	Submission number	Submission relief	Recommendation
Rotorua Lakes Council	25.8	Support	Reject
Rotorua Lakes Council	25.9	Support	Accept
Rotorua Lakes Council	25.10	Support	Accept in part
Tauranga Crossing Limited	26.1	Support in part	Accept in part
Tauranga Crossing Limited	26.2	Support in part	Reject
Tauranga Crossing Limited	26.3	Support in part	Reject
Tauranga Crossing Limited	26.3	Support in part	Reject
Tauranga Crossing Limited	26.4	Support in part	Reject
Tauranga Crossing Limited	26.5	Support in part	Accept in part
Transpower New Zealand Limited	27.1	Support	Reject
Transpower New Zealand Limited	27.2	Support in part	Reject
Transpower New Zealand Limited	27.3	Support in part	Reject
Transpower New Zealand Limited	27.4	Oppose in part	Reject
Tumu Kaituna 14 Trust	28.1	Support	Accept in part
Tumu Kaituna 14 Trust	28.2	Support in part	Reject
Tumu Kaituna 14 Trust	28.3	Support	Accept
Tumu Kaituna 14 Trust	28.4	Support	Accept
Tumu Kaituna 14 Trust	28.5	Support	Accept
Tumu Kaituna 14 Trust	28.6	Support	Accept
Tumu Kaituna 14 Trust	28.7	Support	Accept
Tumu Kaituna 14 Trust	28.8	Support	Accept
Tumu Kaituna 14 Trust	28.9	Support	Accept
Tumu Kaituna 14 Trust	28.10	Support	Accept

Submitter	Submission number	Submission relief	Recommendation
Tumu Kaituna 14 Trust	28.11	Support	Accept
Tumu Kaituna 14 Trust	28.12	Support	Accept
Tumu Kaituna 14 Trust	28.13	Support in part	Accept in part
Tumu Kaituna 14 Trust	28.14	Support	Accept
Tumu Kaituna 14 Trust	28.15	Support in part	Accept in part
Urban Taskforce for Tauranga	29.1	Support in part	Accept in part
Urban Taskforce for Tauranga	29.2	Support	Accept
Urban Taskforce for Tauranga	29.3	Support	Accept
Urban Taskforce for Tauranga	29.4	Oppose in part	Reject
Urban Taskforce for Tauranga	29.5	Oppose	Reject
Urban Taskforce for Tauranga	29.6	Oppose in part	Reject
Urban Taskforce for Tauranga	29.7	Oppose	Reject
Urban Taskforce for Tauranga	29.8	Oppose in part	Reject
Urban Taskforce for Tauranga	29.9	Oppose	Reject
Urban Taskforce for Tauranga	29.10	Oppose	Reject
Urban Taskforce for Tauranga	29.11	Oppose	Reject
Vercoe Holdings Limited	30.1	Oppose	Reject
Vercoe Holdings Limited	30.2	Oppose	Reject
Vercoe Holdings Limited	30.3	Oppose	Reject

Submitter	Submission number	Submission relief	Recommendation
Vercoe Holdings Limited	30.4	Oppose	Reject
Vercoe Holdings Limited	30.5	Oppose	Reject
Waka Kotahi	31.1	Support in part	Accept in part
Waka Kotahi	31.2	Support in part	Reject
Waka Kotahi	31.3	Support in part	Reject
Waka Kotahi	31.4	Support in part	Reject
Waka Kotahi	31.5	Support in part	Accept
Waka Kotahi	31.6	Support in part	Reject
Waka Kotahi	31.7	Support in part	Reject
Waste Management NZ Limited	32.1	Oppose	Reject
Western Bay of Plenty District Council	33.1	Support in part	Accept in part
Yvonne James	34.1	Oppose	Reject

FURTHER SUBMISSIONS

Submitter	Submission number	Submission relief	Recommendation
Ngā Potiki a Tamapahore Trust	1 – 1	Oppose	Accept in part
Ngā Potiki a Tamapahore Trust	1 – 2	Support	Accept in part
Ngā Potiki a Tamapahore Trust	1 – 3	Support	Reject
Ngā Potiki a Tamapahore Trust	1 – 4	Support	Reject
Ngā Potiki a Tamapahore Trust	1 – 5	Support	Reject
Ngā Potiki a Tamapahore Trust	1 – 6	Support	Reject

Submitter	Submission number	Submission relief	Recommendation
Ngā Potiki a Tamapahore Trust	1 – 7	Support	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	2 – 1	Support in part	Accept in part
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	2 – 2	Support in part	Reject
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	2 – 3	Oppose	Accept
Royal Forest & Bird Protection Society of New Zealand Inc – Bay of Plenty branches	2 – 4	Oppose	Accept
Fonterra Ltd	3 - 1	Support	Reject
Fonterra Ltd	3 - 2	Support in part	Accept in part
Fonterra Ltd	3 – 3	Oppose	Accept
Fonterra Ltd	3 – 4	Support	Reject
Fonterra Ltd	3 – 5	Support	Reject
Fonterra Ltd	3 – 6	Oppose	Accept
Fonterra Ltd	3 – 8	Support	Reject
Fonterra Ltd	3 – 9	Support	Reject
Fonterra Ltd	3 – 10	Oppose	Accept
Fonterra Ltd	3 – 12	Support	Reject
Fonterra Ltd	3 – 13	Support	Reject
Fonterra Ltd	3 – 14	Support	Reject
Waka Kotahi	4 – 1	Support	Accept

Submitter	Submission number	Submission relief	Recommendation
Waka Kotahi	4 – 2	Support	Reject
Waka Kotahi	4 – 3	Other	Comment Noted
Waka Kotahi	4 – 4	Other	Accept in part
Balance Agri-Nutrients	5 - 1	Support	Reject
Balance Agri-Nutrients	5 - 2	Support	Reject
Balance Agri-Nutrients	5 - 3	Oppose	Reject
Balance Agri-Nutrients	5 - 4	Oppose	Reject
Balance Agri-Nutrients	5 - 5	Support	Reject
Balance Agri-Nutrients	5 - 6	Oppose	Reject
Balance Agri-Nutrients	5 - 6	Oppose	Reject
Balance Agri-Nutrients	5 - 7	Oppose	Reject
Balance Agri-Nutrients	5 - 8	Oppose	Reject
Tauranga Crossing Limited	6 – 1	Support	Reject
Tauranga Crossing Limited	6 – 2	Support	Reject
Tauranga Crossing Limited	6 – 3	Support	Accept in part
Tauranga Crossing Limited	6 – 5	Support	Accept in part
Tauranga Crossing Limited	6 – 6	Support	Reject
Tauranga Crossing Limited	6 – 7	Oppose	Accept
Tauranga Crossing Limited	6 – 8	Support	Reject
Tauranga Crossing Limited	6 – 9	Support in part	Reject
Tauranga Crossing Limited	6 – 10	Support	Reject
Tauranga Crossing Limited	6 – 11	Support in part	Accept in part
Tauranga Crossing Limited	6 – 12	Support	Reject
Tauranga Crossing Limited	6 – 13	Support	Reject
Tauranga Crossing Limited	6 – 13	Support	Reject

Submitter	Submission number	Submission relief	Recommendation
Tauranga Crossing Limited	6 – 14	Support in part	Reject
Tauranga Crossing Limited	6 – 15	Oppose	Accept
Tauranga Crossing Limited	6 – 16	Support in part	Reject
Tauranga Crossing Limited	6 – 17	Oppose	Accept
Tauranga Crossing Limited	6 – 18	Support	Reject
Tauranga Crossing Limited	6 – 19	Oppose	Accept
Tauranga Crossing Limited	6 – 20	Support	Reject
Tauranga Crossing Limited	6 – 21	Oppose	Accept
Tauranga Crossing Limited	6 – 22	Support	Reject
Tauranga Crossing Limited	6 – 23	Support in part	Reject
Element IMF Ltd	7 - 1	Support	Reject
Element IMF Ltd	7 - 2	Support	Reject
Bluehaven Investments Limited	8 - 1	Support in part	Reject
Kainga Ora	9 - 1	Support in part	Reject
Kainga Ora	9 - 2	Oppose	Reject
Kainga Ora	9 - 3	Support	Accept in part
Kainga Ora	9 - 4	Support	Accept
Kainga Ora	9 - 5	Support in part	Accept in part
Kainga Ora	9 - 6	Oppose	Reject
Kainga Ora	9 - 7	Oppose	Accept
Kainga Ora	9 - 8	Oppose	Reject
Kainga Ora	9 - 9	Oppose	Reject
Kainga Ora	9 - 10	Oppose	Reject
Kainga Ora	9 - 11	Oppose	Reject
Kainga Ora	9 - 13	Oppose	Accept

Submitter	Submission number	Submission relief	Recommendation
Kainga Ora	9 - 14	Oppose	Accept
Kainga Ora	9 - 15	Oppose	Accept
Kainga Ora	9 - 16	Oppose	Accept
Kainga Ora	9 - 17	Oppose	Accept
Kainga Ora	9 - 18	Support	Accept in part
Kainga Ora	9 - 19	N/A	Accept in part
Transpower New Zealand Limited	10 – 1	Support in part	Reject
Transpower New Zealand Limited	10 – 2	Support	Accept
Transpower New Zealand Limited	10 – 3	Support in part	Accept
Transpower New Zealand Limited	10 – 4	Support	Accept
Transpower New Zealand Limited	10 – 5	Support	Accept
Transpower New Zealand Limited	10 – 6	Oppose	Accept
Transpower New Zealand Limited	10 – 7	Support	Reject
Transpower New Zealand Limited	10 – 8	Support	Reject
Transpower New Zealand Limited	10 – 9	Support	Accept
Transpower New Zealand Limited	10 – 10	Other	Accept in part
Transpower New Zealand Limited	10 – 11	Support	Accept
Transpower New Zealand Limited	10 – 12	Oppose	Accept

Submitter	Submission number	Submission relief	Recommendation
Transpower New Zealand Limited	10 – 13	Support	Reject
Transpower New Zealand Limited	10 – 14	Support	Reject
Transpower New Zealand Limited	10 – 15	Support	Accept
Tumu Kaituna 14 Trust	11 – 1	Support	Reject
Ford Land Holdings Pty	12 – 1	Support	Reject
Urban Taskforce for Tauranga	13 – 1	Support	Accept
Urban Taskforce for Tauranga	13 – 2	Support	Accept in part
Urban Taskforce for Tauranga	13 – 3	Support	Reject
Urban Taskforce for Tauranga	13 – 4	Support	Reject
Urban Taskforce for Tauranga	13 – 5	Support in part	Reject
Urban Taskforce for Tauranga	13 – 6	Support	Reject
Urban Taskforce for Tauranga	13 – 7	Support	Reject
Urban Taskforce for Tauranga	13 – 8	Support	Reject
Urban Taskforce for Tauranga	13 – 9	Support	Reject
Urban Taskforce for Tauranga	13 – 10	Support in part	Reject
Urban Taskforce for Tauranga	13 – 11	Support in part	Reject
Urban Taskforce for Tauranga	13 – 12	Oppose	Accept

Submitter	Submission number	Submission relief	Recommendation
Urban Taskforce for Tauranga	13 – 13	Oppose	Accept
Urban Taskforce for Tauranga	13 – 14	Support in part	Reject
Urban Taskforce for Tauranga	13 – 15	Support in part	Reject
Urban Taskforce for Tauranga	13 – 16	Support	Reject
Urban Taskforce for Tauranga	13 – 17	Support	Accept
Urban Taskforce for Tauranga	13 – 18	Support in part	Accept
Urban Taskforce for Tauranga	13 – 19	Oppose	Accept
Urban Taskforce for Tauranga	13 – 20	Support	Accept

DATED THIS 19th DAY OF OCTOBER 2023.

Appendix 1

Amended track change version of Proposed Change 6 (NPS:UD)

Appendix 2

Table Summary of all Submissions and Staff Recommendations