

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan Stage 1

## **Hearing 6: Village Zone Part A – Land use**

Report prepared by: Kelly Cattermole

Date: 11.11.19



# TABLE OF CONTENTS

## Contents

1	Introduction .....	18
1.1	Qualifications and experience .....	18
1.2	Code of Conduct .....	18
1.3	Conflict of Interest.....	18
1.4	Preparation of this report.....	18
2	Scope of Report.....	19
2.1	Matters addressed by this report.....	19
2.2	Overview of the topic / chapter .....	19
2.3	Statutory requirements.....	38
2.4	Application of the National Planning Standards – 14: Definitions Standard.....	39
2.4	Procedural matters .....	39
3	Consideration of submissions received.....	39
3.1	Overview of submissions.....	39
3.2	Structure of this report .....	41
4	Topic 1: Section 4.1 – Village - Objectives and policies.....	41
4.1	Section 4.3 Village Zone – Amendment - Non-residential activities .....	41
	Introduction .....	41
	Submissions .....	41
	Analysis.....	42
	Recommended amendments.....	43
	Section 32AA evaluation.....	44
	Purpose of the RMA and comparison with any relevant existing objectives in the PWDP .....	44
	Decision about most appropriate option .....	44
4.1.1	Section 4.3 - Village Zone – Amendment - Retirement Villages .....	44
	Introduction .....	44
	Submissions .....	44
	Recommended amendments.....	49
	Section 32AA evaluation.....	49
4.1.2	Section 4.3 - Village Zone – Retention – All objectives and policies as notified .....	49
	Submissions .....	49
	Analysis.....	49
	Recommended amendments.....	50
	Section 32AA evaluation.....	50

4.1.3 Section 4.3 - Village Zone – Amendment - Policy – 4.3.5 - Building setbacks .....	50
Introduction .....	50
Submissions .....	50
Analysis.....	50
Recommended amendments.....	51
Section 32AA evaluation.....	51
4.1.4 Section 4.3 - Village Zone – Amendment - Policy 4.3.6 - Front setback character.....	51
Introduction .....	51
Submissions .....	51
Analysis.....	52
Recommended amendments.....	52
Section 32AA evaluation.....	52
4.1.5 Section 4.3 - Village Zone – Amendment - Policy 4.3.7 - Excessive building scale.....	52
Introduction .....	52
Submissions .....	53
Analysis.....	53
Recommended amendments.....	53
Section 32AA evaluation.....	53
4.1.6 Section 4.3 - Village Zone – Amendment - Policy 4.3.8 - Residential amenity and function ...	54
Introduction .....	54
Submissions .....	54
Analysis.....	55
Recommended amendments.....	55
Section 32AA evaluation.....	55
4.1.7 Section 4.3 - Village Zone – Amendment -Policy 4.3.11 - Maintain residential function.....	55
Introduction .....	55
Submissions .....	56
Analysis.....	56
Recommended amendments.....	57
Section 32AA evaluation on amendment from submission 378.72.....	58
Section 32AA evaluation on amendment from submission 697.544.....	58
4.1.8 Section 4.3 - Village Zone – Amendment - Policy 4.3.12 - Non-residential activities.....	58
Introduction .....	58
Submissions .....	58
Analysis.....	59
Recommended amendments.....	59
Section 32AA evaluation.....	59

Other reasonably-practicable options.....	59
Effectiveness and efficiency.....	59
Costs and benefits.....	60
Risk of acting or not acting.....	60
Decision about most appropriate option.....	60
4.1.9 Section 4.3 - Village Zone – Amendment - Policy 4.3.15 - Earthworks.....	60
Introduction.....	60
Submissions.....	61
Analysis.....	63
Recommended amendments.....	64
Section 32AA evaluation.....	64
Topic 2: Section 4.4 – Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour - Objectives and policies.....	65
4.2 Section 4.4 - Residential and Village Zones – Retention - Noise, lighting, outdoor storage, signs and odour.....	65
Introduction.....	65
Submissions.....	65
Analysis.....	65
Recommendations.....	65
Recommended amendments.....	66
Section 32AA evaluation.....	66
4.2.1 Section 4.4 Residential and Village Zones – Amendment – Objective 4.4.1 - Adverse effects of land use and development.....	66
Introduction.....	66
Submissions.....	66
Analysis.....	67
Recommended amendments.....	67
Section 32AA evaluation.....	68
Purpose of the RMA and comparison with any relevant existing objectives in the PWDP.....	68
Decision about most appropriate option.....	68
4.2.2 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.2 - Noise.....	68
Introduction.....	68
Submissions.....	68
Analysis.....	69
Recommended amendments.....	69
Section 32AA evaluation.....	70
Other reasonably-practicable options.....	70
Effectiveness and efficiency.....	70

Costs and benefits .....	70
Risk of acting or not acting .....	70
Decision about most appropriate option .....	70
4.2.4 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.3 - Artificial outdoor lighting.....	71
Introduction .....	71
Submissions .....	71
Analysis.....	71
Recommended amendments.....	72
Section 32AA evaluation.....	72
Other reasonably practicable options .....	72
Effectiveness and efficiency.....	72
Costs and benefits .....	73
Risk of acting or not acting .....	73
Decision about most appropriate option .....	73
4.2.6 Section 4.4 Residential and Village Zones – Retention – Policy 4.4.5 - Objectionable odour	73
Introduction .....	73
Submissions .....	73
Analysis.....	74
Recommended amendments.....	74
Section 32AA evaluation.....	74
4.2.8 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.6 - Signage.....	74
Introduction .....	74
Submissions .....	74
Analysis.....	74
Recommended amendments.....	75
Section 32AA evaluation.....	75
4.2.9 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.7 - Managing the adverse effects of signs .....	75
Introduction .....	75
Submissions .....	75
Analysis.....	76
Recommended amendments.....	77
Section 32AA evaluation.....	77
Other reasonably practicable options .....	77
Effectiveness and efficiency.....	78
Costs and benefits .....	78
Risk of acting or not acting .....	78

Decision about most appropriate option .....	78
Topic 3: General - All of Chapter 24.....	79
4.3 Section 24 - Village Zone – Amendments – All of Chapter 24 .....	79
Submissions.....	79
Analysis.....	79
Recommended amendments.....	81
Section 32AA evaluation.....	81
Recommended amendments.....	81
Section 32AA evaluation – SAL’s and NC’s.....	81
Other reasonably practicable options .....	82
Effectiveness and efficiency.....	82
Costs and benefits .....	82
Risk of acting or not acting .....	83
Decision about most appropriate option .....	83
4.3.1 Section 24.1 – Village – Land use Activities – Amendment – Formatting / Clarification .....	83
Submissions.....	83
Analysis.....	84
Recommended amendments.....	85
Section 32AA evaluation.....	86
4.3.3 Section 24.1 – Village – Land use Activities – New provisions – Education facilities.....	86
Introduction .....	86
Submissions.....	87
Analysis.....	87
Recommended amendments.....	88
4.1.6 Section 32AA evaluation.....	88
Other reasonably practicable options .....	88
Effectiveness and efficiency.....	88
Risk of acting or not acting .....	89
Decision about most appropriate option .....	90
4.3.4 Section 24.1 – Village – Land use Activities – New provisions – Emergency services training and management activities and Emergency service facilities.....	90
Introduction .....	90
Submissions.....	90
Analysis.....	90
Recommended amendments.....	91
Section 32AA evaluation.....	92
Other reasonably practicable options .....	92

Effectiveness and efficiency.....	92
Risk of acting or not acting .....	94
Decision about most appropriate option .....	94
4.3.5 Section 24.1.1 – Village – Permitted Land use Activities – Amendment - Community activity .....	94
Introduction .....	94
Submissions .....	94
Analysis.....	94
Recommended amendments.....	95
Section 32AA evaluation (if The Department of Corrections submission point 496.2 is accepted) .....	95
Section 32AA evaluation (if The Department of Corrections submission point 496.2 is not accepted) .....	95
4.3.6 Section 4.3 – Village – Amended provisions – Home occupations – 24.1.1 P3.....	95
Introduction .....	95
Submissions .....	95
Analysis.....	96
Recommendations.....	96
4.1.5 Recommended amendments .....	96
4.3.7 Section 4.3 – Village – Retention - Temporary event – 24.1.1 – P4 .....	96
Introduction .....	96
Submissions .....	97
Analysis.....	97
Recommended amendments.....	97
Section 32AA evaluation.....	97
4.3.8 Section 4.3 – Village – Amended provisions – Noise – 24.2.1.....	97
Introduction .....	97
Submissions .....	98
Analysis.....	100
Recommended amendments.....	102
Section 32AA evaluation (submission points [697.947] and [697.948]).....	103
4.3.10 Section 4.3 – Village – Glare and artificial light spill – 24.2.3 .....	103
Introduction .....	103
Submissions .....	103
Analysis.....	103
Recommended amendments.....	103
Section 32AA evaluation.....	103
4.3.11 Section 4.3 – Village – Amendments – Earthworks – 24.2.4.1 .....	104

Analysis.....	109
Recommended amendments.....	114
Section 32AA evaluation.....	115
Section 32AA evaluation.....	116
Other reasonably practicable options .....	116
Effectiveness and efficiency.....	117
Costs and benefits.....	117
Risk of acting or not acting .....	117
Decision about most appropriate option .....	117
4.3.13 Section 4.3 – Village – Amendments – Signs – 24.2.7.....	117
Introduction .....	117
Submissions.....	117
Analysis.....	121
Recommended amendments.....	124
Section 32AA evaluation.....	126
Other reasonably practicable options .....	126
Effectiveness and efficiency.....	126
Costs and benefits.....	127
Risk of acting or not acting .....	127
Decision about most appropriate option .....	127
Other reasonably practicable options .....	127
Effectiveness and efficiency.....	128
Costs and benefits.....	128
Risk of acting or not acting .....	128
Decision about most appropriate option .....	128
4.3.14 Section 4.3 – Village – Amendment - Dwelling – 24.3.1 .....	128
Introduction .....	128
Submissions.....	128
Analysis.....	129
Recommended amendments.....	130
4.3.15 Section 4.3 – Village – Amendment - Minor Dwelling – 24.3.2.....	130
Submissions.....	130
Analysis.....	131
Recommendations.....	131
Recommended amendments.....	131
24.3.2 Minor dwelling .....	131
Section 32AA evaluation.....	132



4.3.17 Section 4.3 – Village – Amendments - Height and Daylight admission – 24.3.3.1 and 24.3.3.2	132
Introduction .....	132
Submissions .....	132
Analysis.....	133
Recommendations.....	135
Recommended amendments.....	136
Section 32AA evaluation.....	136
Effectiveness and efficiency.....	136
Costs and benefits .....	136
Risk of acting or not acting .....	137
Decision about most appropriate option .....	137
4.3.18 Section 4.3 – Village – Amendments - Height - Buildings, structures or vegetation within an airport obstacle limitation surface – 24.3.3.2.....	137
Introduction .....	137
Submissions .....	137
Analysis.....	137
Recommendations.....	138
Recommended amendments.....	138
Section 32AA evaluation.....	138
4.3.19 Section 4.3 – Village – Amendments - Building coverage – 24.3.5 (P1 and P2).....	138
Introduction .....	138
Submissions .....	138
Analysis.....	140
Recommended amendments.....	149
Section 32AA evaluation.....	149
Other reasonably-practicable options.....	149
Effectiveness and efficiency.....	149
Costs and benefits .....	149
Risk of acting or not acting .....	150
Decision about most appropriate option .....	150
4.3.21 Section 4.3 – Village – Amendments - Building setbacks – all boundaries and sensitive land use – 24.3.6.1 and 24.3.6.2.....	150
Introduction .....	150
Submissions .....	150
Analysis.....	155
Recommendations.....	161
Recommended amendments.....	162

Section 32AA evaluation.....	163
Other reasonably-practicable options.....	163
Effectiveness and efficiency.....	163
Costs and benefits.....	163
Risk of acting or not acting.....	164
Decision about most appropriate option.....	164
Section 32AA evaluation – 24.3.6.2 P1.....	164
Other reasonably practicable options.....	164
Effectiveness and efficiency.....	164
Costs and benefits.....	164
Risk of acting or not acting.....	166
Decision about most appropriate option.....	166
4.3.23 Section 4.3 – Village – Amendments - Building setbacks – Waterbodies – 24.3.6.3.....	167
Introduction.....	167
Submissions.....	167
Analysis.....	169
Recommended amendments.....	173
Section 32AA evaluation.....	174
Section 32AA evaluation – Maimai.....	174
Other reasonably practicable options.....	174
Effectiveness and efficiency.....	174
Costs and benefits.....	174
Risk of acting or not acting.....	174
Decision about most appropriate option.....	174
Section 32AA evaluation – changes to setback distances in P1 and P2.....	174
Other reasonably practicable options.....	175
Effectiveness and efficiency.....	175
Costs and benefits.....	175
Risk of acting or not acting.....	175
Decision about most appropriate option.....	175
4.3.25 Section 4.3 – Village – Amendment – Zone Name.....	175
Introduction.....	175
Submissions.....	176
Analysis.....	176
Recommendation.....	177
Recommended amendments.....	177
Section 32AA evaluation.....	177

5 Conclusion ..... 177

**List of submitters and further submitters addressed in this report**

<b>Original Submitter</b>	<b>Submission number</b>
2SEN Limited and Tuakau Estates Limited	299.3 299.6 299.7
Adrian Morton	499.14
Anton Marais	249.2
Auckland Waikato Fish and Game Council	433.24
Balle Bros Group Limited	466.37 466.50 466.51
Blue Wallace Surveyors Ltd	662.31
Counties Manukau Police	297.15 297.21 297.22 297.23 297.26
Counties Power Limited	405.79 405.80
Greig Developments No 2 Limited	689.16 689.17 689.18 689.19 689.20 689.21 689.22
Greig Metcalfe	602.1 602.3 602.46 602.47 602.48 602.49 602.54
First Gas Limited	945.26 945.27
Heritage New Zealand Lower Northern Office	559.46 559.87
Horotiu Properties Limited	397.7 397.8 397.9

<b>Further Submitter</b>	<b>Submission number</b>
<i>Andrew Mowbray</i>	<i>FSI 305.24</i>
<i>Bootleg Brewery</i>	<i>FSI 264.27</i>
<i>Chorus New Zealand Limited</i>	<i>FSI 031.9</i>
<i>Cindy and Tony Young</i>	<i>FSI 221.7</i>
<i>Counties Power Limited</i>	<i>FSI 134.92</i> <i>FSI 134.20</i>
<i>Fire and Emergency New Zealand</i>	<i>FSI 114.33</i> <i>FSI 114.3</i>
<i>GD Jones</i>	<i>FSI 091.6</i> <i>FSI 091.11</i> <i>FSI 091.24</i> <i>FSI 091.33</i> <i>FSI 091.34</i> <i>FSI 091.41</i>
<i>Genesis Energy</i>	<i>FSI 345.141</i>
<i>Greig Developments No 2 Limited</i>	<i>FSI 187.9</i> <i>FSI 187.10</i> <i>FSI 187.11</i> <i>FSI 187.12</i> <i>FSI 187.13</i> <i>FSI 187.14</i>
<i>Greig Metcalfe</i>	<i>FSI 335.12</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FSI 323.34</i> <i>FSI 323.89</i> <i>FSI 323.90</i> <i>FSI 323.91</i>
<i>Horotiu Properties Limited</i>	<i>FSI 286.13</i> <i>FSI 286.14</i>
<i>Housing New Zealand Corporation</i>	<i>FSI 269.17</i> <i>FSI 269.18</i>

	397.12 397.13
Horticulture New Zealand	419.50 419.51 419.52 419.53

<i>Mercury Energy Limited</i>	FSI223.10 FSI223.23 FSI223.80 FSI386.313 FSI386.463 FSI386.545 FSI388.43 FSI388.42 FSI388.55 FSI387.112 FSI388.135 FSI388.200 FSI388.201 FSI387.288 FSI387.289 FSI387.290 FSI387.291 FSI387.292 FSI387.339 FSI387.340 FSI388.425 FSI388.496 FSI387.564 FSI387.599 FSI387.600 FSI387.738 FSI387.739 FSI387.740 FSI387.743 FSI387.744 FSI387.745 FSI387.746 FSI387.747 FSI387.748 FSI387.453 FSI387.753 FSI387.754 FSI387.755 FSI387.756 FSI387.757 FSI387.758 FSI387.759 FSI387.760 FSI387.762 FSI387.761

Housing New Zealand Corporation	749.4 749.5
Fire and Emergency New Zealand	378.45 378.46 378.47 378.49 378.50 378.70 378.71 378.72 378.73
Karen White	757.15
Kirriemuir Trustee Limited	182.7 182.10 182.11
KiwiRail Holdings Limited (KiwiRail)	986.22 986.23 986.56 986.69 986.72 986.99 986.114 986.121
Liam McGrath	367.2
McCracken Surveys Limited	943.55
Ministry of Education	781.16
New Zealand Transport Agency	742.23 742.24 742.25

	FSI 387.888 FSI 387.889 FSI 387.890 FSI 387.977 FSI 387.978 FSI 387.979 FSI 387.980 FSI 387.981 FSI 387.991 FSI 388.1027 FSI 388.1045 FSI 388.1049 FSI 387.1220 FSI 387.1504 FSI 387.1590 FSI 388.134 FSI 223.166
Middlemiss Farm Holdings Limited	FSI 330.33
Mowbray Group	FSI 289.4
New Zealand Transport Agency	FSI 202.92
NZTE Operations	FSI 339.98
Pareoranga Te Kata	FSI 035.151 FSI 035.152 FSI 035.153 FSI 035.155 FSI 035.180 FSI 035.179 FSI 035.177 FSI 035.178
Parkmere Farms	FSI 283.7
Spark New Zealand Trading Limited	FSI 033.9
T&G Global	FSI 171.34
Tamahere Eventide Home Trust- Tamahere Eventide Retirement Village (submitter 769)	FSI 004.6

	742.145 742.146 742.147 742.148 742.149 742.150 742.151 742.152 742.153 742.154
Russell Grey	333.1 333.2 333.3
Sharp Planning Solutions Ltd	695.27 695.28 695.29 695.30 695.31 695.32 695.33 695.124 695.125 695.126 695.127 695.131 695.132 695.133 695.134 695.135 695.136 695.137 695.143
The Department of Corrections	496.9
The Surveying Company	746.123 746.124 746.125 746.126 746.127 746.128 746.129 746.130 746.146 746.147
Waikato District Council	697.455

Tamahere Eventide Home Trust- Atawhai Assessi Retirement Village (submitter 765)	FSI004.10
Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)  <b>WITHDRAWN</b>	FSI108.18
The Surveying Company	FSI308.18 FSI308.84 FSI308.85 FSI308.86 FSI308.104 FSI308.114
Transpower New Zealand Limited	FSI350.101 FSI350.119 FSI350.120
Turangawaewae Trust Board	FSI139.17

	697.458 697.469 697.543 697.544 697.545 697.935 697.937 697.940 697.941 697.942 697.943 697.944 697.945 697.946 697.947 697.948 697.949 697.950 697.952 697.953 697.967 697.968 697.969 697.970 697.976 697.977 697.978 697.981 697.982 697.983 697.984 697.985 697.986 697.987 697.988 697.989 697.990 697.991 697.992
Waikato District Health Board	923.55 923.56 923.57 923.161
Waikato Regional Council	81.74 81.132

<i>Van Den Brink Group</i>	<i>FSI 193.34</i>
<i>Vineyard Road Properties Limited</i>	<i>FSI 127.12</i>
<i>Vodafone New Zealand Limited</i>	<i>FSI 032.9</i>



<i>Waikato Regional Airport Ltd</i>	<i>FSI 253.34</i>
<i>Watercare</i>	<i>FSI 176.312</i>
<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>FSI 276.55 FSI 276.56</i>

***Please refer to Appendix I to see where each submission point is addressed within this report.***

# I Introduction

## I.1 Qualifications and experience

1. My full name is Kelly Nigel Cattermole. I am employed by the Waikato District Council as a Senior Planner (Consents Team) and I am currently on a fixed-term secondment to the Policy Team.
2. I hold a Bachelor of Science (Geography Major) and a Post Graduate Diploma in Science (with Merit), both from the University of Canterbury. I am an Associate of the New Zealand Planning Institute.
3. I have been a consents planner for the last 6.5 years with the Waikato District Council (including 2 years as a Senior Planner). As a part of that role I have processed a number of subdivision and land use consents, including the bulk of the Helenslee and Hitchen Block developments in Pokeno, the Synlait Dairy Factory, the Castaways expansion, and a number of consents in both urban and rural areas.

Prior to my consent planner roles I was the PIM/Lim Officer for the Waikato District Council from October 2010 to December 2012, where I processed the planning and engineering checks for building consents, and produced LIM reports.

4. I became involved with the Proposed Waikato District Plan ('PWDP') in 2018, where I provided feedback to the Policy Team (along with other Consents Planners). Towards the end of 2018 and into the beginning of 2019 I assisted in the summarising of the original submissions and briefly assisted in the summarising of the further submissions. Aside from those items of work, I have had no other involvement in the PWDP.

## I.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

## I.3 Conflict of Interest

7. To the best of my knowledge, I confirm that I have no real or perceived conflict of interest. I have processed a number of building consents, resource consents and LIM reports over the last 9 years, however, (to the best of my knowledge) I currently have no applications in progress which are related to the submissions dealt with in this report. One of the submitters [249] does work for the Waikato District Council, but does not work within my immediate team.

## I.4 Preparation of this report

8. I am the author of this report.
9. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

10. In preparing this report I rely on expert advice sought from Council's Monitoring Team and Council's Land Development Engineering Team with regard to the submissions on earthworks and signage requirements within the Village Zone.

## 2 Scope of Report

### 2.1 Matters addressed by this report

11. Some of the provisions that are covered by this report include the following:
- Chapter 4.3 – Village Zone
  - Chapter 4.4 – Residential and Village Zones – Noise, lighting, outdoor storage, signs and odour
  - Chapter 24 – Village Zone
- insofar as they relate to land use provisions.
12. The scope of my evidence relates to evaluation of submissions and further submissions received in relation to the provisions related to the Village Zone, insofar as they relate to the land use provisions. This includes Chapter 4.4, but only insofar as they relate to the Village Zone, as the Chapter is applicable to both the Village Zone and the Residential Zone. Matters relating to the Te Kowhai Airfield and the Village Zone are not dealt with in this report, rather they are to be addressed within the Te Kowhai Airpark topic. Likewise, there are some submission points and further submission points that I am unable to provide recommendations for at the time of writing, as I do not have expert evidence available to me to address them and they fall outside my expertise and experience. Wherever possible, I have identified where these may be dealt with in other topics (i.e. once expert evidence is available).
13. The scope of this Section 42A report relates to the land use provisions and associated objectives, policies and rules within the Village Zone. The submissions with respect to Objective 4.3.1 - Village Zone character, Policies 4.3.2 – Character and 4.3.3 - Future development – Tuakau and Te Kowhai are to be dealt with in Mr Cleese's s42A report.
14. This report is prepared in accordance with section 42A of the RMA. This report considers submissions that were received by the Council in relation to the provisions covering land use provisions of the Village Zone within the Waikato Proposed District Plan. Provisions relating to management of the Village Zone include rules on activities, effects and buildings, along with the associated objectives and policies.

### 2.2 Overview of the topic / chapter

15. The Village Zone chapter addresses the Village Zone within the PWDP. This report in particular addresses the land use provisions. This Chapter also includes objectives and policies for noise, lighting, outdoor storage, signs and odour within 4.4, but only insofar as they relate to the Village Zone. The Residential Zone shall also address 4.4 within its respective s42A report.
16. The Village Zone is widely dispersed around the district, encompassing a number of existing villages that were either zoned as Village under the Operative Waikato District Plan: Franklin Section, or were zoned Living/Country Living under the Operative Waikato District Plan: Waikato Section. Some of these villages can be fairly large in size, such as Glen Afton, with approximately 160 records of title, while some go as low as 5 records of title (Te Hoe). The Village Zone also includes areas of 'tack-on' to existing villages/towns, such as Te Kowhai, Tuakau and Pokeno, which are significantly larger than the other 'villages' within the

district. For example, Te Kowhai includes approximately 130ha of Village-zoned land that was zoned either Rural or Country Living under the Operative Waikato District Plan: Waikato Section. Aerial images of Village-zoned land are as below (Images I-20).



Image I – Otatau



Image 2 - Tuakau



Image 3 - Pokeno



Image 4 - Mercer



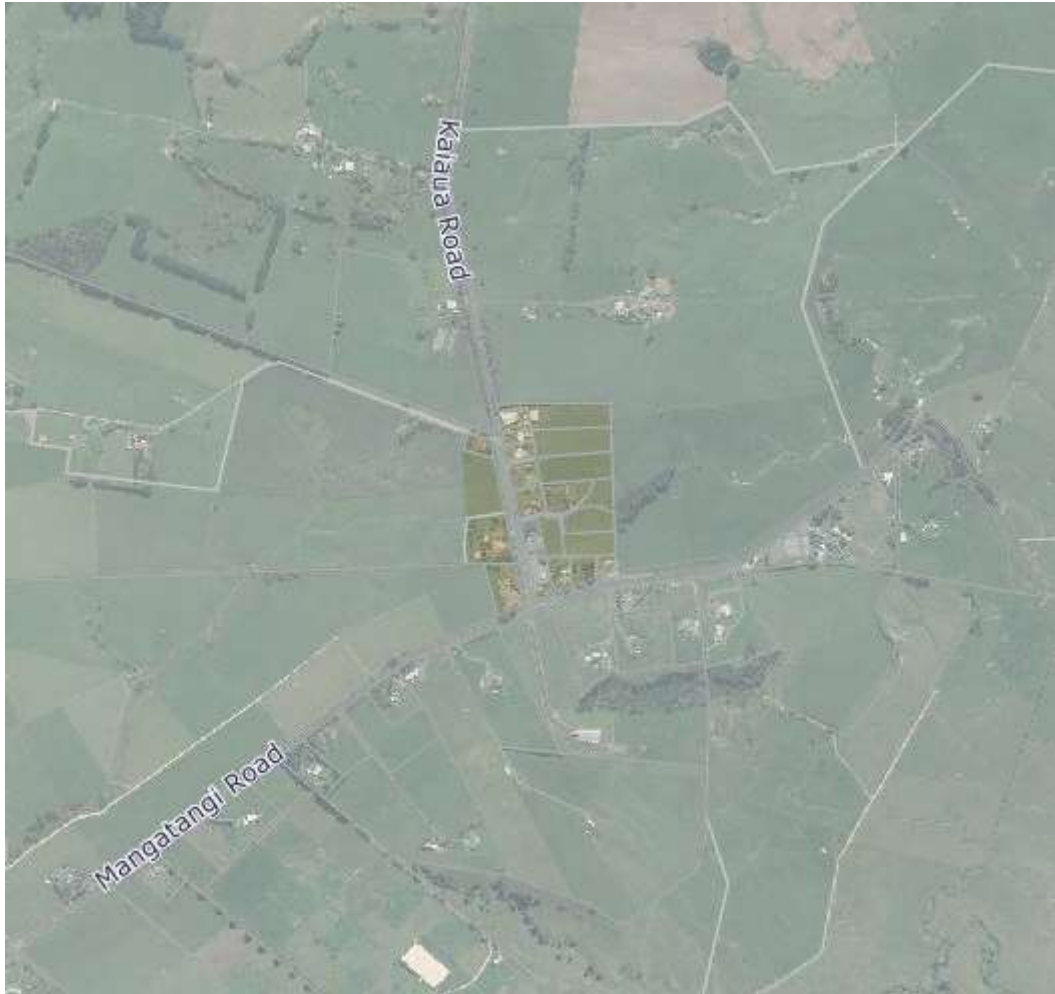


Image 5 - Mangatangi





Image 6 - Maramarua



Image 7 - Ohinewai



Image 8 - Te Hoe



Image 9 - Orini



Image 10 - Whitiakahu



Image 11 - Matangi





Image 12 – Horongarara Point



Image 13 – Te Kowhai





Image 14 – Glen Massey



Image 15 – Glen Afton



Image 16 - Waikokowai



Image 17 - Naikē



Image 18 – Port Waikato





Image 19 - Onewhero



Image 20 - Pukekawa

### 2.3 Statutory requirements

17. The statutory considerations which are relevant to the provisions and/or submissions within the scope of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019) - see paragraphs 18 - 32. The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40), and other relevant plans and strategies (paragraphs 41-45). The statutory considerations of the National Planning Standards which are relevant to the provisions and/or submissions within the scope of this report are largely set out in the s42A report for Topic 5 (paragraphs 21-24).
18. This report includes reference to and reliance on matters regarding the NPS (14 – Definitions) which have been addressed in Hearing 5.

#### 2.3.4 Waikato Regional Policy Statement

19. The Waikato Regional Policy Statement 2016 (RPS) makes numerous references in the methods identified to implement its policies relating to the use of district plan provisions to give effect to policies.

#### 2.3.5 Waikato Regional Plan

20. The Waikato Regional Plan contains policy and methods to manage the natural and physical resources of the Waikato region. The plan implements the Regional Policy Statement. Reference is made to the Waikato Regional Plan within my report with respect to maimai.

## 2.4 Application of the National Planning Standards – 14: Definitions Standard

21. The National Planning Standards ('NPS') were gazetted and came into effect on the 5<sup>th</sup> of April 2019. There are 17 standards in total, of which two standards are relevant to this report:
  - Standard 8 Zone Framework Standard
  - Standard 14 Definitions Standard
22. Standard 7 concerns the naming of zones. The Mandatory Directions in Standard 7 require that a district plan, and a combined plan with a district plan component (for areas landward of mean high water springs), must only contain the zones listed in Table 13 consistent with the description of those zones.
23. Standard 14 concerns defined terms in a Definitions List. The Mandatory Directions in Standard 14 require that, where a term used in a policy statement or plan is synonymous with a term defined in the Definitions List, local authorities must use the definition in the Definitions List.

## 2.4 Procedural matters

24. Due to the clarity of submissions, no correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.
25. No pre-hearing meetings or Clause 8AA meetings on the submissions relating to Chapter 4.3 – Village Zone, 4.4 - Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour and 24 – Village Zone were held prior to the finalisation of this s42A report.
26. No further consultation with any parties regarding Chapter 4.3 – Village Zone, 4.4- Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour and 24 – Village Zone has been undertaken since notification of the provisions.

# 3 Consideration of submissions received

## 3.1 Overview of submissions

27. There are 171 original submissions that will be addressed within this report, out of a total of 266 original submissions concerning the Village Zone. The submissions dealt with in this report cover a wide range of matters, although there are some matters which are subject to a number of submissions and/or contain common themes:
  - Emergency service facilities – submissions seeking objectives, policies and provisions to cater for these activities.
  - Retirement villages – submissions seeking policies and provisions for retirement villages and additions/alterations to existing retirement villages as a permitted activity.
  - Reverse sensitivity – policies and setbacks to account for reverse sensitivity.
  - Crime Prevention Through Environmental Design (CPTED) requirements – policies and provisions requiring compliance with national guidelines for CPTED.

- Earthworks provisions – submissions seeking to remove setback requirements from boundaries, overland flow paths, waterways, open drains, increase maximum earthworks volume and fill depth, change the way that the earthworks volume per site is calculated, and requests to delete the non-complying activity status for cleanfill.
- Sign provisions – submissions seeking to exclude any type of signage on Heritage Items and Maaori Sites of Significance, change the number, size and durations of real estate signs, changes to the rules for signs directed at traffic, including provision for level rail crossings.
- New Zealand Electrical Code of Practice (NZECP34:2001) – submissions seeking that dwellings and minor dwellings account for NZECP34:2001.
- Building height and daylight admission – a number of submissions seeking amendments to the daylight angle and height, how height is measured and special criteria for building height in Raglan.
- Building coverage – submissions seeking changes to the maximum building coverage and changes to the requirements for public reticulation/water supply.
- Road setbacks – seeking changes to the road setback; including indicative roads and setbacks from state highways and how indicative roads are dealt with once formed.
- Building setbacks – submissions seeking to include new setbacks from the Rural Zone, intensive farming activities, railway corridors and duplication of Transpower rules from Chapter 14.
- Setbacks from waterbodies – submissions seeking to include minimum size restrictions on features before the setback is triggered, exclusions for maimai and that only named rivers/streams are to be considered within the rule.
- A number of submission points that seek to address drafting errors and/or similar grammatical/consistency errors.

28. There are 126 further submissions that will be addressed within this report. The majority of these relate to original submissions on the common themes above, with the exception of Mercury Energy Limited, who have made further submissions on a wide range of original submissions. 'All of Plan' submissions have been addressed in Hearing Report H2, which can be located on the council website link below, or found under Proposed DP, Stage 1, Hearings, Hearing 2, Council s42a report.

Hearing 2 report - Plan Structure and All of Plan

From my understanding, there are no submissions within hearing topics 1-4 (as of the time of writing) that need to be specifically addressed as a part of this report. I refer in this report to relevant parts of the Hearing 5 (Definitions) hearing report.

29. While the report addresses each original and further submission point in turn throughout the report, I have decided to address the further submission points from Mercury Energy Limited here to avoid duplication. The further submission from Mercury opposes multiple submissions, as Mercury considers that it is necessary to analyse the results of the flood hazard assessment prior to designing the district plan policy framework.

This matter was addressed as a part of the s42A for Topic 2, with the s42A author stating;

*I agree with the thrust of the above submission points, and the further submissions from Mercury, that ideally Stage 1 and 2 PWDP matters would have proceeded as an integrated whole. However, given that Waikato District Council has proceeded with a two stage PWDP process it would now be very inefficient and costly for all parties if Stage 1 of the PWDP was*



*withdrawn or entirely placed on hold pending progress of Stage 2 matters. 47. Nevertheless, it is critical that the remainder of the process ensures that decisions are made in an integrated manner on Stage 1 zoning requests and other growth matters to which Stage 2 matters are fundamental. 48. In that regard, I am advised by Council staff that the intention is to notify Stage 2 provisions in early 2020 with the associated hearings to be held in early 2021. Stage 2 submissions will be able to be heard in conjunction with Stage 1 submissions featuring zoning requests and other growth matters to which Stage 2 matters are germane. In my view, that arrangement is an effective mechanism and avoids the risk of acting in terms of making decisions on Stage 1 zoning and growth related submissions in the light of incomplete information. If the hearing for Stages 1 and 2 dovetailed, a single comprehensive decision would be possible where decisions on Stage 1 are cognisant of Stage 2 provisions and submissions.*

30. I agree with the comments made by that author and subsequently, I have made recommendations to reflect this where each further submission by Mercury Energy Limited has been made to the relevant submissions within this topic and therefore no specific analysis on their further submissions has been made.

### 3.2 Structure of this report

31. This report is structured in the same order that the matters are aligned to within the PWDP (i.e. objectives and policies are addressed first and then rule provisions). Given the number, nature and extent of the submissions and further submissions received, I have structured the Section 42A report in the order that it appears within the PWDP, with an exception where rules can be clustered and addressed together due to their interconnectedness (such as building height and daylight admission).

## 4 Topic I: Section 4.1 – Village - Objectives and policies

### 4.1 Section 4.3 Village Zone – Amendment - Non-residential activities

#### Introduction

32. Policy (4.3.12) seeks to ensure that the design and scope of non-residential activities and associated buildings maintains residential character, and to mitigate a range of adverse effects that may occur on Village character, amenity and the surrounding transport network. The relevant objective (4.3.1) seeks to maintain the character of the Village Zone.

#### Submissions

The following submission was made:

Submission point	Submitter	Summary of submission
378.70	Fire and Emergency New Zealand	Add a new objective in 4.3: <u>To recognise and provide for non-residential activities that contribute to the health, safety and wellbeing of the community while managing their potential adverse effects to ensure that the activities complement the amenity values of the District's</u>

		<u>Village Zone areas.</u>  AND  Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1035.177	Pareoranga Te Kata	Support submission 378.70

## Analysis

33. Fire and Emergency New Zealand requests recognition for some non-residential activities that contribute to the health, safety and wellbeing of the community. It is my opinion that there could be benefit in this objective or similar wording being contained with Chapter 6 and subsequent provisions (dealt with elsewhere in my report) within Chapter 14, rather than individual zone chapters. If the matter is not within scope of the submissions, then I have provided the analysis below:
34. I agree with the reasoning provided with the submission of Fire and Emergency New Zealand [378.50]. While 4.3 does include an objective (4.3.4) that deals with residential amenity values and associated policies 4.3.11/4.3.12, it does not reflect the need for services (such as the fire service) to be located within the Village Zone. The proposed new objective could be added to Objective 4.3.4 as new para 4.3.4 (b).
35. The location of non-residential activities within a residential-type zone has potential adverse effects, as it may draw activities away from more appropriate locations (such as the main street of a town/village). In this case, the non-residential activities specified in the amendments are those that contribute to health, safety and wellbeing, and would therefore be limited to the likes of health care, churches and emergency services, although, it could extend to the likes of sports club rooms (with bars), charity shops and sizeable childcare centres. Accordingly, it is appropriate to restrict the proposed amendment to be solely emergency service activities.
36. There is also the potential for adverse effects to occur (e.g. traffic generation, noise, visual and their impact on the amenity of the Village Zone), however, the wording of the amendment includes *‘while managing their potential adverse effects to ensure that the activities complement the amenity values of the District’s Village Zone areas’*. Notified Policy 4.3.12 (a)(ii) also considers the potential adverse effects that may be generated by non-residential activities (below), and it is my opinion that the proposed amendments will also be supported by this policy.

### **4.3.12 Policy – Non-residential activities**

(a) *Ensure that the design and scope of non-residential activities and associated buildings:*

- (i) *Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle manoeuvring areas; and*
- (ii) *Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on Village Zone character and amenity, and the surrounding transport network.*

37. There is a potential adverse effect, in that the submitted amendment to Objective 4.3.4 may create a proliferation of non-residential in a particular locality within the Village Zone. In my

opinion this is unlikely to arise, as there is a limited number of activities that would fit within the scope of ‘health, safety and wellbeing of the community’, and generally it would be unlikely for someone to create more facilities than necessary (i.e. it is illogical to have multiple fire stations that cover the same Village-zoned catchment). In addition, Policy 4.3.11 (a) restricts the establishment of activities unless those activities have:

*...a strategic or operational need to locate within the Village Zone, and the effects of such activities on the character and amenity are insignificant.*

I note that the notified version of this policy is restricted to commercial or industrial activities, however the submitter also seeks to amend this to include ‘non-residential’, and this is dealt with elsewhere in my report.

38. There are potential positive effects in allowing such services to locate in Village-zoned areas as (in the example of a fire station), it provides for localities that will result in better response times for emergency services and allows for better sourcing of volunteers/staff for such operations. Accordingly, it may provide opportunities for employment as well. It will also likely result in less travel time for an emergency service operator and therefore less wear and tear on the vehicles (including those of staff/volunteers) and on the road network itself, along with reduced fuel costs. The same positive effects are likely to occur with the likes of a church activity.
39. The practical effect of the change to the objectives and policy will be to support resource consent applications for the establishment non-residential activities in the Village Zone. These activities will not necessarily be permitted in the rules. The assessment and management of any adverse effects on amenity can be exercised through the resource consent process.
40. It is my opinion that the proposed objective needs to relate to Policy 4.3.12 and as such, the wording would be better if it were added to Objective 4.3.4 and restricted to emergency service facilities. I also recommend the use of the term ‘neighbourhood’ rather than ‘district’s Village Zone areas’, to be consistent with the Objective 4.3.4 (a).
41. With respect to the further submission Pareoranga Te Kata [FS1035.177], it appears to be on the basis that a Statement of Performance Expectation is obtained which is a financial report produced by Fire and Emergency New Zealand. I do not see the relevance of this document to the original submission point and is in my opinion, out of scope. This does not however change my recommendation. I note that this response from the submitter is fairly generic across their further submission points and as such, I do not intend to replicate these comments elsewhere in my report where they would be applicable.

### **Recommendation**

42. I recommend, for the reasons given above, that the Hearings Panel:
  - Accept in part Fire and Emergency New Zealand submission point [378.70] and Pareoranga Te Kata further submission [FS1035.177].

### **Recommended amendments**

43. The following amendments are recommended:

#### 4.3.4 Objective – Village built form and amenity

- (a) Neighbourhood residential amenity values in the Village Zone are maintained.

- (b) To recognise and provide for emergency service activities that contribute to the health, safety and wellbeing of the community while managing their potential adverse effects to ensure that the activities complement the amenity values of the neighbourhood.

### Section 32AA evaluation

44. The following points evaluate the recommended change under Section 32AA of the RMA.

### Purpose of the RMA and comparison with any relevant existing objectives in the PWDP

45. The recommended amendment to Objective 4.3 gives effect to Part 2 (5) of the RMA, in particular, as it will enable people and communities to provide for their safety. As such, it more readily achieves the purpose of the RMA when compared to the notified version. I note that notified objective 4.4.1 already contains the words 'health and well-being' so the amendment goes hand-in-hand with the notified wording.

### Decision about most appropriate option

46. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### 4.1.1 Section 4.3 - Village Zone – Amendment - Retirement Villages

#### Introduction

47. Rule 16.1.2 provides for retirement villages in the Residential Zone (starting as a permitted activity), Rule 16.5.2 in the Lakeside Comprehensive Subdivision Consent (starting as a Restricted Discretionary activity) and in the Country Living Zone as a Non-Complying activity (Rule 23.1.3). Retirement Villages are not specifically provided for in the Village Zone.

#### Submissions

Submission point	Submitter	Summary of submission
697.545	Waikato District Council	<p>Add to Chapter 4.3 new policies:</p> <p><u>4.3.16 Policy – Outdoor living court – Retirement villages</u></p> <p><u>(a) Require outdoor living courts or communal outdoor living courts to be usable and accessible.</u></p> <p><u>4.3.17 Policy – Retirement villages</u></p> <p><u>(a) Provide for the establishment of new retirement villages and care facilities that:</u></p> <p><u>(i) Offer a diverse range of housing types, including care facilities, for the particular needs and characteristics of older people;</u></p> <p><u>(ii) Promote visual integration with the street scene, neighbourhoods and adjoining sites;</u></p> <p><u>(iii) Are comprehensively designed and managed and offer a variety of accommodation and accessory services</u></p>

		<p><u>that meet the needs of residents, including those requiring care or assisted living;</u></p> <p><u>(iv) Housing and care facilities for older people can require higher densities;</u></p> <p><u>(v) Provide high quality on-site amenity; and</u></p> <p><u>(vi) Integrate with local services and facilities, including public transport.</u></p> <p><u>(b) Enable alterations and additions to existing retirement villages that:</u></p> <p><u>(i) Promote visual integration with the street scene, neighbourhoods and adjoining sites;</u></p> <p><u>(ii) Recognise that housing and care facilities for older people can require higher densities;</u></p> <p><u>(iii) Provide high quality on-site amenity; and</u></p> <p><u>(iv) Integrate with local services and facilities, including public transport and alternative transport modes.</u></p>
FS1387.600	Mercury Energy Limited	Oppose submission 697.545
FS1004.6	Tamahere Eventide Home Trust-Tamahere Eventide Retirement Village (submitter 769)	Support submission 697.545
FS1004.10	Tamahere Eventide Home Trust-Atawhai Assessi Retirement Village (submitter 765)	Support submission 697.545
697.458	Waikato District Council	<p>Add new provisions to Chapter 24 Village Zone allowing for new retirement villages to be established as a permitted activity;</p> <p>AND</p> <p>Add provisions for alterations and additions to existing retirement villages as a Permitted Activity;</p> <p>AND</p> <p>Add new policies similar to Policies 4.2.19 and 4.2.13 (Residential Zone) to Chapter 4 Urban Environment to support the proposed provisions. □</p>
FS1387.564	Mercury Energy Limited	Oppose submission 697.458
FS1335.12	Greig Metcalfe	Support submission 697.458
697.942	Waikato District Council	<p>Add a new activity to Rule 24.1.1 after P8 for retirement villages, as follows:</p> <p><u>A new retirement village or alterations to an existing retirement village:</u></p> <p>Activity-Specific Conditions:</p> <p><u>(a) The site or combination of sites where the retirement village is proposed to be located has</u></p>

		<p><u>a minimum net site area of 3ha;</u></p> <p><u>(b) The site is either serviced by or within 400m walking distance of public transport;</u></p> <p><u>(c) The site is connected to public water and wastewater infrastructure;</u></p> <p><u>(d) Minimum living court or balcony area and dimensions:</u></p> <p><u>(i) Apartment – 10m<sup>2</sup> area with minimum dimension horizontal and vertical of 2.5m;</u></p> <p><u>(ii) Studio unit or 1 bedroom unit – 12.5m<sup>2</sup> area with minimum dimension horizontal and vertical of 2.5m; or</u></p> <p><u>(iii) 2 or more bedroomed unit – 15m<sup>2</sup> area with minimum dimension horizontal and vertical of 2.5m;</u></p> <p><u>(e) Minimum service court is either:</u></p> <p><u>(i) Apartment – Communal outdoor space (ie no individual service courts required) of at least 5m<sup>2</sup> with a minimum dimension of 1.5 metres for each apartment; or</u></p> <p><u>(ii) All other units – 10m<sup>2</sup> with a minimum dimension of 1.5 metres for each unit;</u></p> <p><u>(f) Building height does not exceed 8m, except for 15% of the total building coverage, where buildings may be up to 10m high;</u></p> <p><u>(g) The following Land Use – Effects rule in Rule 24.2 does not apply:</u></p> <p><u>(i) Rule 24.2.7 (Signs);</u></p> <p><u>(h) The following Land Use – Building rules in Rule 24.3 do not apply:</u></p> <p><u>(i) Rule 24.3.1 (Dwelling);</u></p> <p><u>(ii) Rule 24.3.3 (Building Height);</u></p> <p><u>(i) The following Infrastructure and Energy rule in Chapter 14 does not apply:</u></p> <p><u>(i) Rule 14.12.1 P4(1)(a) (Traffic generation).</u></p>
FS1387.744	Mercury Energy Limited	Oppose submission 697.942
FS1187.11	Greig Developments No 2 Limited	Support submission 697.942
FS1308.114	The Surveying Company	Support submission 697.942
602.46	Grieg Metcalfe	<p>Add a new rule to Rule 24.1.1 Permitted Activities for "A new retirement village or alterations to an existing retirement village" and appropriate activity-specific conditions.</p> <p>And</p> <p>Appropriate activity-specific conditions (these are not specified in the submission).</p> <p>And</p>

		Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1388.1045	Mercury Energy Limited	Oppose submission 602.46
FS1187.9	Greig Developments No 2 Limited	Support submission 602.46
FS1308.84	The Surveying Company	Support submission 602.46
689.17	Greig Developments No 2 Limited	An amendment to Rule 24.1.1 – Permitted Activities, with the addition of a rule as follows: <u>A new retirement village or alterations to an existing retirement village</u>
FS1387.289	Mercury Energy Limited	Oppose submission 689.17
746.124	The Surveying Company	The addition to Rule 24.1.1 for a new activity as follows: <u>A new retirement village or alterations to an existing retirement village</u>
FS1387.978	Mercury Energy Limited	Oppose submission 746.124

48. Waikato District Council [697.545], [697.458] seeks inclusion of policies to support the provision of retirement villages within the Village Zone. Further submitters Tamahere Eventide Home Trust-Tamahere Eventide Retirement Village (submitter 769) [FS1004.6] and Tamahere Eventide Home Trust-Atawhai Assessi Retirement Village (submitter 765) [FS1004.10] support [697.545], while Greig Metcalfe [FS1335.12] supports [697.458].
49. Waikato District Council [697.458], [697.942], Greig Metcalfe [602.46], Greig Developments No 2 Limited [689.17] and The Surveying Company [746.124] all seek that a new retirement village or alterations to an existing retirement village be provided for as a permitted activity. These submissions are supported by a number of further submissions, with [697.942] supported by Greig Developments No 2 Limited [FS1187.111] and The Surveying Company [FS1308.114]. [602.46] is supported by Greig Developments No 2 Limited [FS1187.9] and The Surveying Company [FS1308.84].
50. The submissions (including further submissions in support) generally note that retirement villages are not provided for in the Village Zone but are an appropriate land use. The submitters say that retirement villages are appropriate, given the demand for such facilities, provide a range of housing options for older persons, and that they should be provided for on the boundaries of towns and villages, provided they can be serviced by infrastructure. While I agree that they provide a range of housing options for older persons, it is my opinion that the character and amenity of a retirement village may have wider impacts on the character and amenity of the Village-zoned area. It is likely that the density of a retirement village would be far higher than that of the Village Zone (either serviced or unserviced). For example, the retirement village in Village Place in Tuakau has unit title sizes which vary from approximately 230m<sup>2</sup> to 400m<sup>2</sup> in size. This may then cause conflict with a number of notified objectives and policies contained within Chapter 4.3, in particular, objective 4.3.1 and policy 4.3.2 (given the recommendations by Mr Cleese) and with Chapter 4.1 (Objective 4.1.7 and Policy 4.1.16). It may also give rise to significant adverse traffic effects, and while I note that people in retirement homes are generally less inclined to own private vehicles or use public transport in lieu of private vehicle use, that does not preclude

the potential impact that may occur, further noting that the retirement village provision sought has no maximum limits that would apply to it. Any significant amount of traffic may in turn have impacts upon the amenity of the Village Zone in that locality and as before, may not align with the notified objectives and policies within Chapter 4.3.

51. Having retirement villages as a permitted activity may also give rise to undesirable applications of the permitted baseline (I do note that it is at the discretion of the consent authority to apply the permitted baseline or not). This could include its use on proposals such as high density residential activities within the Village Zone.
52. A retirement village of this density may be at odds with objectives and policies for the Village Zone (such as Objective 4.3.4). The wording of the policy sought in submission [697.545] states:

4.3.17 Policy – Retirement villages

(a) Provide for the establishment of new retirement villages and care facilities that:

...

(ii) Promote visual integration with the street scene, neighbourhoods and adjoining sites;

...

(v) Provide high quality on-site amenity; and

53. There do not appear to be any requirements in the proposed Rule in submission point [697.942], with the exception of building height. I am uncertain as to how feasible it would be that a retirement village of a higher density visually integrate with the street scene, neighbourhoods and adjoining sites.
54. On the other hand, the likely density that would arise from a retirement village would be far more compatible with the Residential Zone. If there are concerns on the availability of 3ha+ vacant sites within the Residential Zone, it could be a consideration for the zone extents/rezone topic to include enough Residential-zoned land that would be suitable for retirement villages to be established on.
- Mercury Energy Limited oppose a number of the submission points above - [FS1387.564], [FS1387.744], [FS1388.1045], [FS1387.289], [FS1387.978]. I have addressed the Mercury Energy Limited in the introduction section of my report.

## Recommendations

55. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Waikato District Council submission point [697.458] and Greig Metcalfe further submission point [FS1335.12] and Mercury Energy Limited further submission point [FS1387.564].
  - Reject Waikato District Council submission point [697.545]
  - Reject Mercury Energy Limited further submission point [FS1387.600]
  - Reject Tamahere Eventide Home Trust-Tamahere Eventide Retirement Village (submitter 769) further submission point [FS1004.6]
  - Reject Tamahere Eventide Home Trust-Atawhai Assessi Retirement Village (submitter 765) further submission point [FS1004.10].



- Reject Waikato District Council submission point [697.942], reject Mercury Energy Limited further submission point [FS/387.744], reject Greig Developments No 2 Limited further submission point [FS/187.111] and The Surveying Company further submission point [FS/308.114]
- Reject Grieg Metcalfe submission point [602.46], reject Mercury Energy Limited further submission point [FS/388.1045], reject Greig Developments No 2 Limited further submission point [FS/187.9] and The Surveying Company further submission point [FS/308.84]
- Reject Greig Developments No 2 Limited submission point [689.17] and reject Mercury Energy Limited further submission point [FS/387.289]
- Reject The Surveying Company submission point [746.124] and reject Mercury Energy Limited further submission point [FS/387.978].

### Recommended amendments

56. There are no changes recommended in response to these submissions.

### Section 32AA evaluation

57. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.1.2 Section 4.3 - Village Zone – Retention – All objectives and policies as notified

#### Submissions

58. The following submission points were made:

Submission point	Submitter	Summary of submission
749.4	Housing New Zealand Corporation	Retain all objectives and policies of the Village Zone as notified.
FS/387.991	Mercury Energy Limited	Oppose submission 749.4

#### Analysis

59. Housing New Zealand Corporation [749.4] seeks the retention of all objectives and policies as notified although no reasons were provided. I have recommended that objectives and policies be amended for the Village Zone. Mercury Energy Limited [FS/387.991] oppose the submission.

#### Recommendations

60. I recommend, for the reasons given above, that the Hearings Panel:

- Accept in part Housing New Zealand Corporation submission point [749.4]
- Reject Mercury Energy Limited further submission point [1387.991].

### Recommended amendments

61. No amendments are required.

### Section 32AA evaluation

62. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.1.3 Section 4.3 - Village Zone – Amendment - Policy – 4.3.5 - Building setbacks

#### Introduction

63. The reason for Policy 4.3.5(a) is to ensure that that the new front and side setback policies will increase opportunities for views to the rural hinterlands beyond, reducing the domination of driveways and car parking. Over time this will benefit the site owners and also the wider street and area. This is supported by the side and front yard setbacks under Rule 24.3.6.1.

#### Submissions

64. The following submission points were made:

Submission point	Submitter	Summary of submission
695.27	Sharp Planning Solutions Ltd	Amend Policy 4.3.5(a) Building setbacks as follows: (a) Maintain existing and promote <del>new</del> <u>new</u> vistas and views between <u>new</u> buildings in the Village Zone when viewed from a road.
986.72	KiwiRail Holdings Limited (KiwiRail)	Add a new clause (b) to Policy 4.3.5 Building setbacks as follows (or similar amendments to achieve the requested relief): (a) Maintain existing and promote new vistas and views between buildings in the Village Zone when viewed from a road. (b) <u>Manage Reverse sensitivity by providing sufficient setbacks buildings to provide for residents' safety and amenity.</u>  AND Any consequential amendments to link and/or accommodate the requested changes.
FSI 193.34	Van Den Brink Group	Oppose submission 986.72

#### Analysis

65. Sharp Planning Solutions Ltd [695.27] requests amended wording to Policy 4.3.5(a) to improve the wording. I agree with the recommended amendments for the reasons outlined in the submission, and recommend that the submission be accepted.

66. KiwiRail Holdings Limited (KiwiRail) [986.72] requests amended wording to Policy 4.3.5, with a new clause regarding reverse sensitivity. It is my opinion that notified objective 6.1.6 and policy 6.1.7 sufficiently address reverse sensitivity around infrastructure and the amendment sought is not required.

### Recommendations

67. I recommend, for the reasons given above, that the Hearings Panel:
- Accept Sharp Planning Solutions Ltd submission point [695.27]
  - Reject KiwiRail Holdings Limited (KiwiRail) submission point [986.72] and accept Van Den Brink Group further submission point [FS1/93.34].

### Recommended amendments

68. The following amendments are recommended:
- 4.3.5 Policy – Building setbacks
- (a) Maintain existing and promote ~~new~~ vistas and views between new buildings in the Village Zone when viewed from a road.

### Section 32AA evaluation

69. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the policy. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.1.4 Section 4.3 - Village Zone – Amendment - Policy 4.3.6 - Front setback character

#### Introduction

70. Policy 4.3.6 seeks to maintain the existing character of streets. This is reflected in Rule 24.3.6.1 – Building setbacks – All boundaries and the associated matters of discretion under 24.3.6.1 RDI.

#### Submissions

71. The following submission points were made:

Submission point	Submitter	Summary of submission
697.543	Waikato District Council	Amend Policy 4.3.6(a) Front setback character as follows: Maintain the existing <u>open and unbuilt</u> character of streets <u>through the use of setbacks</u> .
695.28	Sharp Planning Solutions Ltd	Amend Policy 4.3.6(a) Front setback character to consider new/anticipated development.

## Analysis

72. Waikato District Council [697.543] requests amended wording to Policy 4.3.6(a). The amendment clarifies that the front setback character is to maintain the open/unbuilt area of the street (i.e. between buildings and the road boundary). I agree with the submission point reasoning and recommend that it be accepted.
73. Sharp Planning Solutions Ltd [695.28] requests amended wording to Policy 4.3.6(a). The submission makes reference to the use of the Pokeno Design Guide for the Pokeno Village. It is my opinion that the clarification contained within the submission by Waikato District Council [697.543] means that the changes sought are not required. In addition, the only design guide which is relevant to the Village Zone is the Matangi Heritage Precinct Design Guide, which has its own policy (7.1.4).

## Recommendations

74. I recommend, for the reasons given above, that the Hearings Panel:
- Accept Waikato District Council submission point [697.543]
  - Reject Sharp Planning Solutions Ltd submission point [695.28].

## Recommended amendments

75. The following amendments are recommended:

### **4.3.6 Policy – Front setback character**

- (a) Maintain the existing open and unbuilt character of streets through the use of setbacks.

## Section 32AA evaluation

76. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the policy. Accordingly, no s32AA evaluation has been required to be undertaken.

## **4.1.5 Section 4.3 - Village Zone – Amendment - Policy 4.3.7 - Excessive building scale**

### Introduction

77. Policy 4.3.7 seeks to only allow for development to exceed height, bulk and form where it is in keeping with the amenity values of the street. While there are rules that relate to this policy (such as 24.3.3 - Height, 24.3.4 – Daylight admission, 24.3.5 – Building coverage and 24.3.6 – Building setbacks), the rules do not appear to explicitly allow the policy to occur in its notified wording.

## Submissions

78. The following submission points were made:

Submission point	Submitter	Summary of submission
695.29	Sharp Planning Solutions Ltd	Amend Rule 4.3.7(a) Excessive building scale as follows: <del>Enable</del> <u>Development shall only</u> exceed height, bulk and form only where it is in keeping with <u>and does not detract from</u> the amenity values of the street <u>which are existing and (where a design guide is available) any development proposal balances the anticipated amenity values with those which are existing.</u>

## Analysis

79. Sharp Planning Solutions Ltd [695.29] requests amended wording to Policy 4.3.7(a). I partially agree with the amendments sought, as the term ‘enable’ would require rules to be exempt from building height, bulk and form where they are in keeping with the amenity values of the street and there are no such rules to that effect. I disagree with the second half of the amendments sought “*...which are existing and (where a design guide is available) any development proposal balances the anticipated amenity values with those which are existing.*” as it is implied that the amenity values of the street are those that already exist. The only design guide which is relevant to the Village Zone is the Matangi Heritage Precinct Design Guide, which has its own policy (7.1.4).

80. Policy 4.3.2 sets out what the anticipated character is.

## Recommendation

81. I recommend, for the reasons given above, that the Hearings Panel:

- Accept in part Sharp Planning Solutions Ltd submission point [695.29].

## Recommended amendments

82. The following amendments are recommended:

4.3.7 Policy – Excessive building scale

(a) ~~Enable~~ Development shall only exceed height, bulk and form only where it is in keeping with and does not detract from the amenity values of the street.

## Section 32AA evaluation

83. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the policy and to have the policy written in the correct tense. Accordingly, no s32AA evaluation has been required to be undertaken.

#### 4.1.6 Section 4.3 - Village Zone – Amendment - Policy 4.3.8 - Residential amenity and function

##### Introduction

84. Policy 4.3.8 seeks to limit non-residential activities in the Village Zone, except where they have a functional need to locate there or provide for the health and well-being of the community. The s32 assessment has character, amenity and function as Issue 1 and states:

*“Recognise the different character of the Village Zone, through open space amenity, location and servicing opportunities and constraints” and “Maintenance of amenity values and a pattern of development consistent with the expectations of inhabitants is important and if not carefully managed results in the detriment of the character and amenity of the zone. During this review it was considered appropriate to support non-residential activities within the Village Zone which may be beneficial to the community”.*

This is reflected in Rule 24.1.1 – Land Use – Activities – Permitted Activities.

##### Submissions

85. The following submission points were made:

Submission point	Submitter	Summary of submission
378.71	Fire and Emergency New Zealand	<p>Retain Policy 4.3.8 Residential amenity and function, to the extent that the provision anticipates non-residential activities in the Village Zone</p> <p>AND</p> <p>Amend Policy 4.3.8(ii)- Residential amenity and function as follows:</p> <p>(a) Limit the establishment of non-residential activities in the Village Zone except where:</p> <p>(i) They have a functional need to locate within the Village Zone; or</p> <p>(ii) Provide for the health, <u>safety</u> and well-being of the community.</p> <p>AND</p> <p>Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.</p>
FS1035.178	Pareoranga Te Kata	Support submission 378.71
923.55	Waikato District Health Board	<p>Amend Policy 4.3.8 (a) (ii)- Residential Amenity and Function as follows:</p> <p>(a) Limit the establishment of non-residential activities in the Village Zone except where:</p> <p>(i) They have a functional need to locate within the Village Zone; or</p> <p>(ii) Provide for the health, <u>safety</u> and well-being of the community.</p>

## Analysis

86. Fire and Emergency New Zealand [378.71] and Waikato District Health Board [923.55] both request that the term 'safety' be included in Policy 4.3.8 (ii) as it achieves better the purpose of the RMA by providing for the health and safety of people and communities. I agree with both submissions as the amended wording will align better with Part 2 of the RMA. Fire and Emergency New Zealand also state that the amendment will provide clear direction in relation to the appropriateness of some non-residential activities in the Village Zone - for instance providing for emergency services that have a functional and operational need to be located in close proximity to the communities they serve and I agree with these comments.

## Recommendations

87. I recommend, for the reasons given above, that the Hearings Panel:
- Accept Fire and Emergency New Zealand submission point [378.71] and Pareoranga Te Kata further submission point [FS1035.178].
  - Accept Waikato District Health Board submission point [923.55].

## Recommended amendments

88. The following amendments are recommended:

### 4.3.8 Policy – Residential amenity and function

- (a) Limit the establishment of non-residential activities in the Village Zone except where:
- (i) They have a functional need to locate within the Village Zone; or
  - (ii) Provide for the health, safety and well-being of the community.

## Section 32AA evaluation

89. The proposed amendment to Policy 4.3.8 goes in tandem with the amendments to Objective 4.3.4, which has been evaluated in detail previously. It is my opinion that the evaluation undertaken there is also applicable here and as such, shall not be repeated.

### 4.1.7 Section 4.3 - Village Zone – Amendment -Policy 4.3.11 - Maintain residential function

#### Introduction

90. Policy 4.3.11 seeks to restrict the establishment of commercial/industrial activities, unless it has an operational/strategic need to locate there and the character/amenity effects are insignificant. The s32 assessment has character, amenity and function as Issue 1 and states:

*“Maintenance of amenity values and a pattern of development consistent with the expectations of inhabitants is important and if not carefully managed results in the detriment of the character and amenity of the zone.*

This is reflected in Rule 24.1.1 – Land Use – Activities – Permitted Activities.

## Submissions

91. The following submission points were made:

Submission point	Submitter	Summary of submission
378.72	Fire and Emergency New Zealand	Retain Policy 4.3.11 Maintain residential function, to the extent that these provisions anticipate non-residential activities in the Village Zone AND Amend Policy 4.3.11 Maintain residential function as follows: (a) Restrict the establishment of <u>non-residential commercial or industrial</u> activities, unless the activity has a strategic or operational need to locate within the Village Zone, and the effects of such activities on the character and amenity are insignificant. AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1388.55</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 378.72</i>
<i>FS1035.179</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.72</i>
697.544	Waikato District Council	Amend Policy 4.3.11(a) Maintain residential function as follows: Restrict the establishment of commercial or industrial activities, unless the activity has a strategic or operational need to locate within the Village Zone, and <u>not compromise the effects of such activities on the character and amenity of the Village Zones are insignificant.</u>
<i>FS1387.599</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.544</i>
81.132	Waikato Regional Council	Retain Policy 4.3.11 as notified
<i>FS1223.23</i>	<i>Mercury Energy Limited</i>	<i>Support submission 81.132</i>
<i>FS1223.166</i>	<i>Mercury Energy Limited</i>	<i>Support submission 81.132</i>
923.56	Waikato District Health Board	Retain Policy 4.3.11 as notified
<i>FS1387.1504</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 923.56</i>

## Analysis

92. Fire and Emergency New Zealand [378.72] requests an amendment to Policy 4.3.11 to replace the wording "...commercial or industrial..." with "non-residential". In the submitter's view, the proposed amendment would provide clear direction in relation to the appropriateness of some non-residential activities in the Village Zone. For instance, providing



for emergency services that have a functional and operational need to be located in close proximity to the communities they serve. I note that the term 'non-residential' is not contained within the Waikato Regional Policy Statement and as such, the use of this term would not align, despite the fact that it could be assumed that 'non-residential' would incorporate commercial or industrial. Despite this, I acknowledge that the current wording of this policy does not make allowance for the likes of emergency services.

93. It may be preferable that specific policies for non-residential activities (e.g. fire services) be contained within Chapter 6.
94. Waikato District Council [697.544] requests amendments to Policy 4.3.11 for clarification purposes. I generally agree with the amendments sought, as they result in better wording for the Policy but disagree with the term 'Village Zone' and rather, recommend the term 'neighbourhood' so as to be consistent with Objective 4.3.4. It may be desirable (as a consequential amendment) to move 4.3.11 to become (b) under 4.3.8, to bring related policies together.
95. I note that the Waikato Regional Council [81.132] and the Waikato District Health Board [923.56] both seek to retain Policy 4.3.11 as notified, however I have agreed with submissions seeking amendments to this policy as per my comments above.

### Recommendations

96. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Fire and Emergency New Zealand submission point [378.72], reject Mercury Energy Limited further submission point [FS/035.178] and accept in part Pareoranga Te Kata further submission point [FS/035.179].
  - Accept in part Waikato District Council submission point [697.544] and reject Mercury Energy Limited further submission point [FS/387.599].
  - Accept in part Waikato Regional Council submission point [81.132] and reject Mercury Energy Limited further submission points [FS/223.23] and [FS/223.166].
  - Accept in part Waikato District Health Board submission point [923.56] and reject Mercury Energy Limited further submission point [FS/387.1504].

### Recommended amendments

97. The following amendments are recommended:

#### 4.3.11 – Maintain residential function

Restrict the establishment of non-residential, commercial or industrial activities, unless the activity has a strategic or operational need to locate within the Village Zone, and not compromise the effects of such activities on the character and amenity of the neighbourhood. ~~are insignificant.~~

### Section 32AA evaluation on amendment from submission 378.72

98. The proposed amendment to Policy 4.3.11 goes in tandem with the amendments to Objective 4.3.4, which has been evaluated in detail previously. It is my opinion that the evaluation undertaken there is also applicable here and as such, shall not be repeated.

### Section 32AA evaluation on amendment from submission 697.544

99. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the policy. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.1.8 Section 4.3 - Village Zone – Amendment - Policy 4.3.12 - Non-residential activities

### Introduction

100. Policy 4.3.12 seeks to ensure that non-residential activities maintain residential character and mitigate a range of adverse effects. This is reflected in Rule 24.1.1. With respect to the specific relief sought, Crime Prevention Through Environmental Design (CPTED) requirements are referred to in Policy 4.7.3 and the Residential Subdivision Guidelines (3.1) in terms of pedestrian access.

### Submissions

101. The following submission points were made:

Submission point	Submitter	Summary of submission
297.21	Counties Manukau Police	<p>Add to Policy 4.3.12(a)(iii) Non-residential activities a new line as follows:</p> <p>(a) Ensure that the design and scope of non-residential activities and associated buildings:</p> <p>(i) Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle manoeuvring areas; and</p> <p>(ii) Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on Village Zone character and amenity, and the surrounding transport network.</p> <p>(iii) <u>Conforming to the national guidelines for CPTED</u></p>
FS1386.313	Mercury Energy Limited	Oppose submission 297.21

## Analysis

102. Counties Manukau Police [297.21] request an amendment to Policy 4.3.12 to include conformance to Crime Prevention Through Environmental Design (CPTED) as part of the policy to ensure that there is an obligation to consider CPTED, reducing victimisation, making people safe and making people feel safe. I note that the submitter has made a number of requests for similar amendments across a number of policies. While I agree with the outcomes sought by the submitter, the amendment sought as worded would effectively make all non-residential activities mandatory to comply with the CPTED guidelines. In my opinion, more appropriate wording would be: “*Encourage designs that conform to the principles of Crime Prevention Through Environmental Design (CPTED)*”. This would recognise that absolute compliance to CPTED is not always required and should be addressed on a case-by-case basis. An example of where CPTED compliance may not be required is a home occupation that operates from an existing dwelling and deals with few to no customers at the site.

## Recommendations

103. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Counties Manukau Police submission point [297.21] and reject Mercury Energy Limited further submission point [FS/386.3/3].

## Recommended amendments

104. The following amendments are recommended:

### 4.3.12 Policy – Non-residential activities

- (a) Ensure that the design and scope of non-residential activities and associated buildings:
- (i) Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle manoeuvring areas; and
  - (ii) Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on Village Zone character and amenity, and the surrounding transport network.
  - (iii) Encourage designs that conform to the principles of Crime Prevention Through Environmental Design (CPTED) where appropriate.

## Section 32AA evaluation

105. The following points evaluate the recommended change under Section 32AA of the RMA.

## Other reasonably-practicable options

106. Other than recommending the amendment above, the other reasonably-practicable options are to include the wording within the policy as sought by the submitter, include the wording in an objective or as a standalone objective, or to not have the proposed amendment wording at all (i.e. retain the status quo of the notified version).

## Effectiveness and efficiency

107. While the relevant objective (4.3.4) to this policy does not appear to have any explicit link to Crime Prevention Through Environmental Design (CPTED) currently, there are aspects of CPTED that do inadvertently link to ‘residential amenity values’, such as the

considerations listed in the CPTED guidelines around layout, fencing, landscaping and streetscape features. Accordingly, the amendment does assist in achieving the relevant objective.

### **Costs and benefits**

108. There is potential for additional costs on applicants for resource consents, as it would require an additional layer of assessment to an application and may result in design changes to the non-residential activity (in particular any involving buildings). This in turn may make it less desirable for a non-residential activity to establish in the Village Zone, with a flow on effect to potential employment opportunities within the Village Zone itself. The amendment does not make conformance with Crime Prevention Through Environmental Design (CPTED) mandatory and as such, offers a degree of flexibility.
109. There are however likely to be wider social benefits through the reduction of crime, and it may also reduce fear in people, attract people to a locality, assist in legibility and help convey confidence (of a place). A good layout, as prescribed in the Crime Prevention Through Environmental Design (CPTED) guidelines, may also reduce the dependency on directional signage which allows people to be more aware of their surroundings. If less crime occurs, this in itself may have flow-on positive effects for society, for example a mugging may result in the victim having to take time off work and as such, any reduction in these types of incidents occurring will likely lead to less time taken off work. It would also free up police resourcing as a consequence.

### **Risk of acting or not acting**

110. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

111. The amendment gives effect to the relevant objective and is considered to be more appropriate in achieving the purpose of the objective than that of the notified version.

## **4.1.9 Section 4.3 - Village Zone – Amendment - Policy 4.3.15 - Earthworks**

### **Introduction**

112. Policy 4.3.15 seeks to: manage the effects from earthworks, ensure that any fill material is suitable, maintains fundamental shape, contour and landscape characteristics and the ground is safe/stable. This is reflected in the related Objective (4.3.14 - Earthworks) and Rules under 24.2.4 - Earthworks. The objectives/policies and rules associated with earthworks in the Village Zone do not consider rural ancillary activities or associated reverse sensitivity issues if they were to occur. Policy 4.3.15 - Earthworks does not address historic heritage and cultural values, however, the Village Zone includes a rule (24.2.4.2 - Earthworks for Maaori Sites and Maaori Areas of Significance) which is specific to earthworks for Maaori Sites and Maaori Areas of Significance. In addition, 7.1 - Protection of Historic Heritage and Notable Trees includes an objective and policies that generally seek to protect scheduled heritage items and their values.

## Submissions

113. The following submission points were made:

Submission point	Submitter	Summary of submission
297.15	Counties Manukau Police	<p>Add to Policy 4.3.15 Earthworks a new line as follows:</p> <p>(a) Manage the effects of earthworks to ensure that:</p> <ul style="list-style-type: none"> <li>(i) Erosion and sediment loss is avoided or mitigated;</li> <li>(ii) Changes to natural water flows and established drainage paths are avoided or mitigated; and</li> <li>(iii) Adjoining properties and public services are protected.</li> </ul> <p>(b) Ensure any fill material brought to site is suitable for its purpose.</p> <p>(c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects.</p> <p>(d) Subdivision and development occurs in a manner that maintains fundamental shape, contour and landscape characteristics.</p> <p>(e) The ground is geo-technically sound and remains safe and stable for the duration of the intended land use.</p> <p>(f) <u>Manage the earthworks site to ensure that resources at the site are safe and to minimise the risk of victimisation.</u></p>
466.37	Balle Bros Group Limited	<p>Amend Policy 4.3.15 (c) Earthworks to include provision for ancillary rural earthworks associated with existing activities.</p> <p>AND</p> <p>Amend Policy 4.3.15 Earthworks to consider reverse sensitivity issues associated with ancillary rural earthworks associated with existing activities.</p>
559.46	Heritage New Zealand Lower Northern Office	<p>Add a new clause 'f' to Policy 4.3.15 Earthworks as follows:</p> <p>(a) Manage the effects of earthworks to ensure that:</p> <ul style="list-style-type: none"> <li>(i) Erosion and sediment loss is avoided or mitigated;</li> <li>(ii) Changes to natural water flows and established drainage paths are avoided or mitigated; and</li> </ul>

		<p>(iii) Adjoining properties and public services are protected.</p> <p>(b) Ensure any fill material brought to site is suitable for its purpose.</p> <p>(c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects.</p> <p>(d) Subdivision and development occurs in a manner that maintains fundamental shape, contour and landscape characteristics.</p> <p>(e) The ground is geo-technically sound and remains safe and stable for the duration of the intended land use.</p> <p>(f) <u>Earthworks are designed and undertaken in a manner that they do not adversely affect historic heritage and cultural values.</u></p> <p>The submitter notes that they otherwise support the notified policy (in part).</p>
695.143	Sharp Planning Solutions Ltd	<p>Delete 4.3.15(d):</p> <p>OR</p> <p>Amend Policy 4.3.15(d) Earthworks to refer to minimising earthworks to maintain the fundamental shape, contour and landscape characteristics where otherwise possible.</p>
FS1323.34	Heritage New Zealand Pouhere Taonga	Oppose submission 695.143
695.30	Sharp Planning Solutions Ltd	<p>Submission point 695.30 as per the summary of submission includes a further amendment to 4.3.15(d) to read as follows;</p> <p><b>4.3.15 Policy - Earthworks</b></p> <p>(a) Manage the effects of earthworks to ensure that:</p> <ul style="list-style-type: none"> <li>(i) Erosion and sediment loss is avoided or mitigated;</li> <li>(ii) Changes to natural water flows and established drainage paths are avoided or mitigated; and</li> <li>(iii) Adjoining properties and public services are protected.</li> </ul> <p>(b) Ensure any fill material brought to site is suitable for its purpose.</p> <p>(c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, odour, dust, lighting and traffic effects.</p> <p>(d) <del>Subdivision and development occurs in a</del></p>

		<p><del>manner that maintains fundamental shape, contour and landscape characteristics. That earthworks shall be to the extent necessary to enable the development, and where practical shall try to maintain the shape, contour and landscape characteristic.</del></p> <p>(e) The ground is geo-technically sound and remains safe and stable for the duration of the intended land use.</p> <p>Report writer's note - However, this does not appear to be contained in the original submission as a request. Despite this, the wording contained in 695.30 appears to be reflective of the requested amendment as per 695.143.</p>
695.31	Sharp Planning Solutions Ltd	<p>Submission point 695.31 does not include a specific request with regards to Policy 4.3.15(e), however, requests that:</p> <p>Common earthworks clauses for all development should be under one section in the District Plan to avoid unnecessary repetition.</p>

### Analysis

114. Counties Manukau Police [297.15], seeks amendments to Policy 4.3.15 to ensure that there is an obligation through council policy to consider safety at development sites as in the submitter's view, development sites are crime attractors. While I agree that development sites are crime attractors, it is my opinion that this is a policing matter, rather than strictly a matter under the RMA. In addition, if such a policy were to be included, it would be impractical to enforce and would be a matter for the Police, not Council, to address.
115. With respect to the submission by Balle Bros Group Limited [466.37], the submitter raises concern with respect to ongoing earthworks activities associated with existing commercial vegetable production. It is my opinion that these would be protected under existing use rights. In addition, the amount of Village-zoned land that is subject to existing vegetable growing operations is limited. The three areas subject to the largest areas of greenfield rezoning (for Village) are Tuakau, Pokeno and Te Kowhai. No Village-zoned areas within these localities appear to be used for commercial vegetable production. This may be more applicable to areas of Residential zone in Tuakau, in particular to the west of Tuakau.
116. The second part of the submission requests an amendment to consider reverse sensitivity from ancillary earthworks undertaken by existing activities. It is my opinion that these activities would be protected by virtue of existing use rights. In addition, any subdivision that would result as a part of any Village-zoned areas would need to consider reverse sensitivity under Policy 4.7.11 – Reverse sensitivity.
117. With respect to the submission by Heritage New Zealand Lower Northern Office [559.46], it is my opinion that the amendments sought by the submitter are already addressed by objectives and policies in Chapter 2 and Chapter 7. For example, Policy 2.15.1 (specific to Maaori sites) and Policy 7.1.3 – Heritage items. District Councils are required to uphold the

cultural aspects (s6e of the RMA), however, the archaeological/heritage aspect is for Heritage NZ to manage under their Act.

118. With respect to the submissions by Sharp Planning Solutions Ltd [695.143, 695.30], the submissions state that the wording of the notified policy are ultra vires. It is unclear how the notified wording is ultra vires and I invite the submitter to explain why the notified policy is ultra vires in their view. Despite this, it is my opinion that the current wording of this policy, and in particular (d), addresses bulk earthworks that may occur as a part of a subdivision/development, and recognises that subdivision and associated bulk earthworks should be reflective of shape/contours and characteristics
119. The various amendments as proposed by the submitter would likely result in large-scale bulk earthworks occurring in localities that have any form of slope, which may then have significant adverse effects on landforms and associated amenity/landscape. I note that Heritage New Zealand Pouhere Taonga [FS/323.34] oppose [695.143], as they support the original policy.
120. With respect to the submission by Sharp Planning Solutions Ltd [695.31] stating that there should be common earthworks clauses for all developments be under one section, the earthworks rules and associated objectives/policies do vary from zone to zone and as such, it is appropriate that they remain in the individual zone sections. While the submitter has requested that only common earthworks clauses be located in one place, this would result in the earthworks rules being located in even more sections of the plan, thereby decreasing the plan's usability and functionality. This may be a matter better considered in either the 'Other matters' or 'Mop-up' hearings.

### Recommendations

121. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Counties Manukau Police submission point [297.15]
  - Reject Balle Bros Group Limited submission point [466.37]
  - Reject Heritage New Zealand Lower Northern Office submission point [559.46]
  - Reject Sharp Planning Solutions Ltd submission point [695.143] and accept Heritage New Zealand Pouhere Taonga further submission point [FS/323.34]
  - Reject Sharp Planning Solutions Ltd submission point [695.30]
  - Reject Sharp Planning Solutions Ltd submission point [695.31].

### Recommended amendments

122. There are no changes recommended in response to these submissions.

### Section 32AA evaluation

123. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.



## Topic 2: Section 4.4 – Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour - Objectives and policies

### 4.2 Section 4.4 - Residential and Village Zones – Retention - Noise, lighting, outdoor storage, signs and odour

#### Introduction

124. Chapter 4.4 includes a specific objective (4.4.1) and a number of policies (4.4.2 - 4.4.7) relating to noise, lighting, outdoor storage, signs and odour. They generally seek to minimise adverse effects and provide for activities with corresponding effects in certain situations (e.g. artificial lighting for farming). This is reflected in the corresponding rules 24.2 – Land Use - Effects in the Village Zone.

#### Submissions

125. The following submission points were made:

Submission point	Submitter	Summary of submission
182.7	Kirriemuir Trustee Limited	Retain the Objectives and Policies in Section 4.4 Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour, as notified.
367.2	Mercer Residents and Ratepayers Committee	Retain Section 4.4 Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour.
<i>FS1386.545</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 367.2</i>
749.5	Housing New Zealand Corporation	Retain the Objectives and Policies in Section 4.4 Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour, as notified.
299.3	2SEN Limited and Tuakau Estates Limited	Retain Section 4.4 Noise, lighting, outdoor storage, signs and odour as notified except where specific modification is sought elsewhere in the submission.

#### Analysis

126. I have recommended amendments to objectives and policies within section 4.4 (detailed in my report below).

#### Recommendations

127. I recommend, for the reasons given above, that the Hearings Panel:

- Accept in part Kirriemuir Trustee Limited submission point [182.7], Mercer Residents and Ratepayers Committee submission point [367.2], and reject Mercury Energy Limited further submission point [FS1386.545].
- Accept in part Housing New Zealand Corporation submission point [749.5].

- Accept in part 2SEN Limited and Tuakau Estates Limited submission point [299.3].

### Recommended amendments

128. No amendments are required.

### Section 32AA evaluation

129. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.2.1 Section 4.4 Residential and Village Zones – Amendment – Objective 4.4.1 - Adverse effects of land use and development

#### Introduction

130. Objective 4.4.1 seeks to protect the health and well-being of people, communities and the environment from adverse effects associated with land use and development. This is reflected in the associated policies and rules.

#### Submissions

131. The following submission points were made:

Submission point	Submitter	Summary of submission
297.22	Counties Manukau Police	Amend Objective 4.4.1(a) Adverse effects of land use and development as follows: The health, <u>safety</u> and well-being of people, communities and the environment are protected from the adverse effects of land use and development.
<i>FS1114.3</i>	<i>Fire and Emergency New Zealand</i>	<i>Support submission 297.22</i>
<i>FS1269.17</i>	<i>Housing New Zealand Corporation</i>	<i>Oppose submission 297.22</i>
923.57	Waikato District Health Board	Amend Objective 4.4.1(a) Adverse effects of land use and development as follows: The health, <u>safety</u> and well-being of people, communities and the environment are protected from the adverse effects of land use and development.
<i>FS1114.33</i>	<i>Fire and Emergency New Zealand</i>	<i>Support submission 923.57</i>
<i>FS1387.1590</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 923.57</i>
378.73	Fire and Emergency New Zealand	Retain Objective 4.4.1 Adverse effects of land use and development, to the extent that recognition is given to the health and well-being of communities

		<p>and are protected from the adverse effects of land use and development</p> <p>AND</p> <p>Amend Objective 4.4.1 (a) Adverse effects of land use and development as follows:</p> <p>4.4.1 (a) The health, <u>safety</u> and well-being of people, communities and the environment are protected from the adverse effects of land use and development.</p> <p>AND</p> <p>Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.</p>
<i>FS1035.180</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.73</i>

### Analysis

132. Submissions from Counties Manukau Police [297.22], Waikato District Health Board [923.57] and Fire and Emergency New Zealand [378.73] all seek the inclusion of the word 'safety' in Objective 4.4.1(a). It is my opinion that this amendment would align the objective better with Part 2 of the RMA
133. With respect to further submission Housing New Zealand Corporation [FS/269.17], it is unclear as to how the inclusion of 'safety' would be inconsistent with the primary submission by Housing New Zealand Corporation.
134. With respect to the Fire and Emergency New Zealand further submissions [FS/114.3] and [FS/114.33], I note that the further submitter is supporting those submissions which seek the same/similar relief to that they have sought in [378.73].

### Recommendations

135. I recommend, for the reasons given above, that the Hearings Panel:
- Accept Counties Manukau Police submission point [297.22] and accept Fire and Emergency New Zealand further submission point [FS/114.3], and reject Housing New Zealand Corporation further submission point [FS/269.17].
  - Accept Waikato District Health Board submission point [923.57] and accept Fire and Emergency New Zealand further submission point [FS/114.33], and reject Mercury Energy Limited further submission point [FS/387.1590].
  - Accept Fire and Emergency New Zealand submission point [378.73] and further submission point Pareoranga Te Kata [FS/1035.180].

### Recommended amendments

136. The following amendments are recommended:

4.4.1 Objective – Adverse effects of land use and development

The health, safety and well-being of people, communities and the environment are protected from the adverse effects of land use and development.

### Section 32AA evaluation

137. The following points evaluate the recommended change under Section 32AA of the RMA.

### Purpose of the RMA and comparison with any relevant existing objectives in the PWDP

138. The recommended amendment to Objective 4.4.1 gives effect to Part 2 (5) of the RMA in particular, as it will enable people and communities to provide for their safety, As such, it more readily achieves the purpose of the RMA when compared to the notified version. I note that the notified objective already contains the words ‘health and well-being’ so the amendment goes hand-in-hand with the notified wording.

### Decision about most appropriate option

139. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 4.2.2 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.2 - Noise

### Introduction

140. Policy 4.4.2 seeks to minimise adverse noise effects on residential amenity. This is reflected in the associated objective (4.4.1 - Adverse effects of land use and development) and noise rules (24.2.1- Noise - General, 24.2.2 – Noise - Construction, 24.3.7 - Building - Airport Noise Outer Control Boundary).

### Submissions

141. The following submission was made:

Submission point	Submitter	Summary of submission
986.22	KiwiRail Holdings Limited (KiwiRail)	<p>Retain Policy 4.4.2 Noise, particularly clauses (iii)-(v) as amended below</p> <p>AND</p> <p>Amend Policy 4.4.2(a) Noise as follows (or similar amendments to achieve the requested relief):</p> <p>(iii) Maintaining appropriate setback distances between high noise environments and sensitive land uses <u>noise-sensitive activities</u>;</p> <p>(iv) Managing the location of sensitive land uses <u>and noise-sensitive activities</u>, particularly in relation to lawfully-established high noise generating activities; and</p> <p>(v) Requiring acoustic insulation where <u>noise-sensitive activities</u> are located within high noise environments.</p> <p>AND</p> <p>Any consequential amendments to link and/or</p>

		accommodate the requested changes.
<i>FS1345.141</i>	<i>Genesis Energy</i>	<i>Support submission 986.22</i>
182.10	Kirriemuir Trustee Limited	Retain Policy 4.4.2 Noise, as notified.
299.6	2SEN Limited and Tuakau Estates Limited	Retain Policy 4.4.2 Noise as notified.
742.23	New Zealand Transport Agency	Retain Policy 4.4.2 Noise as notified.

## Analysis

142. The term ‘noise sensitive’ or ‘noise sensitive activities’ are not used within the Village Zone, rather it is used in the Residential Zone (in particular in Rule 16.5.7.1). Despite this, it is my opinion that I can still provide a recommendation, but subject to keeping consistency with the outcomes decided for the Residential Zone. I note that the Hearings report for Topic 5 – Definitions recommends retaining the definition of sensitive land use, with amendments. The writer of that report considered that the terms “sensitive land use” and noise-sensitive activities” are not used interchangeably.
143. I am generally supportive of the proposed amendments by KiwiRail [986.22], but in my opinion, minor changes are required to reflect the separation recommended in the Hearings report for Topic 5 and with respect to 4.4.2 (a)(v), changing ‘sensitive activities’ to ‘sensitive land uses’ to be consistent with the terminology used in 4.4.2(a)(v). I note that further submitter Genesis Energy [FS1345.141] is supportive of [986.22] for the same reasons as those set out in the KiwiRail submission.
144. I note that Kirriemuir Trustee Limited [182.10], 2SEN Limited and Tuakau Estates Limited [299.6] and New Zealand Transport Agency [742.33] seek the retention of Policy 4.4.2 as notified, however I have agreed with amendments to this policy as above.

## Recommendation

- 145.
- Accept in part KiwiRail Holdings Limited (KiwiRail) [986.22] and accept in part Genesis Energy [FS1345.141]
  - Accept in part Kirriemuir Trustee Limited [182.10]
  - Accept in part 2SEN Limited and Tuakau Estates Limited [299.6]
  - Accept in part New Zealand Transport Agency [742.33]

## Recommended amendments

146. The following amendments are recommended:

### 4.4.2 Policy – Noise

- (a) The adverse effects of noise on residential amenity are minimised by:
- (i) Ensuring that the maximum sound levels are compatible with the surrounding residential environment;

- (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities;
- (iii) Maintaining appropriate setback distances between high noise environments and sensitive land uses and noise-sensitive activities;
- (iv) Managing the location of sensitive land uses and noise-sensitive activities, particularly in relation to lawfully-established high noise generating activities; and
- (v) Requiring acoustic insulation where sensitive land uses activities and noise-sensitive activities are located within high noise environments.

### **Section 32AA evaluation**

147. The following points evaluate the recommended change under Section 32AA of the RMA.

#### **Other reasonably-practicable options**

148. Other than recommending the amendment above, the other reasonably-practicable options are to include the proposed wording within its own separate policy that is specific to noise-sensitive activities.

#### **Effectiveness and efficiency**

149. It is my opinion that the recommended amendment to Policy 4.4.2 will ensure alignment and consistency to the recommendations made in the Hearings report for Topic 5 – Definitions along with being consistent with other parts of Policy 4.4.2 itself.

#### **Costs and benefits**

150. There is a potential cost to applicants of resource consents, as they will need to include an assessment against this policy for any resource consents involving 'noise-sensitive activities'. There are benefits to the amendments, in that they give more certainty to the plan and provide for a specific policy regarding 'noise-sensitive activities' and noise within the Residential and Village Zones.

#### **Risk of acting or not acting**

151. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

#### **Decision about most appropriate option**

152. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

#### 4.2.4 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.3 - Artificial outdoor lighting

##### Introduction

153. Policy 4.4.3 seeks to manage adverse lighting effects while providing for it with certain activities. This is reflected by the associated objective and light spill/glare Rule (24.2.3). With respect to the specific relief sought, Crime Prevention Through Environmental Design (CPTED) requirements are referred to in Policy 4.7.3 and the Residential Subdivision Guidelines (3.1) in terms of pedestrian access.

##### Submissions

154. The following submission was made:

Submission point	Submitter	Summary of submission
297.23	Counties Manukau Police	Retain Policy 4.4.3 Artificial outdoor lighting, except for the amendments sought below. AND Add to Policy 4.4.3 Artificial outdoor lighting a new line as follows: <u>(d) Conform to the national guidelines for CPTED.</u>
FS1269.18	Housing New Zealand Corporation	Oppose submission 297.23 (in part)
742.24	New Zealand Transport Agency	Retain Policy 4.4.3 Artificial outdoor lighting as notified.

##### Analysis

155. Counties Manukau Police [297.23] requests an amendment to Policy 4.4.3 to include conformance to Crime Prevention Through Environmental Design (CPTED) to ensure that there is an obligation to consider security and CPTED, reducing victimisation, making people safe and to feel safe. I note that the submitter has made a number of requests for similar amendments across a number of policies. While I agree with the outcomes sought by the submitter, the amendment sought as worded would effectively make all activities within the Village or Residential Zone that involve artificial outdoor lighting mandatorily comply with CPTED. In my opinion, more appropriate wording would be “*Encourage artificial outdoor lighting that conforms to principles of Crime Prevention Through Environmental Design (CPTED) where appropriate*”. This would recognise that absolute compliance with CPTED is not always required, and should be addressed on a case-by-case basis. An example of where CPTED compliance may not be required is an outdoor swimming pool that is illuminated.

156. It is unclear as to how the relief sought in the original submission is inconsistent with the primary submission by Housing New Zealand as per their further submission [1269.18] and I invite the further submitter to explain their reasoning. Due to the lack of reasoning, I will be recommending that this further submission be rejected..

157. I note that New Zealand Transport Agency [742.24] have stated in their reasons that they support Policy 4.4.3 (c). While my recommended amendment does not change any of the wording of Policy 4.4.3 (c), the request from the submitter is for the retention of Policy 4.4.3 as a whole.

### Recommendations

158. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Counties Manukau Police submission point [297.23] and reject Housing New Zealand Corporation further submission point [FS1269.18].
  - Accept in part New Zealand Transport Agency submission point [742.24].

### Recommended amendments

159. The following amendments are recommended:
- 4.4.3 Policy – Artificial outdoor lighting
- (a) Provide for artificial outdoor lighting to enable night time work, farming activities, recreation activities, outdoor living, transport and security.
  - (b) Manage the adverse effects of glare and lighting to adjacent sites.
  - (c) Ensure artificial outdoor lighting is installed and operated so that light spill does not compromise the safe operation of the transport network.
  - (d) Encourage artificial outdoor lighting that conforms to principles of Crime Prevention Through Environmental Design (CPTED) where appropriate

### Section 32AA evaluation

160. The following points evaluate the recommended change under Section 32AA of the RMA.

### Other reasonably practicable options

161. Other than recommending the amendment above, the other reasonably-practicable options are to include the wording within the policy as sought by the submitter, include the wording in an objective or as a standalone objective, or to not have the proposed amendment wording at all (i.e. retain the status quo of the notified version).

### Effectiveness and efficiency

162. It is my opinion that the relevant objective (4.4.1(a) - Adverse effects of land use and development) is directly applicable to the amendment recommended, and even more so given the recommendation to amend the objective (assessed and evaluated earlier in my report). This is because the application of Crime Prevention Through Environmental Design (CPTED) guidelines with respect to artificial outdoor lighting will ensure that it also provides for maximum visibility, which in turn increases the efficiency of any surveillance of that area. As a consequence, this impacts upon the health, safety and well-being of people, communities and the environment. Accordingly, the amendment does assist in achieving the relevant objective.



### Costs and benefits

163. There is potential for additional costs on applicants of resource consents, as it would require an additional layer of assessment to an application and may result in design changes to the activity (in particular any involving buildings). This in turn may make it less desirable for said activities to establish in the Village Zone, with a flow-on effect to potential employment opportunities within the Village Zone itself. The amendment does not make conformance with Crime Prevention Through Environmental Design (CPTED) mandatory, and as such, offers a degree of flexibility.
164. There are, however, likely to be wider social benefits through the reduction of crime. If less crime occurs, this in itself will likely have flow-on positive effects for society, for example a mugging may result in the victim having to take time off work and as such, any reduction in these types of incidents occurring will likely lead to less time taken off work. It would also free up police resourcing as a consequence.

### Risk of acting or not acting

165. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### Decision about most appropriate option

166. The amendment gives effect to the relevant objective and is considered to be more appropriate in achieving the purpose of the objective than that of the notified version.

## 4.2.6 Section 4.4 Residential and Village Zones – Retention – Policy 4.4.5 - Objectionable odour

### Introduction

167. Policy 4.4.5 seeks to ensure that the effects do not detract from the amenity on other sites and to ensure that new sensitive activities are appropriately set back from existing objectionable odour generators. This is reflected in the related objective (4.4.1 - Adverse effects of land use and development) and Rule 24.3.6.2 - Building setback - Sensitive land use, which has setbacks from the likes of municipal wastewater treatment facilities.

### Submissions

168. The following submission points were made:

Submission point	Submitter	Summary of submission
182.11	Kirriemuir Trustee Limited	Retain Policy 4.4.5 Objectionable odour, as notified.
299.7	2SEN Limited and Tuakau Estates Limited	Retain Policy 4.4.5 Objectionable odour as notified.

## Analysis

169. As no amendments are recommended on this policy, I am agreeable to the relief sought by the submitters.

## Recommendations

170. I recommend, for the reasons given above, that the Hearings Panel:

- Accept Kirriemuir Trustee Limited submission point [182.11]
- Accept 2SEN Limited and Tuakau Estates Limited submission point [299.7].

## Recommended amendments

171. No amendments required.

## Section 32AA evaluation

172. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.2.8 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.6 - Signage

### Introduction

173. Policy 4.4.6 seeks to provide for signage for certain activities/circumstances. This is related to the associated objective and signage rules (24.2.7 - Signs).

### Submissions

174. One submission point was received which seeks to amend Policy 4.4.6 to include restrictions on the number of signs on premises.

175. The reasons for the amendment sought are as follows:

695.32 – Council could also consider placing restrictions on the number of signs on premises, also on itself in terms of road signs, many of which are superfluous, to advise traffic of safety, speed or directions. This avoids ‘signage clutter’.

176. The following submission was made:

Submission point	Submitter	Summary of submission
695.32	Sharp Planning Solutions Ltd	Amend Policy 4.4.6 Signage to include restrictions on the number of signs on a premises.

## Analysis

177. It is unclear as to whether or not the submission by Sharp Planning Solutions Ltd [695.32] is seeking an amendment to the policy or an amendment to the sign rules themselves as the submitter in their reasoning has stated: *Council could also consider placing restrictions on the*

number of signs on premises, also on itself in terms of road signs, many of which are superfluous, to advise traffic of safety, speed or directions. This avoids 'signage clutter', however the submission is specific to 4.4.6 and 4.4.7 (detailed below) and as such, my analysis is restricted to the policy only.

178. It is my opinion that it is unnecessary to specify the number of signs within the policy itself; rather it is a matter to be specified within the corresponding rule that gives effect to the policy. Policy 4.4.6(c) already requires signs to be compatible with the character and sensitivity of the residential environment. As such, I disagree with the relief sought.

### Recommendations

179. I recommend, for the reasons given above, that the Hearings Panel:

- Reject Sharp Planning Solutions Ltd submission point [695.32].

### Recommended amendments

180. No amendments required.

### Section 32AA evaluation

181. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.2.9 Section 4.4 Residential and Village Zones – Amendment – Policy 4.4.7 - Managing the adverse effects of signs

### Introduction

182. Policy 4.4.7 seeks to manage the adverse effects of signs. This is related to the associated objective (4.4.1 - Adverse effects of land use and development )and signage rules (24.2.7 - Signs).

### Submissions

183. The following submissions were made:

Submission point	Submitter	Summary of submission
986.23	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 4.4.7 Managing the adverse effects of signs except for the amendments sought below AND Amend Policy 4.4.7(a) Managing the adverse effects of signs as follows (or similar amendments to achieve the requested relief): (a)The location, colour, content, and appearance of signs directed at traffic is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other <del>road</del> <u>land transport</u> users;

		AND Any consequential amendments to link and/or accommodate the requested changes.
695.33	Sharp Planning Solutions Ltd	Amend Policy 4.4.7 Managing the adverse effects of signs to include restrictions on the number of signs on a premises.
742.25	New Zealand Transport Agency	Retain Policy 4.4.7 Managing the adverse effects of signs, except for the amendments sought below AND Amend Policy 4.4.7 Managing the adverse effects of signs as follows: (a) The location, colour, content, and appearance of signs directed at <u>or visible to road users</u> <del>traffic</del> is controlled to ensure <u>signs they</u> do not <del>distract, confuse or obstruct motorist, pedestrians and other road users</del> <u>adversely affect safety of road users...</u> (b) <del>Discourage</del> Signs that generate adverse effects from illumination, light spill, flashing, <u>moving</u> , or reflection <u>are avoided</u> . AND Request any consequential changes necessary to give effect to the relief sought in the submission.
297.26	Counties Manukau Police	Retain Policy 4.4.7 Managing the adverse effects of signs as notified.
FS1134.20	Counties Power Limited	Oppose submission 297.26

### Analysis

184. With respect to the amendments sought by submission point KiwiRail Holdings Limited (KiwiRail) [986.23], I disagree with the term 'land transport', as this may not encapsulate all road 'users' (e.g. pedestrians, scooter riders and suchlike).
185. It is unclear as to whether or not the submission by Sharp Planning Solutions Ltd [695.33] is seeking an amendment to the policy or an amendment to the sign rules themselves, however, the submission is specific to 4.4.7 and 4.4.6 (detailed above) and as such, my analysis is restricted to the policy only.
186. It is my opinion that it is unnecessary to specify the number of signs within the policy itself, rather that is a matter to be specified within the corresponding rule that gives effect to the policy.
187. New Zealand Transport Agency [742.25] seeks a number of amendments to Policy 4.4.7. With respect to the proposed deletion of the word 'traffic' and inclusion of the words 'or visible to road users', it is my opinion that the submitter's wording is an improvement on the notified version, as it acknowledges that signage may be directed at other road users, rather than just traffic. The inclusion of the words 'or visible' will also link to signs that become restricted discretionary activities under Rule 24.2.7.1 – Signs – General - RDI, which has 'effects on traffic safety' as a matter of discretion.
188. With respect to the use of 'they' rather than 'sign', it is my opinion that it is better to specify 'sign' to avoid any potential misinterpretation.

189. The proposed deletion of the words ‘distract, confuse or obstruct motorists, pedestrians and other road users’ and replacement with the words ‘adversely affect safety of road users’ is not agreed upon, as it is better to make the policy more specific in what it is seeking and gives clear direction to plan users as to what the policy is seeking.
190. The inclusion of the word ‘moving’ is appropriate, as that aspect can be a form of distraction.
191. I disagree with the proposed deletion of the word ‘discourage’ and inclusion of the words ‘are avoided’. Non-compliance with Rule 24.2.7.2 – Signs – General - PI results in a discretionary activity status when the term ‘avoid’ in a policy should only be used for those that link to a non-complying activity status.
192. With respect to Counties Power Limited [FS1/134.20], it is unclear as to how the retention of Policy 4.4.7 as requested by Counties Manukau Police [297.26] will result in the application of Crime Prevention Through Environmental Design (CPTED) to infrastructure, accordingly I invite the submitter to provide further reasoning to this matter.

### Recommendations

193. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part New Zealand Transport Agency submission point [742.25]
  - Reject submission point KiwiRail Holdings Limited (KiwiRail) [986.23]
  - Reject submission point Sharp Planning Solutions Ltd [695.33].
  - Accept in part Counties Manukau Police submission point [297.26] and reject Counties Power Limited further submission point [FS1/134.20].

### Recommended amendments

194. The following amendments are recommended:
- 4.4.7 Policy – Managing the adverse effects of signs
- (a) The location, colour, content, and appearance of signs directed at or visible to road users ~~traffic~~ is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users;
- (b) Discourage signs that generate adverse effects from illumination, light spill, flashing, moving or reflection.

### Section 32AA evaluation

195. The following points evaluate the recommended change under Section 32AA of the RMA.

### Other reasonably practicable options

196. Other than recommending the amendment above, the other reasonably-practicable options are to include the proposed wording within an existing notified objective (such as 4.4.1) or to have it located to the likes of Chapters 4.5 or 4.6. Alternatively, another option could be

to undertake the amendment as per that sought by submission point New Zealand Transport Agency [742.25] and use the word 'avoid'. Another option is to leave the wording unchanged from the notified version.

### **Effectiveness and efficiency**

197. It is my opinion that the amended policy aligns itself better with Objective 4.4.1 - Adverse effects of land use and development, as the term 'road users' is more encompassing of people within a community as opposed to the notified wording 'traffic'. Likewise, it is my opinion that the inclusion of the word 'moving' in the policy is appropriate, as it reflects an aspect of signage that can give rise to adverse effects and ties into requirements within Rules 24.2.7.1 – Signs – General - P2 and P3.

### **Costs and benefits**

198. Applicants of resource consents will potentially face additional costs due to the additional assessments and considerations that will have to be had for all road users (such as pedestrians). A part of this additional cost may result from the more careful consideration of any signs that involve moving parts, although I consider this to be a far smaller additional cost, as some of the related rules (24.2.7.1 – Signs – General - P2 and P3) already place restrictions on moving signs.
199. There are benefits to the amendments, in that they better reflect the requirements of the respective rules, which will assist in the processing of any relevant consents. In addition, the amendments will better capture the potential effects of signs on all road users, rather than just traffic, which will in turn provide a benefit to the health, safety and well-being of people.

### **Risk of acting or not acting**

200. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

201. The amendment gives effect to the respective objective and rules within the Village Zone. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the policy.

## Topic 3: General - All of Chapter 24

### 4.3 Section 24 - Village Zone – Amendments – All of Chapter 24

#### Submissions

202. The following submission points were made:

Submission point	Submitter	Summary of submission
697.935	Waikato District Council	Amend Chapter 24 Village Zone heading, as follows: Chapter 24: Village Zone - <u>Rules</u>
<i>FSI387.738</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.935</i>
697.936	Waikato District Council	Amend Rule 24(2) Village Zone, as follows: The rules that apply to subdivision in the Village Zone are contained in Rule 24.4 <u>and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).</u>
<i>FSI387.739</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.936</i>
81.74	Waikato Regional Council	Amend Chapter 24: Village Zone to manage buildings, structures and subdivision within landscape and natural character overlay areas, which may be through activity status, rules and assessment criteria.
<i>FSI223.10</i>	<i>Mercury Energy Limited</i>	<i>Support submission 81.74</i>
746.123	The Surveying Company	The submitter seeks the retention of Chapter 24, except for the submission points seeking amendments.
<i>FSI387.977</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 746.123</i>
<i>FSI127.12</i>	<i>Vineyard Road Properties Limited</i>	<i>Support submission 746.123</i>
689.16	Greig Developments No2 Limited	The submitter seeks the retention of Chapter 24, except for the submission points seeking amendments.
<i>FSI387.288</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 689.16</i>

#### Analysis

203. With respect to the submission points by Waikato District Council [697.935] and [697.936], the amendments sought improve upon the readability of the plan and as such, I agree with them.
204. The submission point by Waikato Regional Council [81.74] seeks a rule framework to address buildings, structures and subdivision within landscape and natural character overlay

areas. It is unclear from the submission as to the exact overlays that are included within 'landscape and natural character'.

205. An assessment has been undertaken by Council's GIS team which has shown that there are:
- Outstanding Natural Feature (ONF) = 0 properties
  - Outstanding Natural Landscape (ONL) = 0 properties
  - Significant Amenity Landscape (SAL) = 36 properties
  - Natural Character (NC) = 24 properties.
206. With respect to the ONF's and ONL's, given that there are no properties within these overlays, it is my opinion that rules, activity statuses and assessment criteria are not required.
207. With respect to the SAL overlay, there are a number of Village-zoned properties that are subject to this overlay area. Figure 1 below indicates the location of these properties at Port Waikato where the majority of the SAL overlay affected properties are located. The Industrial, Heavy Industrial, Rural and Reserve Zones contain height rules for buildings within the overlay area. It is my opinion that the same rule for these zones should be included in the Village Zone. This would then align with Policy 3.4.3. Earthworks and subdivision rules regarding SALs that exist already (24.2.4 - Earthworks, 24.4.5 – Title boundaries). I note that a number of Residential-zoned properties are within a notified SAL area (e.g. Ngaruawahia and the Waikato River SAL), but this is outside the scope of my report. If the SAL rule were to be replicated in this zone, the maximum height would match that of the existing maximum height under Rule 24.3.3.1 P1 (7.5m). A non-compliance with this rule would be a Discretionary Activity and as such, the potential adverse effects on the SAL could be assessed as a part of an application. Accordingly, it is already addressed by the notified provisions and it is unnecessary to include a specific building rule addressing the SALs.
208. With respect to the NC overlay, there are a number of Village-zoned properties that are subject to this overlay area (as per Figure 1 below). The Rural and Country Living Zones contain rules for buildings within an NC overlay area (e.g. 23.3.3 - Buildings and structures in Landscape and Natural Character Areas) and for subdivision (e.g. 23.4.3 - Subdivision within identified areas). It is my opinion that the same rules from these zones be included in the Village Zone, although the subdivision component will be dealt with in Mr Cleese's report. This would then align with objective 3.5.1 - Natural character and policies 3.5.2-3.5.4 (Recognising natural character, Protecting the natural character qualities of the coastal environment and Protecting the natural character of wetlands, and lakes and rivers and their margins respectively). An earthworks rule regarding NCs exists already (24.2.4.4 - Landscape and Natural Character Areas).
209. It may be appropriate during the Natural Character topic to address the boundary of this NC and SAL overlay in the Port Waikato locality shown in Figure 1, as it would be questionable as to why it would apply to an area that is currently being developed with housing.
210. Both The Surveying Company [746.123] and Greig Developments No2 Limited [689.16] seek retention except for amendments sought. The specific amendments will be addressed further in my report, but no changes are required from the submission points. As I recommend that submissions seeking amendments on rules contained within Chapter 24 be accepted, I am partially agreeable to the relief sought, including the further submission



([FS1127.12] - Vineyard Road Properties Limited) in support of The Surveying Company [746.123].

### Recommendations

211. I recommend, for the reasons given above, that the Hearings Panel:

- Accept Waikato District Council submission point [697.935] and reject Mercury Energy Limited further submission point [FS1387.738]
- Accept Waikato District Council submission point [697.936] and reject Mercury Energy Limited further submission point [FS1387.739]
- Accept in part Waikato Regional Council submission point [81.74] and reject Mercury Energy Limited further submission point [FS1223.10]
- Accept in part The Surveying Company submission point [746.123], reject Mercury Energy Limited further submission point [FS1387.977] and accept in part Vineyard Road Properties Limited further submission point [FS1127.12]
- Accept in part Greig Developments No2 Limited submission point [689.16] and reject Mercury Energy Limited further submission point [FS1387.288].

### Recommended amendments

212. The following amendments are recommended:

Chapter 24: Village Zone – Rules

- (1) The rules that apply to activities in the Village Zone are contained in Rule 24.1 Land Use – Activities, Rule 24.2 Land Use – Effects, Rule 24.3 Land Use – Building.
- (2) The rules that apply to subdivision in the Village Zone are contained in Rule 24.4 and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).

### Section 32AA evaluation

213. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

### Recommended amendments

214. The following amendments are recommended:

24.3.9 Buildings and structures in Natural Character Areas

DI (a) Any building or structure that is located within any:

(i) Outstanding Natural Character Area;

(ii) High Natural Character Area.

### Section 32AA evaluation – SAL's and NC's

215. The following points evaluate the recommended change under Section 32AA of the RMA.

### Other reasonably practicable options

216. The other options include not having any rules for NCs with respect to buildings (i.e. the notified provisions), or having a different activity status for a non-compliance (i.e. controlled or restricted discretionary).

### Effectiveness and efficiency

217. The recommended amendment would align with objective 3.5.1 and policies 3.5.2-3.5.4. An earthworks rule regarding NCs is in the notified version (24.2.4.4) and as such, the recommended amendments would not only align with other rules that deal with NCs in other zones, but also with rules in Chapter 24 itself.

### Costs and benefits

218. There are likely to be costs imposed on people and the community, as they would need to go through the consent process to erect or place any buildings within the NC Areas. The majority of the Village-zoned properties that are covered by an NC overlay are located within Port Waikato, as shown below. If there is scope, it may be appropriate during the Natural Character topic to address the boundary of this NC overlay in this locality, as it would be questionable as to why it would apply to an area that is currently being developed with housing. Ultimately, the numbers of properties within the Village Zone that are subject to an NC are relatively limited. It may deter people from constructing buildings within these areas and as such, it may result in a less efficient use of land.



Figure 1 – location of NC and SAL over Village-zoned properties (Port Waikato)

219. There are benefits to the recommended amendments, namely the alignment of rules across zones for consistency to promote efficiency and ease of use for plan users and accordingly, gives people confidence in the rule framework. It also allows for alignment with the objective and policies within Chapter 3.5, although as before, I question the application of the NC overlay with respect to the Village-zoned properties.

#### Risk of acting or not acting

220. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

#### Decision about most appropriate option

221. The amendment gives effect to the objective and policies within Chapter 3.5. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### 4.3.1 Section 24.1 – Village – Land use Activities – Amendment – Formatting / Clarification

#### Submissions

222. The following submission points were made:

Submission point	Submitter	Summary of submission
697.937	Waikato District Council	Amend Rule 24.1.1 Permitted Activities, as follows: <del>(a) Activity-specific conditions;</del> <del>(a)(b) Land Use – Effects rules in Rule 24.2 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply);</del> <del>(b)(c) Land Use – Building rules in Rule 24.3 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply);</del> <del>(c) Activity-specific conditions.”</del>
FS1387.740	Mercury Energy Limited	Oppose submission 697.937
697.940	Waikato District Council	Amend Activity Rule 24.1.1 P3(d) and (e) Permitted Activities (Home occupation), as follows: (a) It is wholly contained within a building; (b) The storage of materials or machinery associated with the home occupation are wholly contained within a building; (c) No more than 2 people who are not permanent residents of the site are employed at any one time;

		(d) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day; (e) Machinery <del>may</del> <u>can only</u> be operated after 7:30am and up to 97pm on any day.
697.941	Waikato District Council	Delete Rule 24.1.1 P7(b) Homestay.
<i>FS1387.743</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.941</i>
697.943	Waikato District Council	Amend Rule 24.1.2 D1 Discretionary Activities as follows: Any permitted activity that does not comply with <u>one or more of the an 'Activity-Specific Conditions'</u> in Rule 24.1.1.
<i>FS1387.745</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.943</i>
697.944	Waikato District Council	Delete Rule 24.1.2 D2 Discretionary Activities.
<i>FS1387.746</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.944</i>
697.945	Waikato District Council	Add new heading for Rule 24.2 noise rules, as follows: <u>24.2.1 Noise</u> AND Make consequential changes to numbering.
<i>FS1387.747</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.945</i>
697.946	Waikato District Council	Delete Rule 24.2(1) Land Use -Effects.
<i>FS1387.748</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 697.946</i>

### Analysis

223. With respect to the submission points by the Waikato District Council [697.937], [697.943], [697.944], [697.945] and [697.946], the changes sought increased readability of the plan and as such, I am agreeable to them, although [697.937] they require corrections to the numbering.
224. Waikato District Council submission point [697.940] seeks changes to the home occupation rule 24.1.1 P3. This amendment will align the rule with the corresponding noise rule and as such, I am agreeable to the relief sought.
225. Waikato District Council submission point [697.941] seeks changes to the homestay rule 24.1.1 P7. This amendment would remove an unnecessary requirement, as it is likely that the people 'employed' at the site would be the permanent occupants of the household. This is reinforced by the definition of Homestay: *Means accommodation provided to guests who pay a daily tariff to stay in a home with the permanent occupants of the household.* As such, I am agreeable to the relief sought.

## Recommendations

226. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Waikato District Council submission point [697.937] and reject Mercury Energy Limited further submission point [FS/387.740]
  - Accept Waikato District Council submission point [697.940]
  - Accept Waikato District Council submission point [697.940] and reject Mercury Energy Limited further submission point [FS/387.743]
  - Accept Waikato District Council submission point [697.943] and reject Mercury Energy Limited further submission point [FS/387.745]
  - Accept Waikato District Council submission point [697.944] and reject Mercury Energy Limited further submission point [FS/387.746]
  - Accept Waikato District Council submission point [697.945] and reject Mercury Energy Limited further submission point [FS/387.747]
  - Accept Waikato District Council submission point [697.946] and reject Mercury Energy Limited further submission point [FS/387.748].

## Recommended amendments

227. The following amendments are recommended:

### 24.1.1 Permitted Activities

(1) The following activities are permitted activities if they meet all the following:

~~(a) Activity-specific conditions:~~

(a) Land Use – Effects rules in Rule 24.2 (unless the activity rule and/or ~~activity-specific~~ conditions identify a condition(s) that does not apply);

(b) Land Use – Building rules in Rule 24.3 (unless the activity rule and/or ~~activity-specific~~ conditions identify a condition(s) that does not apply);

~~(c) Activity-specific conditions.”~~

### 24.1.1 P3

(a) It is wholly contained within a building;

(b) The storage of materials or machinery associated with the home occupation are wholly contained within a building;

(c) No more than 2 people who are not permanent residents of the site are employed at any one time;

(d) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day;

(e) Machinery ~~may~~ can only be operated after 7:30am and up to 9pm on any day.

### 24.1.1 P7

(a) No more than 4 temporary residents;

- ~~(b) No more than 2 people who are not permanent residents of the site are employed at any one time.~~

### **24.1.2**

#### 24.1.2 Discretionary Activities

- (1) The activities listed below are discretionary activities.
- D1 Any permitted activity that does not comply with one or more of the an ‘Activity-Specific Condition’ in Rule 24.1.1.
- ~~D2 Any permitted activity that does not comply with Land Use – Effects Rule 24.2 or Land Use – Building Rule 24.3 unless the activity status is specified as controlled, restricted discretionary or non-complying.~~

### **24.2**

#### 24.2 Land Use - Effects

##### 24.2.1 Noise

- ~~(1) Rules 24.2.1 and 24.2.2 provide the permitted noise levels for noise generated by land use activities.~~
- (2) Rule 24.2.1 Noise – general provides permitted noise levels in the Village Zone.
- (3) Rule 24.3.2 Noise – Construction provides the noise limits generated by construction activities.

##### 24.2.1.1 Noise - General

##### 24.2.1.2 Noise - Construction

### **Section 32AA evaluation**

228. The recommended amendments are to provide clarification to assist with the understanding of the rules and to make them consistent with other rules, both within the Village Zone itself and with other zone chapters. Accordingly, no s32AA evaluation has been required to be undertaken.

### **4.3.3 Section 24.1 – Village – Land use Activities – New provisions – Education facilities**

#### **Introduction**

229. The Proposed Waikato District Plan (notified version) provides for Education facilities in the Business Zone (17.1.2 P5), Te Kauwhata Lakeside Precinct (22.8.4 D6), Nau Mai Business Park (20.5.2 P10), Rural Zone (22.1.5 D6) and the Country Living Zone (23.1.2 D5). They are not provided for in the Village Zone.

## Submissions

230. The following submission points were made:

Submission point	Submitter	Summary of submission
781.16	Ministry of Education	<p>Amendment to 24.1.2 – Restricted Discretionary Activities, to read as follows:</p> <p><u>24.1.2 Restricted Discretionary Activities</u></p> <p>(1) <u>The activities listed below are restricted discretionary activities</u></p> <p>(2) <u>Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:</u></p> <p><u>Activity</u></p> <p><u>RDI Education facilities Council’s discretion shall be restricted to the following matters:</u></p> <p>a. <u>The extent to which it is necessary to locate the activity in the Village Zone.</u></p> <p>b. <u>Reverse sensitivity effects of adjacent activities.</u></p> <p>c. <u>The extent to which the activity may adversely impact on the transport network.</u></p> <p>d. <u>The extent to which the activity may adversely impact on the streetscape.</u></p> <p>e. <u>The extent to which the activity may adversely impact on the noise environment.</u></p>
FS1387.1220	Mercury Energy Limited	Oppose submission 781.16
FS1202.92	New Zealand Transport Agency	Support submission 781.16

## Analysis

231. The Ministry of Education [781.16] requests that provision be made for education facilities as a restricted discretionary activity in the Village Zone. I concur with the submitter that education facilities are essential social infrastructure, in particular in those areas of the district experiencing growth. In principle I agree with the submission but, it is my opinion that additional requirements accompany the rule to ensure that such a provision would not allow for large-scale education facilities in the Village Zone. Large-scale education facilities would have potential adverse effects on the amenity and character of the Village Zone along with the traffic environment. I recommend that the provision include a specific standard such that any education facility in excess of 200m<sup>2</sup> gross floor area be a discretionary activity. I also recommend the inclusion of the words ‘...and the amenity of the neighbourhood’ at the end of (d), as this would relate back to the relevant objectives and policies within Chapter 4.3 – Village Zone which also refer to ‘neighbourhood’. It is important to note that the Ministry of Education has the ability to take the Notice of Requirement (designation) pathway. The provision for educational facilities will, in my opinion, align with the relevant objectives and policies within Chapter 4.3 – Village Zone as it will fit within ‘non-residential’.

232. I note that New Zealand Transport Agency [FS1202.92] supports the inclusion of c. in Ministry of Education submission [781.16].

## Recommendations

233. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Ministry of Education submission point [781.16], reject Mercury Energy Limited further submission point [FS/387.1220] and accept in part New Zealand Transport Agency further submission point [FS/202.92].

## Recommended amendments

234. The following amendments are recommended:

### 24.1.2 Restricted Discretionary Activities

- (1) The activities listed below are restricted discretionary activities
- (2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:
- Activity RDI Education facilities not exceeding 200m<sup>2</sup> gross floor area.
- Council's discretion shall be restricted to the following matters:
- The extent to which it is necessary to locate the activity in the Village Zone.
  - Reverse sensitivity effects of adjacent activities.
  - The extent to which the activity may adversely impact on the transport network.
  - The extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood.
  - The extent to which the activity may adversely impact on the noise environment.

## 4.1.6 Section 32AA evaluation

235. The following points evaluate the recommended change under Section 32AA of the RMA.

### Other reasonably practicable options

236. Other than recommending the amendment above, the other reasonably practicable options are to include provisions for education facilities within a chapter that carries across all zones, such as Chapter 14, although this may not align with the intent for Chapter 14 to be a single location for infrastructure matters. The recommended amendment could also be as per the Ministry of Education submission point [781.16] with no restriction on the size of the education facilities. Another alternative would be to keep the status quo, being the notified version where education facilities are not specifically provided for and would be Non-Complying activities.

### Effectiveness and efficiency

237. The recommend amendments, including the matters of discretion, align themselves with the 'non-residential' objective and policy amendments sought by Fire and Emergency New Zealand (assessed and evaluated earlier in my report), with particular regard given to the impacts on the transport network, streetscape and noise, which cumulatively make up a large component of the 'amenity' for the Village Zone.



238. The location of non-residential activities within a residential-type zone has potential costs, as it may draw activities away from more appropriate locations (such as the main street of a town/village). In this case the activity is specific to education facilities.
239. There is also the potential for costs to be incurred in terms of adverse effects (e.g. traffic generation, noise, visual and their impact on the amenity of the Village Zone), however, the wording of the amendment includes, as matters of restricted discretion:
- a. *The extent to which it is necessary to locate the activity in the Village Zone.*
  - b. *Reverse sensitivity effects of adjacent activities.*
  - c. *The extent to which the activity may adversely impact on the transport network.*
  - d. *The extent to which the activity may adversely impact on the streetscape.*
  - e. *The extent to which the activity may adversely impact on the noise environment.*
240. In my opinion, these restricted matters of discretion address the main types of adverse effects that may arise from an education facility. Notified Policy 4.3.12 (a)(ii) also considers the potential adverse effects that may be generated by non-residential activities (below), and it is my opinion that the proposed amendments will also be supported by this policy.
- Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on Village Zone character and amenity, and the surrounding transport network.*
241. There is a potential cost in that the amendment providing for education facilities may create a proliferation of such facilities in a particular locality within the Village Zone. In my opinion, this is unlikely to arise, as there are a limited number of activities that would fit within the scope of ‘education facilities’ and generally it would be unlikely for someone to create more facilities than necessary (e.g. it is illogical to have multiple intermediate schools that cover the same Village-zoned catchment). In addition, Policy 4.3.11 (a) restricts the establishment of activities unless the activity has;
- ...a strategic or operational need to locate within the Village Zone, and the effects of such activities on the character and amenity are insignificant.*
- This in particular is reflective of the restricted matter of discretion (a).
242. The notified rules create a Non-Complying activity status for education facilities which makes any resource consent pathway less attractive and more difficult to obtain. This may in turn make the Village Zone less desirable for the placement of such activities. There is benefit in allowing education facilities to locate within the Village Zone, as they provide an essential service to people and the community. If they are located within walking distance of dwellings with children who go to school, this results in two main benefits -, being fewer vehicles on the roading network, along with less congestion during peak school hours, and the health and well-being benefits from people walking to the education facilities. It would also increase the likelihood that the staff will reside within the catchment of the education facilities, and they themselves may choose to walk, bike or use other forms of transport.

### **Risk of acting or not acting**

243. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### Decision about most appropriate option

244. The amendment gives effect to the relevant objectives and policies which are also subject to recommended amendments. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### 4.3.4 Section 24.1 – Village – Land use Activities – New provisions – Emergency services training and management activities and Emergency service facilities

#### Introduction

245. The Proposed Waikato District Plan (notified version) does not explicitly provide for emergency services or associated training. The notified version contains provision for a ‘Community activity’ as permitted in the Village Zone, but it is not certain whether emergency services would fall within this definition, due to its requirement for public land. The Hearing 5 (Definitions) report (para 918) recommends replacing the definition of Community Activity with the National Planning Standards definition of “community facility.” This definition does not require community facilities to be on public land. If this definition is adopted, then it could cover emergency services training.

#### Submissions

246. The following submission points were made:

Submission point	Submitter	Summary of submission
378.45	Fire and Emergency New Zealand	Amendment to Rule 24.1.1 – Permitted Activities with the addition of a new activity as follows; <u>(x) Emergency services training and management activities</u>
FS1388.42	Mercury Energy Limited	Oppose submission 378.45
FS1035.151	Pareoranga Te Kata	Support submission 378.45
378.46	Fire and Emergency New Zealand	A new activity added to Rule 24.1.2 to include: <u>(x) Emergency service facilities</u>
FS1388.43	Mercury Energy Limited	Oppose submission 378.46
FS1035.152	Pareoranga Te Kata	Support submission 378.46

#### Analysis

247. The Fire and Emergency New Zealand submission [378.45] seeks that ‘Emergency services training and management activities’ be a permitted activity because in their view it is necessary to “...better achieve the sustainable management purpose of the Act and better enable Fire and Emergency New Zealand to achieve its statutory function by facilitating firefighting and emergency response (including training for such circumstances)”. The submission also contains a request for a new definition of this activity, which will be dealt with in Topic 5.

Hearings Report 5 recommends that a definition of emergency services be added to the plan, as follows:

“Emergency Services means the New Zealand Police, Fire and Emergency New Zealand, and ambulance services.”

248. I generally agree with the reasons provided by the submitter. If provision were not made for training to occur, then there is potential for adverse effects on the community, as both the response time and manner in which an emergency is handled would suffer from a lower performance of the staff involved. It is my opinion that the community would generally anticipate training and management activities to occur, especially if a corresponding service (such as a fire station) were located in the area. I note that the submission [378] from Fire and Emergency New Zealand states that training is undertaken between the hours of 7:00am-10:00pm and as such, it is my opinion that this would be appropriate to include as a requirement for the rule (insofar as it relates to training only). This relates to Part 2 (5)(2), as it provides for a community's health, safety and well-being.
249. The Fire and Emergency New Zealand submission [378.46] seeks a new discretionary activity in the Village Zone for emergency service facilities as Fire stations must be strategically located within and throughout communities to maximise their coverage and response times. As noted above, Hearings Report 5 recommends a definition of emergency services. I support the inclusion of emergency services as a restricted discretionary activity, and for emergency services training and management as a permitted activity in the Village Zone.
250. Activities such as the fire service have a clear need to operate in the Village Zone as they need to be close to the communities/catchment that they serve, and to gain access to personnel to man the fire stations, particularly those with volunteer personnel/staff. This would also give effect to Part 2 with particular regard to health, safety and well-being.
251. The main potential adverse effects from fire stations are restricted to amenity, character, noise and traffic. Of those effects, noise has the greatest potential for impact. In this regard, the notified rules seek to exempt emergency sirens from noise restrictions. In addition, the number of emergency services located within the Village Zone is likely to be limited, and the discretionary activity status proposed will mean that Council can look at the full range of potential adverse effects.
252. It is noted that Fire and Emergency New Zealand are not a requiring authority under section 166 of the Resource Management Act (RMA), therefore they do not have the ability to designate land for the purposes of fire stations. As such, it is appropriate to have provisions contained within the district plan for such activities.

## Recommendations

253. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Fire and Emergency New Zealand submission point [378.45] and Pareoranga Te Kata further submission point [FS1035.151], and reject Mercury Energy Limited further submission point [FS1388.42]
  - Accept Fire and Emergency New Zealand submission point [378.46] and Pareoranga Te Kata further submission point [FS1035.152], and reject Mercury Energy Limited further submission point [FS1388.43].

## Recommended amendments

254. The following amendments are recommended:

24.1.1

P9 Emergency services training and management activities Nil except Emergency services training shall be restricted to the hours of 7:00am-10:00pm

## 24.1.2

D2    Emergency service facilities    Nil**Section 32AA evaluation**

255. The following points evaluate the recommended change under Section 32AA of the RMA.

**Other reasonably practicable options**

256. Other than recommending the amendments above, the other reasonably-practicable options are to include provisions for emergency service facilities and training/management activities within a chapter that applies across all zones, such as Chapter 14, although this may not align with the intent for Chapter 14 to be a single location for infrastructure matters. Another alternative would be to keep the notified provisions as they currently stand, which would require that emergency service facilities and any training/management activities are Non-Complying activities.

**Effectiveness and efficiency**

257. With respect to training and management activities, if provision were not made for training to occur, then there would be potential for increased costs to people and the community, as both the response time and manner in which an emergency is handled would suffer from a lower performance of the staff involved. As such, provision for training and management activities are a benefit. The Fire and Emergency New Zealand submission states (with respect to training):

*In order to ensure an efficient and effective emergency response, firefighter training is an essential activity undertaken by FENZ. Firefighter training may include live fire training and equipment training both on and off site. The SPE confirms a commitment to the Government that all firefighters achieve a certain level of training.*

258. There are likely to be some costs associated with these types of activities, namely traffic (staff/volunteers and any emergency vehicles involved in the training/management), lighting (from flashing emergency lights), noise (from sirens – although sirens are proposed to be exempt from noise rules) and ultimately the impact that this may have on the amenity of the Village Zone. There is also potential cost involved with ‘live’ training through distraction to drivers by way of the ‘rubbernecking’ phenomenon.

259. Fire and Emergency New Zealand have stated in their submission that:

*Vehicle movements to and from fire station sites differ depending on whether a fire station accommodates volunteer or career firefighters, on the number of emergencies, and are primarily related to fire appliances movements and firefighter private vehicles. Noise will also be produced on site by operational activities such as cleaning and maintaining equipment, training activities and noise produced by emergency sirens. Training may take place anywhere between 7:00am and 10:00pm. Cleaning and maintenance will generally take place during the day; however, it can take place after a call out which can occur at any time. Generally, FENZ has assessed that a fire station will be capable of meeting the standards set out in NZS 6802:2008 (Table 3 - Guideline residential upper noise limits), with the exclusion of noise created by emergency sirens. Sirens play a crucial role in facilitating a prompt emergency response and provide a critical backup to the pager system. A siren can be the most effect means of communication in alerting volunteers, these volunteers generally live and work in close proximity to the fire stations. Sirens also provide assurance to the people who have made the call that help is on the way.*

260. It is my opinion that the community would generally anticipate training and management activities to occur, especially if a corresponding service (such as a fire station) were located in the area, and it is likely that the training and management activities would only occur when they are necessary (i.e. would otherwise be an inefficient use of the organisation / staff / volunteers' time and money to undertake the activities any more than necessary). While the above information is specific to Fire and Emergency New Zealand, it is my opinion that it would also be applicable to other emergency providers (such as St Johns). It is my opinion that provision of emergency services training and management activities as a Permitted Activity in the Village Zone gives effect to Part 2 (5)(2), as it provides for communities' health, safety and well-being.
261. With respect to the provision of emergency service facilities, there is potential for costs to be incurred with the provision of emergency service facilities (as a Discretionary Activity) in terms of adverse effects (e.g. traffic generation, noise, visual and their impact on the amenity of the Village Zone), however a Discretionary Activity status allows for the full range of effects to be considered and assessed as a part of the resource consent process. It is my opinion that this provision also ties in with the other amendments sought to the objectives and policies of the Village Zone that have been sought by the submitter (assessed and evaluated previously in my report).
262. There is a potential cost in that the amendment to Objective 4.3.4 - Village built form and amenity may create a proliferation of emergency service facilities within a particular locality within the Village Zone. In my opinion, this is unlikely to arise, as there is a limited number of activities that would fit within the scope of 'emergency service facilities', and generally it would be unlikely for someone to create more facilities than necessary (e.g. it is illogical to have multiple fire stations that cover the same Village-zoned catchment). In addition, Policy 4.3.11- Maintain residential function restricts the establishment of activities unless the activity has:
- ...a strategic or operational need to locate within the Village Zone, and the effects of such activities on the character and amenity are insignificant.*
263. I note that the notified version of this policy is restricted to commercial or industrial activities, however the submitter also seeks to amend this to include 'non-residential', and this is dealt with previously in my report.
264. There is benefit in allowing such services to locate in Village-zoned areas as, in the example of a fire station, it provides for localities that will result in better response times for emergency services and allows for better sourcing of volunteers/staff for such operations. Accordingly, it may provide opportunities for employment as well. It will also likely result in less travel time for an emergency service operator, therefore less wear and tear on the vehicles (including those of staff/volunteers) and on the road network itself, along with reduced fuel costs. The same benefits are also likely to occur with the likes of a church activity.
265. It will also offer a clearer and easier consenting pathway for such activities than the current notified framework, which would default such activities to be Non-Complying.
266. It is my opinion that provision of emergency service facilities as a Discretionary Activity in the Village Zone gives effect to Part 2 (5)(2), as it provides for a community's health, safety and well-being.

### Risk of acting or not acting

267. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### Decision about most appropriate option

268. The amendments give effect to Part 2 (5)(2), as they provide for a community's health, safety and well-being. The amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 4.3.5 Section 24.1.1 – Village – Permitted Land use Activities – Amendment - Community activity

### Introduction

269. The Proposed Waikato District Plan (notified version) provides for 'Correctional facility' in the Rural Zone (Rule 22.1.5 - Discretionary) and the Country Living Zone (Rule 23.1.3 - Non-Complying), but does not provide for the activity in the Village Zone.

### Submissions

270. The following submission points were made:

Submission point	Submitter	Summary of submission
496.9	The Department of Corrections	Rule 24.1.1 P5 – Permitted Activities, be amended to read as follows; P5 Community activity <del>Not</del> <u>Excluding a community correction activity</u>
FS1388.496	Mercury Energy Limited	Oppose submission 496.9

### Analysis

271. Department of Corrections [496.2] asked for community corrections activities to be included in the definition of "community activity" This was accepted in part in hearings Report 5 (Definitions – para 948), recommending that, if the plan is amended to refer to community corrections activity, the definition of 'community corrections activity' from the National Planning Standards be included in the definitions chapter. It is my recommendation that submission Department of Corrections [496.9] likewise be accepted.

### Recommendations

272. I recommend, for the reasons given above, that the Hearings Panel:

- Accept The Department of Corrections submission point [496.9] if [496.2] is accepted and reject Mercury Energy Limited further submission point [FS1388.496]

OR

- Reject The Department of Corrections submission point [496.9] if [496.2] is rejected and reject Mercury Energy Limited further submission point [FS/388.496].

### Recommended amendments

273. If The Department of Corrections submission point [496.2] is accepted, then the following amendment is recommended:

24.1.1

P5 Community activity ~~Nil~~ Excluding a community correction activity

### Section 32AA evaluation (if The Department of Corrections submission point 496.2 is accepted)

274. The recommended amendments are to provide clarification to assist with the understanding of the purpose/intent of the rule and associated definition. Accordingly, no s32AA evaluation has been required to be undertaken.

### Section 32AA evaluation (if The Department of Corrections submission point 496.2 is not accepted)

275. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.3.6 Section 4.3 – Village – Amended provisions – Home occupations – 24.1.1 P3

### Introduction

276. Home occupations are provided for in the Village Zone as a permitted activity, subject to specific conditions (Rule 24.1.1 P3). The rule requires that vehicles be loaded/unloaded during a specific timeframe, but does not specify the type of vehicle.

### Submissions

277. The following submission points were made:

Submission point	Submitter	Summary of submission
742.145	New Zealand Transport Agency	Amendments to Rule 24.1.1 P3: (a) It is wholly contained within a building; (b) The storage of materials or machinery associated with the home occupation are wholly contained within a building; (c) No more than 2 people who are not permanent residents of the site are employed at any one time; (d) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day;

		<p>(e) Machinery may be operated after 7:30am and up to 9pm on any day.</p> <p>(f) <u>There are no heavy vehicle movements associated with the activity</u></p> <p>AND</p> <p>Add a new Restricted Discretionary Activity rule for home occupations not complying with Rule 24.1.1 P3(f), with discretion restricted to the effects of heavy vehicle traffic safety and efficiency of the transport network</p>
<i>FS1387.888</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 742.145</i>

### Analysis

278. As I am not an expert in traffic safety and I have not (as at the time of writing of this report) been able to obtain expert comments/evidence to address this submission point, I invite the submitter to provide evidence and/or reasoning as to why the amendment is required.
279. I do note that there are other topics where the submitter has sought the same relief (e.g. Residential and Country Living), and as such, this submission could be dealt with as a part of those topics.
280. Despite the above, I can make the following comments based upon my experience as a Consents Planner, which may assist the other s42A report authors and/or the Hearings Panel:
281. In my opinion, if the submitter's amendment were agreed to, it may result in a number of additional smaller vehicle movements that may have a greater level of adverse effects. It may be appropriate to utilise rules similar to those in the Operative Waikato District Plan: Franklin Section, which restrict the number of heavy and light vehicle movements (for example Rule 27.6.3.1 (vii)(i)).

### Recommendations

282. I recommend, for the reasons given above, that the Hearings Panel:
- Reject New Zealand Transport Agency submission point [742.145] and reject Mercury Energy Limited further submission point [FS1387.888].

#### 4.1.5 Recommended amendments

283. No amendments are recommended.

#### 4.3.7 Section 4.3 – Village – Retention - Temporary event – 24.1.1 – P4

##### Introduction

284. Rule 24.1.1 P4 provides for temporary events in the Village Zone, subject to specific requirements. There do not appear to be any specific objectives or policies for the Village Zone with respect to temporary events.



## Submissions

285. The following submission points were made:

Submission point	Submitter	Summary of submission
742.146	New Zealand Transport Agency	Retain Rule 24.1.1 P4
FS1387.889	Mercury Energy Limited	Oppose submission 742.146

## Analysis

286. There are no submissions seeking to amend or delete rule 24.1.1 P4 and accordingly, I agree with the New Zealand Transport Agency submission [742.146]

## Recommendations

287. I recommend, for the reasons given above, that the Hearings Panel:

- Accept New Zealand Transport Agency submission point [742.146] and reject Mercury Energy Limited further submission point [FS1387.889].

## Recommended amendments

288. No changes are required.

## Section 32AA evaluation

289. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.3.8 Section 4.3 – Village – Amended provisions – Noise – 24.2.1

### Introduction

290. The Village Zone two rules for noise (24.2.1- Noise - General and 24.2.2 – Noise - Construction). The rules generally seek to set noise limits while exempting some activities (such as emergency sirens) and to minimise adverse effects on residential amenity.

## Submissions

291. The following submission points were made:

Submission point	Submitter	Summary of submission								
697.947	Waikato District Council	<p>Delete Rule 24.2.1 P3 and P4 AND Amend Rule 24.2.1 P2 AND make consequential changes to D1:</p> <p><b>24.2.1 Noise - General</b></p> <table border="1"> <tr> <td>P1</td> <td>Farming noise, and noise generated by emergency generators and emergency sirens.</td> </tr> <tr> <td>P2</td> <td> <p>(a) Noise measured within any other site in the Village Zone must not exceed:</p> <ul style="list-style-type: none"> <li>(i) 50dB (L<sub>Aeq</sub>), 7am to 7pm, every day;</li> <li>(ii) 45dB (L<sub>Aeq</sub>), 7pm to 10pm, every day; and</li> <li>(iii) 40dB (L<sub>Aeq</sub>) and 65dB (L<sub>Amax</sub>), 10pm to 7am the following day.</li> </ul> <p>(b) Noise levels must be measured in accordance with the requirements of <u>New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound"</u>; and</p> <p>(c) Noise levels must be assessed in accordance with the requirements of <u>New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise"</u>.</p> </td> </tr> <tr> <td>P3</td> <td> <p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics Environmental noise.</del></p> </td> </tr> <tr> <td>D1</td> <td>Noise that does not comply with Rule 24.2.1 P1, P2 or P3.</td> </tr> </table>	P1	Farming noise, and noise generated by emergency generators and emergency sirens.	P2	<p>(a) Noise measured within any other site in the Village Zone must not exceed:</p> <ul style="list-style-type: none"> <li>(i) 50dB (L<sub>Aeq</sub>), 7am to 7pm, every day;</li> <li>(ii) 45dB (L<sub>Aeq</sub>), 7pm to 10pm, every day; and</li> <li>(iii) 40dB (L<sub>Aeq</sub>) and 65dB (L<sub>Amax</sub>), 10pm to 7am the following day.</li> </ul> <p>(b) Noise levels must be measured in accordance with the requirements of <u>New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound"</u>; and</p> <p>(c) Noise levels must be assessed in accordance with the requirements of <u>New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise"</u>.</p>	P3	<p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics Environmental noise.</del></p>	D1	Noise that does not comply with Rule 24.2.1 P1, P2 or P3.
P1	Farming noise, and noise generated by emergency generators and emergency sirens.									
P2	<p>(a) Noise measured within any other site in the Village Zone must not exceed:</p> <ul style="list-style-type: none"> <li>(i) 50dB (L<sub>Aeq</sub>), 7am to 7pm, every day;</li> <li>(ii) 45dB (L<sub>Aeq</sub>), 7pm to 10pm, every day; and</li> <li>(iii) 40dB (L<sub>Aeq</sub>) and 65dB (L<sub>Amax</sub>), 10pm to 7am the following day.</li> </ul> <p>(b) Noise levels must be measured in accordance with the requirements of <u>New Zealand Standard NZS 6801:2008 "Acoustics Measurement of Environmental Sound"</u>; and</p> <p>(c) Noise levels must be assessed in accordance with the requirements of <u>New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise"</u>.</p>									
P3	<p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics Environmental noise.</del></p>									
D1	Noise that does not comply with Rule 24.2.1 P1, P2 or P3.									

697.948	Waikato District Council	<p>Amend Rule 24.2.2 P1: 24.2.2 Noise - Construction P1</p> <p>(a) Construction noise must <del>not exceed</del> <u>meet</u> the limits in NZS 6803:1999 Acoustics – Construction Noise; and</p> <p>(b) Construction noise must be measured and assessed in accordance with the requirements of NZS6803:1999 Acoustics – Construction Noise.</p>						
923.161	Waikato District Health Board	<p>Amend 24.2.1 P2, P3 and D1: <b>24.2.1 Noise - General</b></p> <table border="1" data-bbox="691 696 1315 1957"> <tr> <td data-bbox="691 696 767 831">P1</td> <td data-bbox="767 696 1315 831">Farming noise, and noise generated by emergency generators and emergency sirens.</td> </tr> <tr> <td data-bbox="691 831 767 1603">P2</td> <td data-bbox="767 831 1315 1603"> <p><u>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</u></p> <p>(a) <del>Noise measured the following noise limits at any point within any other site in the Village Zone must not exceed:</del></p> <p>(i) 50dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7am to 7pm, every day;</p> <p>(ii) 45dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7pm to 10pm, every day; <del>and</del></p> <p>(iii) 40dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del> and 65dB <del><math>(L_{Amax})</math></del>, 10pm to 7am the following day.</p> <p><u>(iv) 65 dB <math>L_{AFmax}</math> 10pm to 7am the following day:</u></p> <p>(b) <u>The permitted activity noise limits for the zone of any other site where sound is received.</u></p> </td> </tr> <tr> <td data-bbox="691 1603 767 1957">P3</td> <td data-bbox="767 1603 1315 1957"> <p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental noise.</del></p> </td> </tr> </table>	P1	Farming noise, and noise generated by emergency generators and emergency sirens.	P2	<p><u>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</u></p> <p>(a) <del>Noise measured the following noise limits at any point within any other site in the Village Zone must not exceed:</del></p> <p>(i) 50dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7am to 7pm, every day;</p> <p>(ii) 45dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7pm to 10pm, every day; <del>and</del></p> <p>(iii) 40dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del> and 65dB <del><math>(L_{Amax})</math></del>, 10pm to 7am the following day.</p> <p><u>(iv) 65 dB <math>L_{AFmax}</math> 10pm to 7am the following day:</u></p> <p>(b) <u>The permitted activity noise limits for the zone of any other site where sound is received.</u></p>	P3	<p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental noise.</del></p>
P1	Farming noise, and noise generated by emergency generators and emergency sirens.							
P2	<p><u>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</u></p> <p>(a) <del>Noise measured the following noise limits at any point within any other site in the Village Zone must not exceed:</del></p> <p>(i) 50dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7am to 7pm, every day;</p> <p>(ii) 45dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del>, 7pm to 10pm, every day; <del>and</del></p> <p>(iii) 40dB <del><math>L_{Aeq(15min)} - (L_{Aeq})</math></del> and 65dB <del><math>(L_{Amax})</math></del>, 10pm to 7am the following day.</p> <p><u>(iv) 65 dB <math>L_{AFmax}</math> 10pm to 7am the following day:</u></p> <p>(b) <u>The permitted activity noise limits for the zone of any other site where sound is received.</u></p>							
P3	<p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound; and</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental noise.</del></p>							

		DI	(a) Sound that is outside the scope of <u>NZS 6802:2008 or a permitted activity standard; and</u> (b) Sound <del>Noise</del> that does not comply with Rule 24.2.1 P1, <u>or P2 or P3.</u>
378.47	Fire and Emergency New Zealand	Retain Rule 24.2.1	
FS1035.153	Pareoranga Te Kata	Support submission 378.47	

## Analysis

292. With respect to the Waikato District Council submission points [697.947] and [697.948], these submission points generally seek to clarify the rules and to relocate the requirements of P3 into P4, as they are standards which need to be met, rather than subject to their own rule. I note that there is no P4 rule to be deleted and as such, I disagree with this part of the submission. With respect to the proposed amendment to have the requirements of P3 relocated to P2, I am generally supportive of this.
293. The Waikato District Health Board submission point [923.161] seeks a number of amendments to Rule 24.2.1 as it is their opinion that the notified rule has the following issues:
- Incorrect terminology has been used in conflict with the standards specified
  - No provision has been made for sound sources outside the scope of NZS 6802
  - The measurement and assessment standards are an integral part of the noise limits and cannot be a separate permitted activity standard,
  - No noise limits are specified for sound received in adjoining zones.
294. As per my comments above with respect to the Waikato District Council submission point [697.947], I am generally supportive of the proposed amendment to relocate the requirements of P3 to P2.
295. The Waikato District Health Board submission [923.161] also seeks to simplify the wording used. It is my opinion, from my experience as a Consents Planner, that the extent of wording as per the notified version is more appropriate and user-friendly than the wording proposed by the submitter and I do not recommend the inclusion of the submitter's amended wording in this regard.
296. In terms of the amendments sought to the wording of (a):
- (a) ~~Noise measured the following noise limits at any point~~ within any other site in the Village Zone ~~must not exceed~~:
297. It is my opinion that these amendments are not required. The notified wording states "...Noise measured within any other site in the Village Zone" and as such, it is implicit that the noise could be measured at any part of a site zoned Village.
298. Likewise, I do not consider it necessary to make the 65 dB LAFmax requirement a stand-alone requirement. Rule 24.2.1 P2 as notified refers to 65 dBA LA max, and I do not have the expertise to advise the Panel how this differs from the standard requested. This would

be inconsistent with the Auckland Unitary Plan (operative in part)<sup>1</sup>, where the 65 dB  $L_{AFmax}$  rule is the same style as the Proposed Waikato District Plan.

299. With respect to the amendment sought to include: (b) The permitted activity noise limits for the zone of any other site where sound is received.
300. From my experience as a Consents Planner, I agree with this amendment, as the notified rule does not appear to have any consideration of noise that is generated within the Village Zone, but impacts sites that are not zoned Village.
301. The submission seeks that any 'sound' that is outside the scope of NZS 6802:2008 or a permitted activity standard be a discretionary activity.
302. I have sought feedback from Alan Parkes, Council's Contaminated Land specialist. Mr Parkes has previously been the Team Leader for Environmental Health and has experience in assessing noise. He has stated that comment should be provided by a noise expert, and accordingly I invite the submitters to provide evidence on these matters from experts in that relevant field.
303. Mr Parkes has noted that it is his understanding that "*the measurement period should be specified and 15 minutes is the appropriate period I believe*". From my experience as a Consents Planner, I agree with this comment, because having an  $L_{Aeq}$  spread across the entire duration of (i-iii), i.e. 7am-7pm, could result a large amount of high noise events during a limited duration, while the rest of the day experiences a lower level of noise, thus the average noise level during the period of 7am-7pm meets the requirement. This could result in situations where people and communities are subjected to relatively high noise during part of the day. Despite my comments here, I do not have the expertise to advise the Panel as to the correct terminology/requirements that should be utilised here, accordingly I invite the submitters to provide evidence on these matters from experts in that relevant field.
304. The submission generally seeks to remove the term 'noise' and replace it with 'sound'. This would once again appear to be inconsistent with the terminology of noise rules utilised by other Councils, such as Auckland and Hamilton (example rules E25.6.3 (Auckland Unitary Plan) and 25.8.3.7 (Hamilton City District Plan)). As such, I disagree with this amendment sought based on consistency with other district plans but I invite the submitter to provide evidence on these matters from experts in the relevant field.
305. Mr Parkes has also noted that it is his understanding that "*I would suspect that there are likely to be some types of noise that wouldn't be covered by NZS6802 – eg there are specific standards for wind turbine noise. Also impulsive noise such as gun shots etc may not be appropriate but using the Leq metric which is an energy measure it may now be appropriate.*" It appears that wind turbines for example may be assessed under NZS 6808:2010. This standard states that for micro wind turbines (typically up to 15kW), it would normally be appropriate for sound levels to comply with the ordinary district plan noise limits applicable to general mechanical and electrical equipment, rather than specific wind farm noise limits recommended in the standard. I invite the submitter to provide evidence on these matters from experts in that relevant field.
306. As a consequence of the above matters I invite the submitters to expand on their positions in their evidence to the Hearings Panel. I do not have the technical experience or qualifications to make recommendations on Waikato District Health Board submission point [923.161].
307. I note that the submitter (923 - Waikato District Health Board) has generally sought the above amendments across all zones where the same/similar noise rules are included. If it is

---

<sup>1</sup> For example – Rule E25.6.3.1

the preference of the hearings panel, it may be appropriate that they return to this matter at a later date, once acoustic advice/evidence becomes available during another hearing topic.

308. Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that Waikato District Health Board submission point [923.161] be rejected.

### Recommendations

309. I recommend, for the reasons given above, that the Hearings Panel:

- Accept Waikato District Council submission point [697.948]
- Accept in part Waikato District Council submission point [697.947]
- Reject Waikato District Health Board submission point [923.161].
- Accept in part Fire and Emergency New Zealand submission point [378.47] and Pareoranga Te Kata further submission point [FS1035.153].

### Recommended amendments

310. The following amendments are recommended:

#### 24.2.1 Noise – General

P1	Farming noise, and noise generated by emergency generators and emergency sirens.
P2	(a) Noise measured within any other site in the Village Zone must not exceed: <ul style="list-style-type: none"> <li>(i) 50dB (L<sub>Aeq</sub>), 7am to 7pm, every day;</li> <li>(ii) 45dB (L<sub>Aeq</sub>), 7pm to 10pm, every day; and</li> <li>(iii) 40dB (L<sub>Aeq</sub>) and 65dB (L<sub>Amax</sub>), 10pm to 7am the following day.</li> </ul> (b) <u>Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 “Acoustics Measurement of Environmental Sound”; and</u> (c) <u>Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 “Acoustic Environmental noise.</u>
P3	<del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound; and</del> <del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental noise.</del>
D1	Noise that does not comply with Rule 24.2.1 P1, P2 or P3.

#### 24.2.2 Noise - Construction

P1

- (a) Construction noise must not exceed ~~meet~~ the limits in NZS 6803:1999 Acoustics – Construction Noise; and
- (b) Construction noise must be measured and assessed in accordance with the requirements of NZS6803:1999 Acoustics – Construction Noise.

### Section 32AA evaluation (submission points [697.947] and [697.948])

311. The recommended amendments are to provide clarification to assist with the understanding and readability of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.3.10 Section 4.3 – Village – Glare and artificial light spill – 24.2.3

#### Introduction

312. The Village Zone includes a rule for glare and artificial light spill (24.2.3). The rule relates to objectives and policies (in particular 4.4.1 and 4.4.3). The rules and objectives/policies generally seek to limit glare and light spill and manage the associated adverse effects while providing for certain activities (such as security).

#### Submissions

313. The following submission points were made:

Submission point	Submitter	Summary of submission
742.147	New Zealand Transport Agency	Retain Rules 24.2.3 PI and RDI as notified
697.949	Waikato District Council	Delete Rule 24.2.3 PI (b)

#### Analysis

314. The submission by Waikato District Council [697.949] does not acknowledge that there is potential (subject to the hearing for Topic 27 – Zone Extents and Re-zoning) for areas of land zoned as Village to continue to be used for farming activities. As such, there is a need for (b) to remain and accordingly, it is my recommendation that this submission point be rejected.

315. As I am not recommending any amendments to Rule 24.2.3, I am agreeable with the relief sought by the New Zealand Transport Agency [742.147].

#### Recommendations

316. I recommend, for the reasons given above, that the Hearings Panel:

- Accept New Zealand Transport Agency submission point [742.147]
- Reject Waikato District Council submission point [697.949].

#### Recommended amendments

317. No amendments are required from these submission points.

#### Section 32AA evaluation

318. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.3.11 Section 4.3 – Village – Amendments – Earthworks – 24.2.4.1

319. The following submission points were made:

Submission point	Submitter	Summary of submission
697.950	Waikato District Council	<p>Amend 24.2.4(1):</p> <p><b>24.2.4 Earthworks</b></p> <p>(1) Rule 24.2.4.1 – General, provides the permitted rules for earthworks activities for the Residential Zone.</p> <p><u>This rule does not apply in those areas specified in rules 24.2.4.1A, 24.2.4.2, 24.2.4.3 and 24.2.4.4.</u></p>
FS1350.101	Transpower New Zealand Limited	Oppose submission 697.950
397.7	Horotiu Properties Limited	<p>Request – Delete 24.2.4.1 PI(a)(i)</p> <p>PI</p> <p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <p>(i) <del>Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</del></p> <p>(ii) Not exceed a volume of more than 250m<sup>3</sup>;</p> <p>(iii) Not exceed an area of more than 1,000m<sup>2</sup> over any single consecutive 12 month period;</p> <p>(iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</p> <p>(v) The slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</p> <p>(vi) Earthworks are set back 1.5m from all boundaries;</p> <p>(vii) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</p> <p>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</p>



		(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
397.8	Horotiu Properties Limited	<p>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Not exceed a total volume of 20m<sup>3</sup>;</li> <li>(ii) Not exceed a depth of 1m;</li> <li>(iii) The slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li><del>(iv) Fill material is setback 1.5m from all boundaries;</del></li> <li>(v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
466.50	Brendan Balle	Delete the requirement for 1.5m setback from the boundary where effects are mitigated from Rule 24.2.4.1 PI Earthworks.
602.47	Greig Metcalfe	<p>Delete 24.2.4.1 PI(a)(i) PI</p> <p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li><del>(i) Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</del></li> <li>(ii) Not exceed a volume of more than 250m<sup>3</sup>;</li> <li>(iii) Not exceed an area of more than 1,000m<sup>2</sup> over any single consecutive 12 month period;</li> <li>(iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) The slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li>(vi) Earthworks are set back 1.5m from all boundaries;</li> <li>(vii) Areas exposed by earthworks are re-</li> </ul>

		<p>vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</p> <p>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</p> <p>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p> <p>AND</p> <p>Delete Rule 24.2.4.1 P3(a)(iv) Earthworks - General.</p> <p>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions:</p> <p>(i) Not exceed a total volume of 20m<sup>3</sup>;</p> <p>(ii) Not exceed a depth of 1m;</p> <p>(iii) The slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</p> <p><del>(iv) Fill material is setback 1.5m from all boundaries;</del></p> <p>(v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</p> <p>(vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;</p> <p>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p>
FSI 187.10	Greig Developments No 2 Limited	Support submission 602.47
FSI 308.85	The Surveying Company	Support submission 602.47
602.48	Greig Metcalfe	Delete 24.2.4.1 NCI
FSI 187.12	Greig Developments No 2 Limited	Support submission 602.48
FSI 308.86	The Surveying Company	Support submission 602.48
689.18	Greig Developments No 2 Limited	No specific decision sought, but submission recognises the importation of fill to enable residential development is appropriate in Rule 24.2.4.1 Earthworks - General and questions whether this should be a permitted activity (P2) or a non-complying activity (NCI).
695.125	Sharp Planning Solutions Ltd	Amend 24.2.4.1 P1 so that earthworks limits be applied as a ratio of the site area i.e. 1:1 so a 450m <sup>2</sup>

		site would provide 450m <sup>3</sup> of earthworks.
695.126	Sharp Planning Solutions Ltd	Amend 24.2.4.1 P3(a)(i) – to increase the infill volume from 20m <sup>3</sup> to 50m <sup>3</sup> .
695.127	Sharp Planning Solutions Ltd	24.2.4.1 P3 – increase the depth from 1m to 1.5m
697.952	Waikato District Council	<p>Amendment to 24.2.4.1 P1(a) –</p> <p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</li> <li>(ii) Not exceed a volume of more than 250m<sup>3</sup> and an area of more than 1,000m<sup>2</sup> over any single consecutive 12 month period;</li> <li><del>(iii) Not exceed an area of more than 1,000m<sup>2</sup> over any single consecutive 12 month period;</del></li> <li>(iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) The slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li>(vi) Earthworks are set back <u>at least</u> 1.5m from all boundaries;</li> <li>(vii) Areas exposed by earthworks are re vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
697.953	Waikato District Council	<p>Amend 24.2.4.1 P3</p> <p>(iv) Fill material is setback at <u>least 1.5m</u> from all boundaries;</p>
746.125	The Surveying Company	Amend Rule 24.2.4.1 P1(a)(ii) to increase the earthworks volume to 500m <sup>3</sup> .
746.126	The Surveying Company	No specific decision is sought, but the submission recognises that the importation of fill to enable residential development is appropriate in Rule 24.2.4.1 Earthworks General, and questions whether this would be a permitted activity (P2) or a non-

		complying activity (NCI).
746.146	The Surveying Company	No specific decision sought, but submission supports with amendments Rule 24.2.4.1 P2 Earthworks - General and considers that where subdivision has been approved, there should be no requirements for land owners to apply for additional resource consents for earthworks to undertake permitted activities on the land.
746.147	The Surveying Company	No specific decision sought, but submission supports with amendments Rule 24.2.4.1 P3 Earthworks - General and considers that where subdivision has been approved, there should be no requirements for land owners to apply for additional resource consents for earthworks to undertake permitted activities on the land.
945.26	First Gas Limited	Amend Rule 24.2.4.1 PI(a) to add: <u>(x) Earthworks to a depth of greater than 200mm are to be located a minimum of 12m from the centre line of a gas pipeline.</u>
FSI 289.4	Mowbray Group	Oppose submission 945.26
FSI 305.24	Andrew Mowbray	Oppose submission 945.26
945.27	First Gas Limited	Add a new matter of discretion to 24.2.4.1 RD1(b): <u>(xii) Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u>
FSI 134.92	Counties Power Limited	Support submission 945.27
986.114	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 24.2.4.1 PI(a)(vii) Earthworks general as follows (or similar amendments to achieve the requested relief): (vii) Areas exposed by the earthworks are <u>stabilized to avoid runoff within 1 month of the cessation re-vegetated to achieve 80% ground cover 6 months of the commencement</u> of the earthworks AND Any consequential amendments to link and/or accommodate the requested changes.
986.99	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 24.2.4.1 PI (a) Earthworks-General as follows (or similar amendments to achieve the requested relief): (i) Be located more than 1.5 m horizontally from <u>any infrastructure, including a waterway, open drain or overland flow path;</u> AND Any consequential amendments to link and/or accommodate the requested changes.

FS1176.312	Watercare	Support submission 986.99
695.124	Sharp Planning Solutions Ltd	Retain Rule 24.2.4.1 PI (maximum earthworks)

### Analysis

320. Waikato District council submission point [697.950] seeks to clarify the wording of the rule and I agree with this. I note, however, that there does not appear to be a Rule 24.2.4.1A. and there does not appear to be any justification within the submission point as to why a non-existent rule number has been proposed for inclusion. Accordingly, I invite the submitter to provide evidence/reasoning on this. I note that the associated further submission point by Transpower [FS1350.101] states that:

*Related to the original submission by Waikato District Council seeking relocation/replicating of the National Grid earthworks provisions (submission point 697.6), Transpower's further submission point in response to Submission point 697.6 apply to the earthwork provisions listed.*

*Transpower supports and prefers a standalone set of provisions (for the reason it avoids duplication and provides a coherent set of rules which submitters can refer to, noting that the planning maps clearly identify land that is subject to the National Grid provisions).*

*A stand-alone set of provisions as provided in the notified plan is also consistent with the National Planning Standards. Irrespective that the proposed plan has not been drafted to align with the National Planning Standards, it would be counterproductive to amend the layout contrary to the intent of the Standards. Standard 7. District wide Matters Standard provides, as a mandatory direction, that 'provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, Infrastructure and Transport heading'. Clause 5.(c) makes specific reference to reverse sensitivity effects between infrastructure and other activities.*

*It is not clear from the submission points as to the relationship between chapters 14, 18, 20, 21, 22, 23, 24 and 25 and the National Grid provisions within 14.1.1 provides the zone provisions do not apply to infrastructure and energy activities. As such, any other network utility activities would appear to be subject to the National Grid provisions and this requires further clarification.*

*If council wishes to pursue splitting the National Grid provisions into the respective chapters, supply of a revised full set of provisions would be beneficial to enable Transpower to fully assess the implications and workability of the requested changes.*

*Notwithstanding the location of National Grid provisions relating to earthworks within the proposed plan, Transpower seeks the specific changes to earthwork provisions as sought in its original submission point 576.55.*

*Note: It is not evident from the summary if there is a submission point applicable for Chapter 17. If so, this further submission covers that point.*

321. Accordingly it appears that 24.2.4.1A may be a consequential amendment from a submission point dealt with in topic 25B – Infrastructure. Given this, it is my opinion that the part of the submission point relating to '24.2.4.1A' be deferred to topic 25B.

322. I also note that 24.2.4 (1) refers to the Residential Zone and not the Village Zone; this is an obvious minor error, which I suggest the Panel could correct under clause 16 of Schedule 1.

323. With respect to the Horotiu Properties Limited submission points [397.7], [397.8] and Greig Metcalfe [602.47], these seek to amend rules Rule 24.2.4.1PI and P3 by deleting the requirement that earthworks be located more than 1.5 m horizontally from any waterway, open drain or overland flow path (24.2.4.1 PI (a)(i)), and deleting the requirement that fill material be setback 1.5m from all boundaries (24.2.4.1 P3(a)(iv)).

324. As I understand it, the reason for Rule 24.2.4.1 P3(a)(iv) is to ensure that there is sufficient room for a bund to be constructed near a boundary without spilling over onto a neighbouring property and to avoid adverse effects on neighbours' fences and walls, for example the placement of fill on a boundary may create additional surcharge onto a neighbouring rock wall or similar (i.e. likely that the fill would be outside the zone of influence).
325. As I understand it, Rule 24.2.4.1 PI (a)(i) is intended to ensure that drainage pathways are protected from earthworks by allowing for sufficient room for erosion and sediment controls to be put in place (such as silt fences and bunds) and to prevent the diversion of water flows (also covered in 24.2.4.1 PI(a)(ix)). The 1.5m setback would also offer a degree of protection (although somewhat minimal), in terms of the amenity that is drawn from the 'naturalness' of a waterway.
326. The submitters raise concerns that earthworks for digging out a posthole would trigger consent. This will not be applicable for this particular rule as it is specific to fill material, but I acknowledge that 'minor' earthworks activity involving fill material may get caught by this rule. The National Planning Standards (Ministry for the Environment. 2019 *National Planning Standards*. Wellington: Ministry for the Environment.) includes a definition for earthworks which excludes gardening, cultivation and disturbance of land for the installation of fence posts. Accordingly, if the earthworks definition is aligned with the National Planning Standards (Section 14), then typical close-boundary activities such as fences and raised garden beds would not be subject to Rule 24.2.4.1 P3, and this concern of the submitters need not be considered further. Hearing Report 5 (Definitions - para 679) recommends the adoption of the definition of earthworks from the Planning Standards.
327. I note that earthworks for the foundations of a building typically extend at least 300mm beyond the footprint of the building and as such, there is likely to be the need for resource consent if a building were located 1.5m from the boundary as per notified Rule 24.3.6. Despite this, I am of the opinion that I do not have scope here to address this potential issue, but it could be a matter that is addressed elsewhere by either an exemption for building foundations from this rule, or a decrease in the 1.5m earthworks setback to boundary (to 1.2m).
328. I also note that there are a number of further submissions in support:
- Greig Developments No 2 Limited [FS1/187.10], The Surveying Company [FS1/308.85] to Greig Metcalfe [602.47]
  - Greig Developments No 2 Limited [FS1/187.12], The Surveying Company [FS1/308.86] to Greig Metcalfe [602.48]
- With the reasons provided for their support being identical to the reasons of the respective original submissions.
329. Taking the above into consideration, I disagree with the relief sought by the submitters (including associated further submitters).
330. The Brendan Balle submission point [466.50] seeks to amend Rule 24.2.4.1 PI by deleting the requirement that earthworks be set back 1.5m from boundaries (PI (vi)). As noted in my analysis above, the 1.5m setback allows for sufficient room for erosion and sediment controls to be undertaken on the site itself. Feedback from council monitoring officers indicates that there have been issues in the past where earthworks undertaken at a site boundary have resulted in erosion and sediment controls being placed on a neighbouring property. It may also reduce the likelihood that earthworks will create adverse effects on neighbouring rock walls, trees, fences etc. As such, I disagree with the relief sought.
331. Greig Metcalfe [602.48] seeks to delete Rule 24.2.4.1 NC1, as it is the submitter's opinion that the importation of cleanfill is addressed by P2 and P3. While P2 and P3 address importation, it is restricted to fill material as opposed to cleanfill material. Cleanfill material

- is specific to rule NCI as it can include materials which are not suitable for building platforms, such as demolition materials and lumps of concrete. As such, I disagree with the relief sought.
332. Greig Developments No 2 Limited [689.18] and The Surveying Company [746.126] do not seek any specific relief and as such, I recommend that the submissions be rejected. I acknowledge the submitter's query regarding the importation of fill material under P2 as a permitted activity versus NCI, and this is addressed in my response to Greig Metcalfe submission [602.48].
  333. Sharp Planning Solutions Ltd [695.125] seeks to amend Rule 24.2.4.1 P1 so that the earthworks limits be applied as a ratio of the site area. The submitter includes a 1:1 example, whereby a 450m<sup>2</sup> site could have 450m<sup>3</sup> of earthworks. The submitter included in their reasoning that the earthworks rule penalises bigger sites for no apparent reason, especially when they are likely to be better able to absorb and diffuse the effects. I disagree with this, as a rule designed on this basis may result in situations where a relatively large amount of earthworks (and associated adverse effects) occurs on a site close to adjoining neighbours.
  334. Sharp Planning Solutions Ltd [695.126] seeks to amend Rule 24.2.4.1 P3 by increasing the amount of fill material that would be allowed as a permitted activity (P3(a)(i)) from 20m<sup>3</sup> to 50m<sup>3</sup>. Given the exemptions under the National Planning Standards definition for earthworks, it is my opinion that 20m<sup>3</sup> is appropriate for fill material importation (excluding that for a building platform). As such, I disagree with the relief sought.
  335. Sharp Planning Solutions Ltd [695.127] seeks to amend Rule 24.2.4.1 P3 (a)(ii) by increasing the depth from 1m to 1.5m as 1m is 'unrealistic'. It is unclear as to why this is 'unrealistic'.
  336. It is my opinion that if the depth were to be increased to 1.5m, there may be adverse effects on privacy, as a higher depth may give rise to a higher likelihood of people being able to look onto adjoining neighbours' outdoor living courts. Despite this, I note that 1.5m is specified within Rule 24.2.4.1 P1 (iv), and I can see no reason why the rules should be inconsistent, given that P3 is purely for building platforms created by imported fill material, while P1 could also include building platforms, but just not those created by imported fill material.
  337. It is possible that this may be a result of a drafting error in the notified rules, especially since building platforms for residential activities in the Rural and Country Living Zones are permitted. Despite this, I do not have scope in the submission points to address this potential drafting error.
  338. As the relief sought will improve upon the consistency between the earthworks rules within the Village Zone, I am agreeable with submitter.
  339. Waikato District Council submission point [697.952] seeks to amend Rule 24.2.4.1 P1 (a) so that the single consecutive 12 month applies to both volume and area thresholds. It appears that this was intended to be undertaken by merging (ii) and (iii) together, although the submission point does not appear to correctly show the change to (ii) as an underline. Ultimately, there does not appear to be any need to amend this portion of the rule. The submission also seeks to include the words '*at least*' in (vi). I agree with this particular part of the amendments sought, as it improves readability and would make the rule consistent with other chapters (such as Chapter 22 – Rural).
  340. Waikato District Council [697.953] requests an amendment to Rule 24.2.4.1 P3 to include the words '*at least*' to (a)(iv). It appears to be an inadvertent error that the submission refers to P3, rather than P4. It is possible that this falls outside of the scope of the submission, and if the P3 vs P4 is out of scope, then I recommend that the Waikato District Council submission point [697.953] be rejected. If this P3 vs P4 error is still within scope, then the submission point would make the rule more useable, as the alternative would be for any fill material that was not exactly 1.5m from the boundary, to be a restricted discretionary activity.

341. The Surveying Company [746.125] seeks to increase the earthworks volume under Rule 24.2.4.1 PI(a)(ii) from 250m<sup>3</sup> to 500m<sup>3</sup>. An increase in permitted earthworks to 500m<sup>3</sup> could lead to undesirable situations where cumulatively, the earthworks undertaken on individual lots may destroy the fundamental shape, contour and landscape characteristics of the locality. This would then undermine Policy 4.3.15(d).
342. I have undertaken an assessment of earthworks consents that were processed for the latter stages of the Kowhai Downs development that is zoned Village under the Waikato District Plan: Franklin Section. The lots were generally 2,500m<sup>2</sup> or more in size and were subject to minimal bulk earthworks from the subdivision. The maximum earthworks volume is 100m<sup>3</sup>. Of the 14 earthworks consents that I examined, the volumes ranged from 160m<sup>3</sup> to 603m<sup>3</sup>, with an average of 357m<sup>3</sup>. Those earthworks consents were generally processed without any apparent significant issues, although from my own consenting experience, earthworks in excess of 500m<sup>3</sup> began to have adverse effects on character/amenity from heavy vehicles which needed to be assessed carefully.
343. As stated previously, it is unclear as to whether or not it was intended that the Village Zone earthworks rules under the notified version were meant to exclude those undertaken for a building platform (like the Rural Zone 22.2.3.1 – PI (a)(iv) and Country Living Zone – Rule 23.2.3.1 – PI (iii)), however, the Village Zone only has this type of provision for building platforms where imported fill material is used. If this notified version were to remain, where the only exemption for the building platform was in relation to fill material, it is my opinion that the earthworks volume should increase accordingly. I disagree with the 500m<sup>3</sup> sought, but a volume of 350m<sup>3</sup> may be an appropriate amount for the likely size of the Village-zoned properties (i.e. 800m<sup>2</sup>+). While there are some existing Village-zoned records of title that are less than 1,000m<sup>2</sup> in size, these are usually already fully-established with residential activities and as such, further earthworks of a large scale would be highly unlikely. In my opinion (as a consents planner), the fundamental shape, contour and landscape characteristics of the locality will likely be retained.
344. The Surveying Company submission points [746.126], [746.146] and [746.147] do not seek any specific relief and as such, I recommend that they be rejected.
345. First Gas Limited submission points [945.26] and [945.27] seek an additional requirement to the earthworks Rule 24.2.4.1 PI(a) and an associated matter of discretion to Rule 24.2.4.1 RD1. First Gas Limited [945.26] seeks that any earthworks greater than 200mm in depth within 12m of the centre line of a gas pipeline be subject to resource consent. It is my opinion that this is unnecessary, as it is my understanding that the gas pipelines in the Waikato District are either covered by a designation or an easement which restricts activities (including earthworks) within the 12m corridor. I note from an example easement document that I have found on a property off Harrisville Road that the earthworks are restricted to those exceeding 400mm in depth, which is less restrictive than the 200mm sought in the submission. Despite this, it should be the role of First Gas Limited (the submitter) to update and/or amend the easements accordingly if they feel that earthworks between 200mm and 400mm may have an impact upon their infrastructure. For these reasons, I disagree with the relief sought. I note that both Mowbray Group [FS1289.4] and Andrew Mowbray [FS1305.24] oppose First Gas Limited submission [945.26] and raise concerns regarding the restrictions that the proposed setback may impose on their site, although this does not impact upon my recommendation here. With respect to First Gas Limited submission point [945.27], this is supported by Counties Power Limited [FS1134.92] as they support discretion to address reverse sensitivity on infrastructure. I deal with the matter of infrastructure and reverse sensitivity elsewhere in my report but regardless, it does not alter my recommendation here.
346. KiwiRail [986.114] seek to amend the wording of Rule 24.2.4.1 PI (a)(iv). It appears to be an inadvertent error that the submission refers to P1, rather than P2. The relief is sought to include other methods of stabilisation, including building or hard cover development. I



acknowledge that the requirement does not address situations where a building is placed on the earthworks area and therefore technically that requirement could never be met. Despite this, it is my opinion that it is common sense that the earthworks area underneath a building would not be subject to the requirement for re-vegetation, but there could be value in specifically excluding said areas from being subject to revegetation requirements. That would, however, fall outside the scope of the KiwiRail submission [986.114].

347. It is my opinion that the 80% ground cover requirement is not just for stability/runoff, but also for amenity purposes, and this would not be covered or addressed by the amendment sought by KiwiRail. I also understand that the 80% requirement is reflective of best practice. I also note that there are very limited instances where the KiwiRail designation extends into Village-zoned land itself and typically the railway line itself has no zone. One of these limited instances is located in Pokeno, as shown in the aerial image below:



Aerial Image 1 – Railway designation and Village zoned land in Pokeno

348. KiwiRail [986.99] also seek an amendment to Rule 24.2.4.1 PI (a)(i) so that the 1.5m setback is also from infrastructure. The submitter notes that the rail track itself is most susceptible from adverse effects if adjacent earthworks are not adequately set back. Rule 24.2.4.1 PI (a)(vi) already requires a setback from boundaries of 1.5m and as such, there is no need for the same setback from railway infrastructure. In addition, the railways are covered by designations where any activity within said designation corridor would require the approval of the requiring authority, being KiwiRail. Furthermore, with instances where Village-zoned land adjoins the railway (such as Lumsden Road – shown in the aerial image below), the outer portion of the rail track itself is approximately 7m away from the nearest portion of Village-zoned land. Other areas such as Pokeno are closer, at approximately 3m from the outer edge of the track. As such, a 1.5m setback would achieve no additional protection. I note that Watercare [FS/176.312] support the original submission in principle, however this does not alter my recommendation.

349. As I have recommended amendments specific to the maximum earthworks area (24.2.4.1 PI (iii)), I disagree with the relief sought by Sharp Planning Solutions Ltd [695.124].



Aerial Image 2 – Railway designation and Village zoned on Lumsden Road

### Recommendations

350. With respect to submission points Waikato District Council [697.950] and Transpower New Zealand Limited [FS1350.101], I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part submission point Waikato District Council [697.950] and reject in part Transpower New Zealand Limited further submission point [FS1350.101]. The amendment regarding '24.2.4.1A' to be deferred to topic 25B.

### Recommended amendments

351. The following amendments are recommended:

#### 24.2.4 Earthworks

- (1) Rule 24.2.4.1 – General, provides the permitted rules for earthworks activities for the Residential Zone.

This rule does not apply in those areas specified in rules 24.2.4.2, 24.2.4.3 and 24.2.4.4.

PI	<p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</li> <li>(ii) Not exceed a volume of more than 2350m<sup>3</sup>;</li> <li>(iii) Not exceed an area of more than 1,000m<sup>2</sup> over any single consecutive 12 month period;</li> <li>(iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) The slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li>(vi) Earthworks are set back <u>at least</u> 1.5m from all boundaries;</li> <li>(vii) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
----	---

### Section 32AA evaluation

352. The following points evaluate the recommended change under Section 32AA of the RMA.

353. With respect to the amendments to 24.2.4.1, 24.2.4.2 P3 (ii) and 24.2.4.2 PI (vi), it is my opinion that these recommended amendments are to provide clarification to assist with the understanding and interpretation of the rules and/or improve upon the consistency of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

### Recommendations

354. For the remaining submission points, I recommend, for the reasons given above, that the Hearings Panel:

- Reject Horotiu Properties Limited submission point [397.7]
- Reject Horotiu Properties Limited submission point [397.8]
- Reject Brendan Balle submission point [466.50]
- Reject Greig Metcalfe submission point [602.47], Greig Developments No 2 Limited further submission point [FS/187.10] and The Surveying Company further submission point [FS/308.85]
- Reject Greig Metcalfe submission point [602.48], Greig Developments No 2 Limited further submission point [FS/187.12] and The Surveying Company further submission point [FS/308.86]
- Reject Greig Developments No 2 Limited submission point [689.18]
- Reject Sharp Planning Solutions Ltd submission point [695.125]
- Reject Sharp Planning Solutions Ltd submission point [695.126]
- Accept Sharp Planning Solutions Ltd submission point [695.127]
- Accept in part Waikato District Council submission point [697.952]

- Accept Waikato District Council submission point [697.953] (if error correction is within scope) OR reject Waikato District Council submission point [697.953] if error correction is out of scope
- Accept in part The Surveying Company submission point [746.125]
- Reject The Surveying Company submission point [746.126]
- Reject The Surveying Company submission point [746.146]
- Reject The Surveying Company submission point [746.147]
- Reject First Gas Limited submission point [945.26], accept Mowbray Group further submission point [FS/289.4] and Andrew Mowbray further submission point [FS/305.24]
- Reject First Gas Limited submission point [945.27] and Counties Power Limited further submission point [FS/134.92]
- Reject KiwiRail Holdings Limited (KiwiRail) submission point [986.114]
- Reject KiwiRail Holdings Limited (KiwiRail) submission point [986.99] and reject Watercare further submission point [FS/176.312].
- Reject Sharp Planning Solutions Ltd submission point [695.124].

if within scope:

P3	<p>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Not exceed a total volume of 20m<sup>3</sup>;</li> <li>(ii) Not exceed a depth of 1.5m;</li> <li>(iii) The slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li>(iv) Fill material is setback <u>at least</u> 1.5m from all boundaries;</li> <li>(v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
----	---

### Section 32AA evaluation

355. The following points evaluate the recommended change under Section 32AA of the RMA.

356. With respect to the amendment to Rule 24.2.4.1 PI (ii):

It is my opinion that these recommended amendments are to provide clarification to assist with the understanding and interpretation of the rules and/or improve upon the consistency of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

With respect to the other recommended amendments:

### Other reasonably practicable options

357. It is possible to allow as a permitted activity, a higher volume of earthworks (i.e. 500m<sup>3</sup>) or alternatively, the maximum earthworks volume could be left as notified (250m<sup>3</sup>).

### Effectiveness and efficiency

358. The recommended amendments to the maximum earthworks volume will still align with the Policy 4.3.15 and Objective 4.3.14.
359. I acknowledge that the amendment will impact upon 4.3.15 (d), but in my opinion, the 350m<sup>3</sup> is a suitable volume of earthworks for the likely size of the Village-zoned properties (i.e. 800m<sup>2</sup>+). While there are some existing Village-zoned records of title that are less than 1,000m<sup>2</sup> in size, these are usually already fully established with residential activities and as such, further earthworks of a large scale would be highly unlikely. In my opinion (as a consents planner), the fundamental shape, contour and landscape characteristics of the locality will likely be retained.

### Costs and benefits

360. There is potential cost with the amendment through additional adverse effects (i.e. dust, sedimentation/erosion, character and amenity). It is my opinion though that the other requirements of the rule (such as erosion and sediment controls) will mitigate the level of adverse effects that may arise.
361. There are benefits for the environment with the revised maximum volume, as it allows for more flexibility for building platforms to be created on a site. It will also reduce the likelihood of people going down the resource consents pathway.

### Risk of acting or not acting

362. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### Decision about most appropriate option

363. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 4.3.13 Section 4.3 – Village – Amendments – Signs – 24.2.7

### Introduction

364. The Village Zone includes a number of rules relating to signs in the Village Zone (24.2.7.1 and 24.2.7.2). The rules generally seek to place restrictions on the size, nature and quantity of signs and manage the effects of signs.

### Submissions

365. The following submission points were made:

Submission point	Submitter	Summary of submission
559.87	Heritage New Zealand Lower Northern Office	Amend Rule 24.2.7.1 P2 Signs - general to exclude any type of signage on Heritage Items and Maaori Sites of Significance. AND Amend Rule 24.2.7.1 RD1 Signs - general to include signage on Heritage items and Maaori

		<p>Sites of Significance.</p> <p>AND</p> <p>Add an advice note under this new rule to advise of the other heritage building related rules within the Chapter</p> <p>AND</p> <p>Provide for any consequential amendments as required.</p>
697.968	Waikato District Council	<p>Amend 24.2.7.1 P2(a)(xi):</p> <p>(xi) The sign is <u>for the purpose of identification and interpretation not attached to</u> of a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) <del>except for the purpose of identification and interpretation;</del></p>
<i>FS1323.91</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose submission 697.968</i>
697.969	Waikato District Council	<p>Amend – 24.2.7.1 P3</p> <p>(a) A real estate 'for sale' or 'for rent' sign relating to the site on which it is located must comply with all of the following conditions:</p> <p>(i) There is no more than <u>+ 3 signs per site agency;</u></p> <p>(ii) The sign is not illuminated;</p> <p>(iii) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;</p> <p><del>(i) Project into or over road reserve.</del></p>
602.54	Greig Metcalfe	<p>Amendments to 24.2.7.1 P3</p> <p>(a) <del>Any</del> real estate 'for sale' sign <del>relating to the site on which it is located</del> must comply with all of the following conditions:</p> <p>(i) There is no more than 1 sign per agency <u>measuring 600mm x 900mm per road frontage of the site to which the sign relates;</u></p> <p><del>(ii)</del> <u>There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates;</u></p> <p><del>(iii)</del> <u>There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site;</u></p> <p><del>(ii)</del> <del>(iv)</del> The sign is not illuminated;</p> <p><del>(iii)</del> <del>(v)</del> The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;</p> <p><del>(iv)</del> <del>(vi)</del> The sign does not project into or</p>

		<p>over road reserve.</p> <p><u>(vii) Any real estate sign shall be removed from display within 60 days of sale/lease or upon settlement, whichever is the earliest.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
FS1323.89	Heritage New Zealand Pouhere Taonga	Oppose submission 602.54
695.131	Sharp Planning Solutions Ltd	Amend Rule 24.2.7.1 P2(a)(iii) Signs – General, to enlarge the maximum area of a sign from 0.25m <sup>2</sup> to 1m <sup>2</sup> (total per site)
FS1323.90	Heritage New Zealand Pouhere Taonga	Oppose submission 695.131
697.967	Waikato District Council	delete Rule 24.2.7.1 P2(a)(viii)
697.970	Waikato District Council	<p>Amend Rule 24.2.7.2 PI:</p> <p>(a) Any <u>sign</u> directed at road users must <u>meet the following conditions</u>:</p> <p>(i) Not imitate the content, colour or appearance of any traffic control <u>sign</u>;</p> <p>(ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other <u>sign</u>;</p> <p>(iii) Not obstruct sight lines of drivers turning into or out of a <u>site</u> entrance and intersections;</p> <p><del>(iv) Be able to be viewed by drivers for at least 130m;</del></p> <p>(v) Contain a no more than 40 characters and no more than 6 symbols;</p> <p>(vi) Have lettering that is at least 150mm high;</p> <p>(vii) Be located at least 130m from a <u>site</u> entrance, where the <u>sign</u> directs traffic to the entrance.</p>
FS1264.27	Bootleg Brewery	Oppose submission 697.967
695.132	Sharp Planning Solutions Ltd	<p>Amend Rule 24.2.7.2 PI(a)(ii) Signs - Effects on Traffic, to delete the words “and any other sign”;</p> <p>OR</p> <p>Amend Rule 24.2.7.2 PI(a)(ii) Signs – Effects on Traffic, as follows:</p> <p>To be located at least 60m from controlled intersections, pedestrian crossings and any other sign <u>on the same site</u></p>



		<p>OR</p> <p>Amend Rule 24.2.7.2 PI(a)(ii) Signs – Effects on Traffic, as follows:</p> <p>To be located at least 60m from controlled intersections, pedestrian crossings <del>and any other sign</del> <u>railway crossings (or roads under Council jurisdiction)</u></p>
742.149	New Zealand Transport Agency	<p>Amend 24.2.7.2 PI:</p> <p>(a) Any <u>sign</u> directed at road users must:</p> <ul style="list-style-type: none"> <li>(i) Not imitate the content, colour or appearance of any traffic control <u>sign</u>;</li> <li>(ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other <u>sign</u>;</li> <li>(iii) Not obstruct sight lines of drivers turning into or out of a <u>site</u> entrance and intersections;</li> <li>(iv) Be able to be viewed by drivers for at least 130m;</li> <li>(v) Contain a no more than 40 characters and no more than 6 <u>words, symbols or graphics</u>;</li> <li>(vi) Have lettering that is at least 150mm high;</li> <li>(vii) Be located at least 130m from a <u>site</u> entrance, where the <u>sign</u> directs traffic to the entrance.</li> </ul> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p> <p>Note – submission otherwise seeks the retention of the rule.</p>
986.121	KiwiRail Holdings Limited (KiwiRail)	<p>Amend Rule 24.2.7.2 PI Signs – Effects on traffic as follows (or similar amendments to achieve the requested relief):</p> <p>(a) Any sign directed at <del>road</del> <u>land transport</u> users must:</p> <p>...</p> <ul style="list-style-type: none"> <li>(iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections <u>or at a level crossing</u>;</li> </ul> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
742.148	New Zealand Transport Agency	Retain 24.2.7.1 PI, P2 and RD1 as notified



742.150	New Zealand Transport Agency	Retain 24.2.7.2 DI as notified
---------	------------------------------	--------------------------------

### Analysis

366. Heritage New Zealand Lower Northern Office [559.87] seeks amendments to Rule 24.2.7.1 such that any sign on a heritage item and/or Maaori sites of significance would be a restricted discretionary activity, rather than as a potentially permitted activity, along with an advice note to alert plan users of other heritage rules. The submitter has raised concerns that a 3m<sup>2</sup> sign could be placed/erected for identification/interpretation purposes. I disagree with this, as the Village Zone restricts the size of signs to 0.25m<sup>2</sup> as per notified rule 24.2.7.1 P2 (iii). This size is appropriate for the purposes of identification/interpretation and would be unlikely to compromise the feature/site in my opinion.
367. With respect to the advice note sought, it is my opinion that this would result in unnecessary clutter within the district plan, reducing its usability.
368. Taking the above into consideration, I disagree with the relief sought.
369. Waikato District Council [697.968] seeks to clarify the rule. It is unclear from the submission exactly how the amendments will clarify the rule, but it is my opinion that the amendments sought would create situations where every sign has to be for the purpose of identification and interpretation in order to be permitted. Accordingly I disagree with the relief sought, as it would force nearly every sign in the Village Zone through the resource consent pathway. I note that Heritage New Zealand Pouhere Taonga [FS/323.91] oppose the original submission.
370. Waikato District Council submission point [697.969] seeks amendments to increase the number of real estate signs allowed but make it per site rather than per agency, to include 'for rent' signs and to remove the requirement that signs do not project over road reserve. I note that the submission point does not request the deletion of the preceding words 'The sign does...'. In my opinion this is an inadvertent error and it was intended to delete these words as well.
371. It is my opinion that 'for rent' sign is not necessary as the Hearings report for Topic 5 – Definitions, has recommended that the definition of 'Real estate sign' be included as follows:

<u>Real estate sign</u>	<u>Means a real estate sign advertising a property or business for sale, for lease, or for rent.</u>
-------------------------	--

It is uncertain from the submission as to the reasoning for the amendments sought to (b)(i) but I agree with the removal of agency and the increase in the number of signs to three. Regarding the request to delete (i) *The sign does not project into or over road reserve.*, I agree with the submitter's reasoning.

372. Greig Metcalfe submission point [602.54] seeks a wide range of amendments to Rule 24.2.7.1 P3, including the removal of 'for sale', removal of the requirement for the sign(s) to be on the site and the inclusion of size restrictions for real estate signs and a maximum duration.. With respect to the use of 'Any' in (a), it is my opinion that this would make the wording inconsistent with that used in P1 and P2. The amendments to (a) also include the deletion of the words 'for sale' and 'relating to the site on which it is located'. It is my opinion that the removal of 'for sale' is appropriate given the recommendations from the Hearings report for Topic 5 - Definitions on 'Real estate sign' (as detailed above). With respect to the proposed amendment to the number of signs and, I agree with the reasons provided by the submitter. It is my opinion that the removal of the 'per agency' requirement

is appropriate as it could result in a proliferation of signs if multiple agencies are used, and would also not address situations where the signs are not from an agency (i.e. a private sale). However, it would be unlikely to have a scenario where there are four or more real estate agencies advertising on a site.

373. With respect to the amendment sought to remove the requirement for a sign to be on a site it is relating to, the removal of this clause may create scenarios where there are signs which confuse people as to where the actual property for sale/rent is, and this may lead to distracted road users, pedestrians, cyclists and other road corridor users. As such, I disagree with the proposed amendment to remove the wording ‘relating to the site on which it is located’.
374. I do agree with the amendments sought to (i) and (ii)/(iii), however do not agree with the wording requiring the location of the sign on the site or on one other site, for the reasons outlined above.
375. I also disagree with proposed amendment (vii), as it would be difficult and very time-consuming to enforce. It is also more likely to be policed by the new purchaser of their own accord.
376. In order to make the above amendments work, I also propose including the words ‘of which’ to the end of 24.2.7.1 P3 (a), numbering of (i) clauses A-C, the inclusion of ‘*There is no more than 1 sign*’ to the start of (A) and the addition of ‘*and*’ to the end of (B).
377. Sharp Planning Solutions Ltd [695.131] seeks to increase the maximum sign size from 0.25m<sup>2</sup> to 1m<sup>2</sup>. It is my opinion that 0.25m<sup>2</sup> is an appropriate size to advertise the likes of a home occupation without compromising the character and streetscape of the Village Zone, which may happen with signs going up to 1m<sup>2</sup> in size as requested by the submitter. I note that Heritage New Zealand Pouhere Taonga [FS1323.90] oppose the original submission due to the potential adverse effects on,
378. Waikato District Council [697.967] seeks to delete the requirement that the sign does not project over a road reserve (viii) or P2. I agree with the submitter’s reasoning (the rule is not required as the village zone provisions do not apply within the road reserve) on this matter.
379. Waikato District Council submission point [697.970] seeks to include the words “meet the following conditions” in Rule 24.2.7.2 P1(a) to make it consistent with other rules (i.e. 24.2.7.1 - P2). I agree with this amendment, as it will make the rules consistent with each other but it would be preferable to use the terms ‘comply with’ rather than ‘meet’. Further submission from Bootleg Brewery [FS1264.27] opposes [697.970] “*on the basis the rules unnecessarily restrict or result in additional cost to operators, which there is no significant adverse effect to be managed. The anticipated effects are either negligible or can be managed through commercial outcomes. On this basis, the proposed rules will have a negative effect on economic growth and regeneration of the site, which will benefit the local community.*”
380. It is unclear as to how [697.970] would restrict or result in additional cost, as it is seeking to remove a requirement from the rule. If Bootleg Brewery [FS1264.27] relates to Rule 24.2.7.2 P1, then it is out of scope.
381. Waikato District Council submission [697.970] also seeks to delete Rule 24.2.7.2 P1 (iv - Be able to be viewed by drivers for at least 130m) so that it is consistent with other rules. I agree with this, as the rule does not appear to be consistent with other zones, such as the Rural Zone (Rule 22.2.6.2). In my opinion, (iv) is also subjective and difficult to determine compliance with and as such, I support the deletion of (iv).

382. With respect to the three ‘or’ amendments sought by Sharp Planning Solutions Ltd [695.132], these amendments would mean that situations could arise where there is a multitude of signs appearing in the Village Zone, with each sign acting as a point of distraction. This could then result in extended periods of time where drivers are fully distracted from looking at the road, rather than one instance per 60m of road length, as per the notified rule. The third ‘or’ amendment still does not account for the potential driver distraction that may result from a multitude of signs in a relatively short distance, as they may be unable to process all of the information on the signs in time. Table 5.3 from the Traffic control devices manual <sup>2</sup> specifies:

**Table 5.3** Minimum distances between adjacent roadside advertising signs

Posted speed limit (km/h)	Minimum recommended spacing (m)	Desirable spacing (m)
50	50	80
60	55	100
70	60	150
80	70	200
100	80	250

383. As such, the notified rule in itself does not meet Table 5.3 if any of the road environments had posted speed limits of 60 km/h or less, and the amendment sought could potentially make that situation worse.
384. Taking all of the above into consideration, I disagree with all three ‘or’ options proposed by Sharp Planning Solutions Ltd [695.132].
385. With respect to the amendments sought by The New Zealand Transport Agency [742.149], I have searched through the Traffic control devices manual <sup>3</sup> and can find no reference or requirement to restrict the number of graphics or words on a sign. As I am not a traffic safety expert, have limited experience from a consenting perspective, and as at the time of writing of this report, have been unable to obtain expert comments, I invite the submitter to elaborate as to why these amendments are required.
386. I note that these amendments sought would be consistent with the information contained within the brochure produced by NZTA<sup>4</sup>, but it is unclear from the brochure as to the reasoning for this restriction and how it would also be applicable to the likes of local roads, when compared to state highways with different speed environments.
387. In summary, I do not have the expertise to advise the Panel as to the appropriateness of the requested amendments. Accordingly I invite the submitters to provide evidence on these matters from experts in that relevant field.
388. With respect to the KiwiRail submission point [986.121], I agree with the submitter’s reasoning, in particular, that;
389. It is appropriate to restrict and prevent the placement of signs within required sight lines for vehicles access and intersections, and within the sight lines required for rail crossings

<sup>2</sup> Part 3 – Advertising signs – Version 1 2011 – Page 5-4, NZTA

<sup>3</sup> TCD manual, published December 2008, NZTA

<sup>4</sup> Advertising signs on State Highways’, dated Sept 2014, Ref 14-215, NZTA

390. There is potential that a distracted driver (looking at a sign) may fail to then see warning signals or a train at a level crossing. In my opinion however, the wording would be better if it read ‘...or at a level rail crossing’.
391. I disagree with the term ‘land transport’, as this may not encapsulate all road ‘users’ (e.g. pedestrians, scooter riders and the like).
392. In general, in order to undertake the recommended amendments, consequential changes to the numbering are also required.
393. With respect to the New Zealand Transport Agency submissions [742.148] and [742.150]. I note that I have recommended amendments to Rule 24.2.7.1 P2 I partially disagree with the relief sought. In terms of the relief sought by New Zealand Transport Agency [742.150], I agree with the relief sought as I have not recommended amendments to 24.2.7.2 D1.

### Recommendations

394. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Heritage New Zealand Lower Northern Office submission point [559.87]
  - Accept Waikato District Council submission point [697.968] and reject Heritage New Zealand Pouhere Taonga further submission point [FS/323.91]
  - Accept in part Waikato District Council submission point [697.969]
  - Accept in part Greig Metcalfe submission point [602.54] and reject in part Heritage New Zealand Pouhere Taonga further submission point [FS/323.89]
  - Reject Sharp Planning Solutions Ltd submission point [695.131] and accept Heritage New Zealand Pouhere Taonga further submission point [FS/323.90]
  - Accept Waikato District Council submission point [697.967]
  - Accept in part Waikato District Council submission point [697.970] and reject in part Bootleg Brewery further submission point [FS/264.27]
  - Reject Sharp Planning Solutions Ltd submission point [695.132]
  - Accept in part KiwiRail Holdings Limited (KiwiRail) submission point [986.121]
  - Reject New Zealand Transport Agency submission point [742.149]
  - Accept New Zealand Transport Agency submission point [742.150]
  - Accept in part New Zealand Transport Agency submission point [742.148]

### Recommended amendments

395. The following amendments are recommended:

#### 24.2.7.1 Signs - General

- PI A public information sign erected by a government agency.
- P2 (a) A sign must comply with the following conditions:
- (i) It is the only sign on the site;
  - (ii) The sign is wholly contained on the site;
  - (iii) The sign does not exceed 0.25m<sup>2</sup>;

- (iv) The sign height does not exceed 2m;
  - (v) The sign is not illuminated;
  - (vi) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;
  - (vii) The sign is set back at least 50m from a state highway and the Waikato Expressway;
  - ~~(viii) The sign does not project over road reserve;~~
  - (ix) The sign is not attached to a tree identified in Schedule 30.2 Notable Trees, except for the purpose of identification; and
  - (x) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items) except for the purpose of identification and interpretation;
  - (xi) The sign is not attached to a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except for the purpose of identification and interpretation;
  - (xii) The sign relates to:
    - A. goods or services available on the site; or
    - B. a property name sign.
- P3 (a) A real estate 'for sale' sign relating to the site on which it is located must comply with all of the following conditions:
- (i) There is no more than + 3 signs per ~~agency site of which~~;
    - (A) There is no more than 1 sign per agency measuring 600mm x 900mm;
    - (B) There is no more than 1 sign measuring 1800mm x 1200mm; and
    - (C) There is no more than 1 real estate header sign measuring 1800mm x 1200mm
  - (ii) The sign is not illuminated;
  - (iii) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;
  - ~~(i) The sign does not project into or over road reserve.~~
- RDI (a) A sign that does not comply with Rule 24.2.7.1, P1, P2 or P3.
- (b) Council's discretion is restricted to the following matters:
- (i) Amenity values;
  - (ii) Character of the locality;
  - (iii) Effects on traffic safety;
  - (iv) Glare and artificial light spill;
  - (v) Content, colour and location of the sign; and
  - (vi) Effects on notable trees

- (vii) Effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign;
- (viii) Effects on cultural values of any Maori site of significance;

#### 24.2.7.2 Signs - Effects on Traffic

- PI (a) Any sign directed at road users must comply with the following conditions:
- (i) Not imitate the content, colour or appearance of any traffic control sign;
  - (ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign;
  - (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections or at a level rail crossing;
  - ~~(iv) Be able to be viewed by drivers for at least 130m;~~
  - (v) Contain a no more than 40 characters and no more than 6 symbols;
  - (vi) Have lettering that is at least 150mm high;
  - (vii) Be located at least 130m from a site entrance, where the sign directs traffic to the entrance.
- DI Any sign that does not comply with Rule 24.2.7.2 PI.

#### Section 32AA evaluation

396. The following points evaluate the recommended changes under Section 32AA of the RMA.
397. With respect to the amendments to 24.2.7.1 P2, 24.2.7.1 P3 (i) (deletion of *The sign does not project into or over road reserve.*) and 24.2.7.2 PI (a) and (iv), it is my opinion that these recommended amendments are to provide clarification to assist with the understanding and interpretation of the rules, and in the case of (iv), removes a requirement that is subjective in its compliance. Accordingly, no s32AA evaluation has been required to be undertaken.
398. With respect to the other recommended amendments to Rule 24.2.7.1 P3 (a) and (i):

#### Other reasonably practicable options

399. Other reasonable options to these recommended amendments include the retention of the words 'for sale' and 'for rent', as well to address the types of real estate signs that might occur. Alternatively, the notified version could be retained where it was specific to 'for sale' signs only, but this would not address those signs which are 'for rent'.
400. With respect to the recommended amendments to the number of signs and the restriction per site, rather than agency, an alternative option could be to have 3 signs per agency per site or to retain the notified version, which was 1 sign per agency with no size restrictions.

#### Effectiveness and efficiency

401. The recommended amendments will, in my opinion, still link to the relevant objective and policies contained within Chapter 4.4.

### **Costs and benefits**

402. If 24.2.7.1 P3 was specific to 'for sale' signs only, then there would be no provisions addressing 'for rent' signs and it would be unclear as to how such signs would be assessed. Would the signs be assessed under Rule 24.2.7.1 P2 or would they automatically not comply with Rule 24.2.7.1 P3? As such, there would be a benefit in undertaking the recommended amendments, as they provide more certainty on the rule framework, along with any enforcement that may be necessary (i.e. less debate as to whether or not a rule applies).
403. There is a potential cost to the recommended amendment, in that 'for rent' signs would be subject to Rule 24.2.7.1 P3, however, it is my opinion that the cost would be minimal, as most 'for rent' signs should be able to comply with the rule.
404. With respect to the other recommended amendments to Rule 24.2.7.1 P3, the increase in the number of signs allowed does have a corresponding potential impact on the amenity of the Village Zone. While the notified version could have had more than 3 signs per site if multiple agencies were advertising the site, it is highly unlikely that there would be 3 or more agencies on a single property listing. It is, however, important to note that the notified rule did not have a restriction on the size of a real estate sign and as such, the potential cost to amenity could have been far greater under the notified rule, than that of the recommended amendments. These comments are also applicable to traffic safety, as multiple signs will give rise to increased driver distraction. The proposed amendments do however include restrictions on the size of the signs used, which will assist in restricting the potential cost to the amenity of the area.
405. The increase in the number of signs does provide a benefit, in that it will allow for increased awareness of a property that is for sale/rent, and accordingly likely reduce the length of time that the sign(s) would need to be on the site due to a faster turnover. This therefore has a benefit to both amenity and traffic safety. In addition, while multiple signs do give rise to driver distraction, they may also reduce the chances that a driver miss a real estate sign that they are searching for (especially if they are driving to view the property), which in turn reduces the likelihood that road users need to undertake sharp turns or U-turns on the road corridor.

### **Risk of acting or not acting**

406. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

407. The amendment gives effect to the relevant objective and policies contained within Chapter 4.4. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### **Other reasonably practicable options**

408. With respect to the recommended amendment to Rule 24.2.7.2 PI (iii): Other reasonable options regarding this recommended amendment would be to have a rule that is specific to level rail crossings, although this would result in potential duplication of rules, or to retain the notified version where there are no applicable rules in relation to level rail crossings.

### Effectiveness and efficiency

409. The recommended amendments will, in my opinion, still link to the relevant objective and policies contained within Chapter 4.4 - Residential and Village Zones - Noise, lighting, outdoor storage, signs and odour.

### Costs and benefits

410. There are potential costs as a result of the recommended amendment, in that people who erect signs directed at traffic would have an additional level of compliance, compared to that of the notified wording. This may as a result restrict locations where they could place signs and/or require them to go through the resource consent process.
411. There are potential benefits to people and the community, as the recommended amendment would ensure that signs (directed at traffic) could not be placed without resource consent in areas which would obstruct sight lines at level rail crossings. As a consequence, this increases the safety at rail level rail crossings, as drivers will have their respective sight lines clear so as to see oncoming trains. Fewer crashes at level rail crossing have not only a direct benefit for KiwiRail, but also for the wider community.

### Risk of acting or not acting

412. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### Decision about most appropriate option

413. The amendment gives effect to the relevant objective and policies contained within Chapter 4.4. (in particular Policy 4.4.7 – Managing the adverse effects of signs). It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 4.3.14 Section 4.3 – Village – Amendment - Dwelling – 24.3.1

### Introduction

414. The Proposed Waikato District Plan (notified version) includes a number of rules relating to activities occurring within a specified distance from transmission lines (14.4 – National Grid and 14.5 – Electricity Generation. The rules generally seek to protect infrastructure from reverse sensitivity and to ensure that said infrastructure is not compromised. Specific rules are provided relating to sensitive land use activities in proximity to electrical distribution (14.5.1 P5).

### Submissions

415. The following submission points were made:

Submission point	Submitter	Summary of submission
405.79	Counties Power Limited	Amend 24.3.1 PI to add: A clause to Rule 24.3.1 PI Dwelling so that where there are existing overhead lines, the location of the dwelling must comply with requirements of



		NZSECP34:2001.
697.976	Waikato District Council	Amend Rule 24.3.1 PI: One dwelling within a <u>site record of title</u>
FS1387.753	Mercury Energy Limited	Oppose submission 697.976

## Analysis

416. The submission point by Counties Power Limited [405.79] requests that dwellings comply with the The New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZSECP34:2001). Chapter 14 includes rules which specify setbacks from the centre line of any electrical distribution or transmission lines (10m for up to 110kV and 12m for 110kV or more – Rule 14.5.1.3 - Construction or alteration of a building for a sensitive land use). Despite this, it appears that the setbacks specified in Chapter 14 are smaller than that of NZSECP34:2001, such as those specified in Table 25.
417. Of note, NZSECP34:2001 sets out requirements under section 3.2.1.36 that the electric line owner be consulted, and it is the overhead electric line holder that shall advise the landowner/building owner in section 3.2.1.4 <sup>7</sup>whether the construction can proceed without restriction or with temporary arrangements during construction (with written agreement of the line owner) to restrain overhead line movement, or whether the work is prohibited. As such, the nature of the Work Safe document means that any rule which requires its compliance becomes ultra vires for either scenario 3.2.1.4 (ii)<sup>8</sup>.
418. It is my opinion that it is not the role of Council to enforce NZSECP34:2001, furthermore based on my own experience as a consents planner, it is difficult for a planner to determine whether or not works comply with the standard. In addition, Counties Power Limited has a close approach permit process that deals with works that are within the minimum safe distances for working near overhead lines or power poles, as set out in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZSECP 34).
419. I acknowledge that Chapter 14 includes rules in 14.4 – National Grid, which require buildings within the National Grid to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 and include an exemption clause where Transpower has provided their written approval (Rule 14.4.1.1.2 (b)(i)). It is not within my scope to provide comments on these rules or any submissions relating to them, but it may be appropriate that the submission points by Counties Power Limited requesting rules to ensure compliance with NZSECP34:2001 are dealt with as a part of Topic 25B.
420. Taking the above into consideration, I disagree with the relief sought by the submitter.
421. The submission by Waikato District Council [697.976] seeks an amendment, as noted in the table above. The amendment proposed is for the purpose of consistency. I note that the Hearings report for Topic 5 – Definitions, recommends changes to the definition of ‘site’ and ‘record of title’. In my opinion, both definitions for ‘site’ and ‘record of title’ are problematic with respect to cross-lease or unit title developments as both relate to the perimeter extents of the property, rather than the an internal part of that record of title/site. Either term may result in undesirable outcomes where either cross-leases or unit developments would be unfairly restricted (e.g. a cross-lease would be restricted to a maximum of one dwelling for the entirety of the land subject to the cross-lease). Given the timing for when

<sup>5</sup> NZSECP34:2001, page 9

<sup>6</sup> NZSECP34:2001, page 8

<sup>7</sup> NZSECP34:2001, page 8

<sup>8</sup> NZSECP34:2001, page 8

the Hearings report for Topic 5 – Definitions was made available to me, I intend to provide further detail at the hearing as to how the definitions for either ‘site’ or ‘record of title’ would be problematic with respect to cross-lease or unit title developments.

### Recommendations

422. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Waikato District Council submission point [697.976] and reject Mercury Energy Limited further submission point [FS1387.753]
  - Reject Counties Power Limited submission point [405.79].

### Recommended amendments

423. No recommended amendments.

## 4.3.15 Section 4.3 – Village – Amendment - Minor Dwelling – 24.3.2

### Submissions

424. The following submission points were made:

Submission point	Submitter	Summary of submission
405.80	Counties Power Limited	Amend Rule 24.3.2 to: Add a clause to Rule 24.3.2 PI Minor dwelling by adding another clause so that where there are existing overhead lines, the location of the dwelling must comply with the requirements of NZECP34:2001.
697.977	Waikato District Council	Amend 24.3.2 PI (a) One minor dwelling <del>up to 70m<sup>2</sup> gross floor area contained within the site</del> <u>a record of title must comply with all of the following conditions;</u> (i) The net site area is 1000m <sup>2</sup> or more; (ii) <u>The gross floor area shall not exceed 70m<sup>2</sup>.</u>
FS1387.754	Mercury Energy Limited	Oppose submission 697.977
689.19	Greig Developments No 2 Limited	Retain 24.3.2 PI as notified
FS1387.290	Mercury Energy Limited	Oppose submission 689.19
746.127	The Surveying Company	Retain 24.3.2 PI as notified
FS1387.979	Mercury Energy Limited	Oppose submission 746.127

## Analysis

425. The submission point by Counties Power Limited [405.80] requests that minor dwellings comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 (NZSECP34:2001).
426. My analysis on the Counties Power Limited submission [405.79] deals with the same matters and my analysis there is also applicable here and as such, shall not be repeated.
427. The amendment proposed in the submission point by Waikato District Council [697.977] is for the purpose of consistency. With respect to 'site' and 'record of title', I note that the Hearings report for Topic 5 – Definitions, recommends changes to the definition of 'site' and 'record of title'. In my opinion both definitions for 'site' and 'record of title' are problematic with respect to cross-lease or unit title developments as both relate to the perimeter extents of the property, rather than an internal part of that record of title/site. Either term may result in undesirable outcomes where either cross-leases or unit developments would be unfairly restricted (e.g. a cross-lease would be restricted to a maximum of one dwelling for the entirety of the land subject to the cross-lease). Given the timing for when the Hearings report for Topic 5 – Definitions was made available to me, I intend to provide further detail at the hearing as to how the definitions for either 'site' or 'record of title' would be problematic with respect to cross-lease or unit title developments.
428. With respect to the submissions from Greig Developments No 2 Limited [689.19] and The Surveying Company [746.127], as I am recommending amendments to Rule 24.3.2 PI, I disagree with the relief sought by the submitters in this regard.

## Recommendations

429. I recommend, for the reasons given above, that the Hearings Panel:
- Accept in part Waikato District Council submission point [697.977] and reject Mercury Energy Limited further submission point [FS/387.754]
  - Reject Counties Power Limited submission point [405.80].
  - Reject Greig Developments No 2 Limited submission point [689.19] and Mercury Energy Limited further submission point [FS/387.290]
  - Reject The Surveying Company submission point [746.127] and Mercury Energy Limited further submission point [FS/387.979].

## Recommended amendments

430. The following amendments are recommended:

### 24.3.2 Minor dwelling

PI	(a) One minor dwelling <del>up to 70m<sup>2</sup> gross floor area</del> <u>contained</u> within the site <u>must comply with all of the following</u> conditions; <del>(b)-(i)</del> (i) The net site area is 1000m <sup>2</sup> or more. (ii) <u>The gross floor area shall not exceed 70m<sup>2</sup>.</u>
DI	A minor dwelling that does not comply with Rule 24.3.2 PI

## Section 32AA evaluation

431. The recommended amendments are to provide clarification to assist with the readability of the rule. Accordingly, no s32AA evaluation has been required to be undertaken.

### 4.3.17 Section 4.3 – Village – Amendments - Height and Daylight admission – 24.3.3.1 and 24.3.3.2

#### Introduction

432. The Village Zone includes a number of rules relating to height and daylight admission (24.3.3 - Height, 24.3.4 – Daylight admission). The rules and objectives/policies generally seek to ensure that overshadowing/loss of privacy/detraction of amenity does not occur by placing restrictions on the maximum height and location of buildings.

#### Submissions

433. The following submission points were made:

Submission point	Submitter	Summary of submission
697.978	Waikato District Council	Amend Rule 24.3.3 (2): (2) Rule 24.3.3.1 Height – Building general provides permitted height limits across the entire Village Zone. <u>This rule does not apply in those areas specified in Rule 24.3.3(3).</u>
378.49	Fire and Emergency New Zealand	Amend Rule 24.3.3.1 Height - Building general, to include the following: <u>This Standard does not apply to hose drying towers up to 15m associated with emergency service facilities.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
<i>FS1035.155</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 378.49</i>
499.14	Adrian Morton	Amend Rule 24.3.3.1 Height - Building general to encourage the use of variable building heights, stepped facades to maintain the built character of Raglan for example: <u>A maximum height of a building must not exceed 7.5m, and where continuous roof lines occur (more than one unit) then variable roof lines should be implemented to maintain the character and amenity of Raglan</u>
<i>FS1276.55</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support submission 499.14</i>
757.15	Karen White	Amend Rule 24.3.3.1 Height - Building general to

		encourage the use of variable building heights, stepped facades to maintain the built character of Raglan. Submission provides the following example: <u>A maximum height of a building must not exceed 7.5m, and where continuous roof lines occur (more than one unit) then variable roof lines should be implemented to maintain the character of Raglan.</u>
FS1276.56	Whaingaroa Environmental Defence Inc. Society	Support submission 757.15
695.133	Sharp Planning Solutions Ltd	Amend Rule 24.3.3.1 PI Height – Building general, so the rule only applies to that part of the building structure opposite the immediate ground level; AND Amend Rule 24.3.4 PI Daylight admission as a consequential amendment.
689.20	Greig Developments No 2 Limited	Amend 24.3.4 PI: A building must not protrude through a height control plane rising at an angle of <del>45</del> <sup>37</sup> degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary”.
695.134	Sharp Planning Solutions Ltd	Amend 24.3.4 PI: A building must not protrude through a height control plane rising at an angle of <del>37</del> <sup>45</sup> degrees commencing at an elevation of <del>2.5</del> <sup>3</sup> m above ground level at every point of the site boundary.
746.128	The Surveying Company	Amend 24.3.4 PI: A building must not protrude through a height control plane rising at an angle of <del>45</del> <sup>37</sup> degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary”.
697.982	Waikato District Council	Amend 24.3.4 RD1: (b) Council’s discretion is restricted to the following <u>matters</u> : (i) Height of the building; (ii) Design and location of the building; (iii) <del>Extent of shading on adjacent sites;</del> <u>Level of shading on any other sites;</u> (iv) Privacy on other sites; and (v) <del>Effects on a</del> <u>Amenity values and residential character of the locality.</u>

### Analysis

434. Waikato District Council [697.978] seeks to amend Rule 24.3.3.2 for clarity. The proposed amendment is misconceived. In fact the standard building height control (7.5m) should apply under the airport obstacle limitation surface. Otherwise, very tall buildings up to the AOLS

maximum could be built as of right. As such, I disagree with the relief sought by the submitter.

435. Fire and Emergency New Zealand [378.49] seeks an exclusion for hose drying towers from Rule 24.3.3.1. Given that emergency service facilities are sought by the submitter as a Discretionary activity [378.46], it is my opinion that hose drying towers can be assessed as a part of the resource consent process and do not need to be specifically exempted from the height rules.
436. Adrian Morton [499.14] and Karen White [757.15] both seek an amendment to Rule 24.3.3.1 – Height – Building general - to encourage the use of variable building heights and stepped façades to maintain the built character of Raglan. As there is no Village-zoned land proposed in Raglan, I disagree with the relief sought. I note that Whaingaroa Environmental Defence Inc. Society supports both of these submissions with [FS/276.55] and [FS/276.56] but the reasons provided do not alter my recommendation.
437. With respect to Sharp Planning Solutions Ltd [695.133], the amendment proposed could result in significant amenity and shading issues. This is because the ‘height’ restriction would only apply to part of the building structure rather than the building as a whole, as shown in the diagram below. The building (shown as green in Figure 2) would only have those lengths outlined in blue subject to the height rule, because that is the part of the building structure opposite to the immediate ground level. The remainder of the building would have an unlimited maximum height.

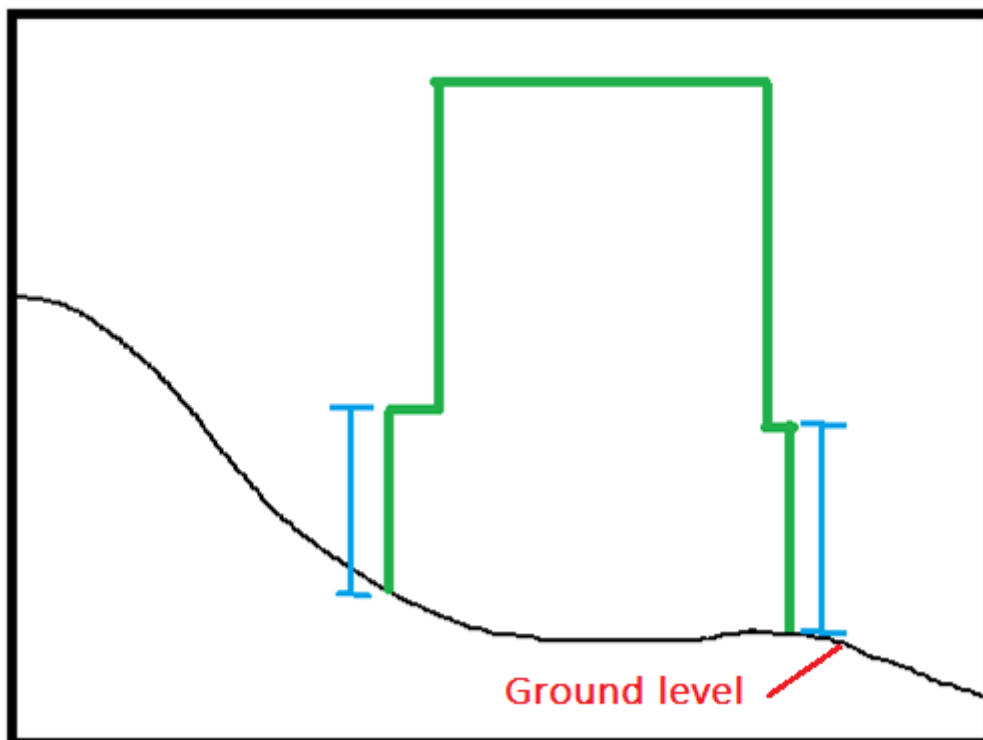


Figure 2 – Application of height rule as per submission point [695.133]

438. Greig Developments No 2 Limited [689.20], Sharp Planning Solutions Ltd [695.134] and The Surveying Company [746.128] all seek changes to either the angle and/or height to be used for the height in relation to boundary Rule 24.3.4. I agree with the submitters that all daylight planes should be consistent with adjoining Councils’ rules. I have undertaken an analysis of height in relation to boundary/daylight admission rules contained within adjacent Councils’ district plans, and generally 45 degrees is used. Based on my experience as both an

assessor of building consents for planning requirements and as a consents planner, I agree with the submitters that 45 degrees is an easier measurement to be calculated.

439. In terms of the height stated as the starting point for calculation of height in relation to boundary, Rule 24.3.4 gives a starting height of 2.5m. This varies among adjoining Councils between 2m and 3m+ in height from the boundary. On the shortest day of the year when the sun is at its highest point, the shadow length cast from a permitted building at 2.5m degrees + 45 degrees is 5.61m, while the shadow length at 3m + 45 degrees is 8.15m. A 2m fence on the boundary would cast a respective shadow of 3.77m. These are calculated for Ngaruawahia, and a location further north, such as Tuakau, increases this shadow length, for example 8.15m becomes 8.47m<sup>9</sup>.
440. While a building can be set back 1.5m from the boundary in the Village Zone under the notified rules, it is unlikely that a building (in particular a dwelling) would be located that close to a boundary. It is more likely that a dwelling would be located in the centre of the site. Despite this, there is potential for outdoor living space to be located in an area that could be subject to shading based on either 2.5m or 3m height. Given the degree of shading that may occur, I recommend that the 2.5m height as notified be retained.
441. Waikato District Council [697.982] seeks a number of amendments to Rule 24.3.4 RDI. The inclusion of the word 'matters' improves the readability. The proposed amendment to (iii) acknowledges that shading can extend beyond the adjacent site, while the amendments to (v) improve its readability and delete the term 'residential character', which could have otherwise been misconstrued as being the character of the Residential zone. It is my opinion however that the term 'extent' is more appropriate than 'level'.

## Recommendations

442. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Waikato District Council submission point [697.978]
  - Reject Fire and Emergency New Zealand submission point [378.49] and Pareoranga Te Kata further submission point [FS/035.155]
  - Reject Adrian Morton submission point [499.14] and Whaingaroa Environmental Defence Inc. Society further submission point [FS/276.55]
  - Reject Karen White submission point [757.15] and Whaingaroa Environmental Defence Inc. Society further submission point [FS/276.56]
  - Reject Sharp Planning Solutions Ltd submission point [695.133]
  - Accept Greig Developments No 2 Limited submission point [689.20]
  - Accept in part Sharp Planning Solutions Ltd submission point [695.134]
  - Accept The Surveying Company submission point [746.128]
  - Accept in part Waikato District Council submission point [697.982]

---

<sup>9</sup> Calculated using <https://www.suncalc.org/>

### Recommended amendments

443. The following amendments are recommended:

#### 24.3.4 Daylight admission

PI	A building must not protrude through a height control plane rising at an angle of <del>37</del> 45 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
RDI	(a) A building that does not comply with Rule 24.3.4 PI. (b) Council's discretion is restricted to the following <u>matters</u> : (i) Height of the building; (ii) Design and location of the building; (iii) <del>Extent of shading on adjacent sites;</del> <u>of shading on any other sites;</u> (iv) Privacy on other sites; and (v) <del>Effects on a Amenity values and residential character</del> <u>of the locality.</u>

### Section 32AA evaluation

444. The following points evaluate the recommended change under Section 32AA of the RMA.

445. With respect to the recommended amendments to Rule 24.3.3 and 24.3.4 RDI, the recommended amendments are to provide clarification to assist with the understanding and readability of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

### Effectiveness and efficiency

446. Based on my experience of processing resource consents, it is my view that a 45 degree angle still affords adequate daylight and would continue to minimise visual dominance. Accordingly, the recommended amendment will still give effect to Policies 4.3.9 and 4.3.10.

### Costs and benefits

447. With respect to the recommended amendment to Rule 24.3.4 PI, the increase in the daylight admission angle has potential costs, namely that it increases the level of shading that may extend over nearby properties as buildings could be located closer and higher than the notified angle. Increases in shading may then make houses colder and more expensive to heat as well as decrease the likely use and enjoyment of any outdoor living courts. In addition, it may result in the placement of buildings in areas that compromise views that nearby sites have, for example it may result in the placement of a permitted building which blocks ocean views that an existing dwelling may have had. The daylight admission rule also reduces the chances of a building visually dominating an adjoining site, as it requires that the building be progressively reduced in height, the closer it gets to the boundary.

448. In terms of benefits, the recommended amendment would make the daylight admission rule generally consistent with the rules of all surrounding territorial authorities. This consistent approach to daylight admission will make the drafting of building plans easier and will over time make it easier for people and the community to know what a daylight admission rule may be within a region, rather than a specific territorial authority. In addition, the 45 degrees is generally easier to calculate and easier to explain to people who do not work with the



requirement as a part of their day-to-day job. A more relaxed daylight admission requirement will allow for more flexibility in terms of house design and location, potentially increasing the likelihood of two-storey buildings, which in turn is a more efficient use of land. It will also reduce the likelihood that a building will be subject to the requirements of a resource consent process.

### **Risk of acting or not acting**

449. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

450. The amendment still gives effect to the relevant objective and policies of Chapter 4.3. It is my opinion that the recommended amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## **4.3.18 Section 4.3 – Village – Amendments - Height - Buildings, structures or vegetation within an airport obstacle limitation surface – 24.3.3.2**

### **Introduction**

451. The Village Zone includes a rule (24.3.7) relating to buildings, structures or vegetation occurring within an airport obstacle limitation surface overlay area. The airport obstacle limitation surface overlay area is located within two Village-zoned properties.

### **Submissions**

452. The following submission points were made:

Submission point	Submitter	Summary of submission
697.455	Waikato District Council	Amend 24.3.3.2 - to include a calculation to determine the permitted height with the airport obstacle limitation surface.
FS1253.34	Waikato Regional Airport Ltd	Oppose submission 697.455
FS1339.98	NZTE Operations	Support submission 697.455

### **Analysis**

453. Waikato District Council [697.455] seeks to include a calculation for the permitted height within the airport obstacle limitation surface. At the time of writing my report the calculation has not been made available to me. The Waikato Regional Airport Ltd further submission [FS1253.34] states that:

*The clarification/calculation sought is provided for already in Appendix N of the Proposed District Plan. Using the defined coordinates and elevations from this Appendix architects, draft person etc. can work out whether the development is within or outside of the OLS.*

454. At the time of writing, I do not have any expert comments or advice on this matter and as such, I am relying on the further submission from Waikato Regional Airport Ltd to provide

expert evidence, which is appropriate in this instance as they are the operators of the airport. As such, I agree with the further submission point but I note that it is unclear as to whether or not the rule is required in the first place, as Hamilton Airport has the benefit of a designation that includes the Airport Obstacle Limitation Surface Overlay. Accordingly, I invite the submitters to elaborate on this matter. I note that NZTE Operations supports Waikato District Council [697.455] and further seeks an amendment to the rule to reflect the relief sought in their original submission. This will be dealt with as a part of the Te Kowhai Airpark Topic.

### Recommendations

455. I recommend, for the reasons given above, that the Hearings Panel:

- Reject Waikato District Council submission point [697.455] and NZTE Operations further submission point [FS/339.98] and accept Waikato Regional Airport Ltd further submission point [FS/253.34].

### Recommended amendments

456. No amendments required.

### Section 32AA evaluation

457. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 4.3.19 Section 4.3 – Village – Amendments - Building coverage – 24.3.5 (P1 and P2)

### Introduction

458. Rule 24.3.5 sets out the standards for building coverage. The provisions generally seek to maintain amenity values by restricting the maximum amount of land that can be covered by buildings.

### Submissions

459. The following submission points were made:

Submission point	Submitter	Summary of submission
333.1	Russell Grey	Amend 24.3.5 P2 to reduce the building coverage from 20% to 15%
FS/386.463	Mercury Energy Limited	Oppose submission 333.1
FS/091.6	GD Jones	Oppose submission 333.1
FS/187.13	Greig Developments No 2 Limited	Oppose submission 333.1
FS/286.13	Horotiu Properties Limited	Oppose submission 333.1
FS/308.18	The Surveying Company	Oppose submission 333.1

695.135	Sharp Planning Solutions Ltd	Amend 24.3.5 PI and P2 to be 10% or 300m <sup>2</sup> , whichever is larger.
FS1387.339	Mercury Energy Limited	Oppose submission 695.135
FS1091.34	GD Jones	Oppose submission 695.135
FS1187.14	Greig Developments No 2 Limited	Oppose submission 695.135
FS1308.104	The Surveying Company	Oppose submission 695.135
397.9	Horotiu Properties Limited	Amend 24.3.5: PI On a lot connected to <del>public reticulated</del> waste water <del>and a water supply</del> , the total building coverage must not exceed 40%. P2 On a lot not connected to <del>public reticulated</del> waste water <del>and a water supply</del> , the total building coverage must not exceed 20%. AND Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.
FS1388.134	Mercury Energy Limited	Oppose submission 397.9
FS1091.11	GD Jones	Support submission 397.9
602.49	Greig Metcalfe	Amend 24.3.5: PI On a lot connected to <del>public reticulated</del> waste water <del>and a water supply</del> , the total building coverage must not exceed 40%. P2 On a lot not connected to <del>public reticulated</del> waste water <del>and a water supply</del> , the total building coverage must not exceed 20%. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1388.1049	Mercury Energy Limited	Oppose submission 602.49
FS1091.24	GD Jones	Support submission 602.49
697.981	Waikato District Council	Add the following rule after Rule 24.3.5 Building coverage: <u>Rule 24.3.5A Impervious surfaces</u> <u>PI</u> <u>The impervious surface of a site must not exceed 70%.</u> <u>RDI</u> <u>(a) Impervious surfaces that does not comply with Rule 24.3.5A PI</u> <u>(b) Council's discretion is restricted to the following matters:</u> <u>(i) Site design, layout and amenity;</u>

		<u>(ii) The risk of flooding, nuisance or damage to the site or other buildings and sites.</u>
697.983	Waikato District Council	Amend 24.3.5 P1: On a lot connected to public wastewater and a water supply, the <del>total</del> building coverage must not exceed 40%.
FS1387.755	Mercury Energy Limited	Oppose submission 697.983
697.984	Waikato District Council	Amend 24.3.5 P2: On a lot connected to public wastewater and a water supply, the <del>total</del> building coverage must not exceed 20%.
FS1387.756	Mercury Energy Limited	Oppose submission 697.984
697.985	Waikato District Council	Amend 24.3.5 D1: A <u>B</u> building coverage that does not comply with Rules 24.3.5 P1 or P2
FS1387.757	Mercury Energy Limited	Oppose submission 697.985
689.21	Greig Developments No 2 Limited	Retain 24.3.5 as notified
FS1387.291	Mercury Energy Limited	Oppose submission 689.21
FS1091.33	GD Jones	Oppose submission 689.21
746.129	The Surveying Company	Retain 24.3.5 as notified
FS1387.980	Mercury Energy Limited	Oppose submission 746.129
FS1091.41	GD Jones	Oppose submission 746.129

### Analysis

460. Russell Grey [333.1] and Sharp Planning Solutions Ltd [695.135] seek amendments to the notified building coverage rules. With respect to Russell Grey [333.1], while I acknowledge the comments made by the submitter, given my analysis on the building coverage within existing 'villages' that are proposed to be zoned Village, a decrease in building coverage to 15% would likely disadvantage a number of existing sites from making alterations or erecting new buildings and force people through the consenting pathway. To consider the consequences of such a change in the site coverage rule, I have developed the following table using Mr Cleese's recommendations on lot size:

Lots Size	Site coverage options			
	10%	15%	20%	40%
3000m <sup>2</sup> (for an unserviced site in Tuakau that was zoned for Village Zone densities in the operative District Plan)	300m <sup>2</sup>	450m <sup>2</sup>	600m <sup>2</sup>	N/A
2500m <sup>2</sup> (unserviced sites)	250m <sup>2</sup>	375m <sup>2</sup>	500m <sup>2</sup>	N/A
800m <sup>2</sup> (serviced Tuakau and Te Kowhai sites)	80m <sup>2</sup>	120m <sup>2</sup>	160m <sup>2</sup>	320m <sup>2</sup>

461. With respect to Sharp Planning Solutions Ltd [695.135], while I generally agree with the 300m<sup>2</sup> proposed by the submitter, I do not agree with the reasoning provided as the intention of having two separate building coverage requirements is to align the building coverage with the future intended use of that land (i.e. a low density residential). I note that the current notified 40% building coverage requirement is somewhat flawed (detailed below), however, the amendments that I recommend to the building coverage rules are close to the outcome sought by the submitter.
462. Following on from my comments above, it may be appropriate to create two different sets of building coverage rules, one set to address the building coverage for those outer villages where growth is unlikely to occur and another for those areas that are intended to grow (i.e. those localities likely to be reticulated). In my opinion there appears to be two different subset areas to the Village Zone, the first relates to Tuakau and Te Kowhai which have through the Proposed District Plan being earmarked for some form of growth, partially accommodated through the Village Zone as notified. The other subset are the 'rural villages' and reflect existing developed areas that are unreticulated and are not earmarked for growth or future servicing. The exception to this is Matangi which has reticulation, however the wastewater system to my knowledge is at full capacity and as such, is unlikely to grow further. I also note that the Village zoned sites within Matangi have a building coverage that varies between approximately 20% and 40%, likely reflective of the 40% building coverage rule for those sites within the Operative Waikato District Plan. I note that Mr Cleese has recommended in his report amendments to the relevant objective, policies and rules regarding Te Kowhai and Tuakau (potential reticulated areas):

#### **Tuakau and Te Kowhai**

- a) For those sites in Tuakau and Te Kowhai that have an existing urban zoning in the Operative Plan, retain a 3,000m<sup>2</sup> minimum, with a 800m<sup>2</sup> minimum once reticulated services are available;
  - b) For those sites in Tuakau and Te Kowhai that have an existing rural zoning in the Operative Plan, amend the rule to require a 20 hectare minimum until a structure plan is approved and reticulated services are available. Once these rule triggers are met provide for 800m<sup>2</sup> minimum lot sizes;
  - c) Amend the planning maps to show the different density precincts in Tuakau and Te Kowhai (i.e. 20ha for the greenfield blocks and 3,000m<sup>2</sup>/ 800m<sup>2</sup> for those areas with urban zoning in the Operative Plan);
463. It is crucial that the building coverage rule matches the position that is decided upon by the Hearings Panel. It is important that the building coverage is at a level that would not inhibit or create obstacles to the potential intensification of these areas While the recommended subdivision rule for Tuakau and Te Kowhai specifies a minimum net site area of 3,000m<sup>2</sup>, it is in my opinion that likely that a lot size would be at least 3,200m<sup>2</sup> to allow for four lots (assuming no joint accesses). In such an event, the following scenario could occur:

*Under a scenario with an unreticulated parent lot of 3,200m<sup>2</sup>, 40% site coverage would enable buildings up to 640m<sup>2</sup>. If these sites were to be reticulated in the future, that could lead to lots as small as 800m<sup>2</sup>. This could lead to a scenario where there are four 800m<sup>2</sup> lots and one lot exceeds building coverage (as it would likely contain 640m<sup>2</sup> of buildings) which equates to almost double the site coverage standard for that site.*

*In these situations, it could create building coverages and associated amenity/character that would be at odds with the rest of the Village Zone as the building coverage could be up to 80% on a*

*800m<sup>2</sup> lot or the size of the lots would be such that it could be an inefficient use of land (i.e. a 3,200m<sup>2</sup> lot would only be subdivided down to three lots, rather than four three).. It would have been advantageous to get comments from a market economist on this matter, however as of the time of writing, I have been unable to obtain expert comments. Therefore the comments above are made within my expertise and experience as a Consents Planner.*

*Ultimately if the rules allow for a transition in lot sizes from 3,000m<sup>2</sup> to 800m<sup>2</sup>, then it is likely that a 20% building coverage as notified for Rule 24.3.5 P2 may hinder the ability and likelihood of said lots to intensify to the maximum capacity in the future if they were to become reticulated. It may also result in situations where the Village Zone is a mixture of relatively large dwellings/buildings (e.g. up to 600m<sup>2</sup> or more) and much smaller dwellings/buildings (e.g. 320m<sup>2</sup> or less). This consequently may result in a situation where there is no cohesion or consistency to the built form of the Village Zone in Te Kowhai or Tuakau and subsequent impacts upon amenity and character.*

If the recommendations of Mr Cleese were to be adopted by the Panel, it is my opinion that the building coverage rule should be altered to reflect a maximum building coverage of 320m<sup>2</sup>. This would then give a future 800m<sup>2</sup> lot a building coverage of 40% which is itself consistent with the Residential Zone.

### **Rural Villages**

464. With respect to the building coverage for the rural ‘villages’ which are highly unlikely to be reticulated, I provide the following comments:
465. I have undertaken a quick assessment of some of the existing localities that are either zoned Village under the Operative Waikato District Plan: Franklin Section or those that are zoned Living under the Operative Waikato District Plan: Waikato Section and are proposed to be zoned as Village. Of note, the Franklin Section has a building coverage maximum of 35% while the Living Zone in the Waikato section, of which a number of existing zoned sites are proposed to be Village, also has a building coverage maximum of 35%.  
**Note** – the numbers below are approximate.
466. Onewhero is characterised by a number of existing titles with existing dwellings that vary in size from 800m<sup>2</sup> to 6000m<sup>2</sup> or more and large undeveloped areas that were rezoned as a part of Plan Change 14 to the Franklin District Plan. The average building coverage (very approximate) for these titles is 16%.



Image 21 – Onewhero Village-zoned land

467. Another village area is Glen Afton, (the image below is on the northern portion of Glen Afton). The approximate building coverage average was 14%, with titles ranging in size from 750m<sup>2</sup> to 2,500m<sup>2</sup>.



Image 22 – Glen Afton Village Zone (northern portion)





Image 23 – Mangatangi Village Zone

468. Mangatangi in the former Franklin area has an approximate building coverage of 17%, with lots ranging in size between 800m<sup>2</sup> to 4000m<sup>2</sup>.



Image 24 – Ohinewai Village Zone

469. Ohinewai has an approximate building coverage of 14% for its Village-zoned land, although a number of buildings appear to extend into the railway corridor. Lots vary in size from 1,300m<sup>2</sup> to 5,000m<sup>2</sup> (approx.).
470. In summary, the average building coverage for these localities ranges from 14-17% and accordingly, a maximum building coverage requirement of 20% is, in my opinion, suitable for these types of Village-zoned localities.
471. Taking the above into consideration, it is my opinion that Rule 24.3.5 P2 should remain as notified.

## Matangi

472. As noted previously, the current building coverage for Matangi appears to be more reflective of the 40% that is allowed within the current Operative Waikato District Plan (Living Zone), rather than the outer villages which appear to have a much lower building coverage (which is likely due in part due to the need for onsite wastewater, water and stormwater management). Accordingly, it would be appropriate in my opinion if the building coverage requirements for Matangi Village Zone were to remain at 40%.
473. With respect to the original submissions in my analysis above, I acknowledge that there are a number of further submissions that oppose the original submission from Sharp Planning Solutions Ltd [695.135] (GD Jones [FS1091.34], Greig Developments No 2 Limited [FS1187.14] and The Surveying Company [FS1308.104]). Both Greig Developments No 2 Limited [FS1187.14] and The Surveying Company [FS1308.104]) state as their reasons the following: *20% allows greater flexibility in housing choice and built form. Buildings are anticipated for this zone and do not need to be further restricted by reducing the building coverage. 20% building coverage will achieve adequate low-density housing opportunities while continuing to provide a sense of open space between properties.* While I agree that decreases to the maximum building coverage will restrict buildings (and therefore flexibility in housing choice), it is my opinion that the potential inefficiencies and impacts on amenity through incoherent development patterns within the Village Zone (if the notified 20% building coverage were to remain) far outweigh these potential issues.

## Other building coverage matters

474. I note that Russell Grey [333.1] also raises concerns that larger levels of building coverage will lead to increased runoff into the Waipa River. It is my opinion that the notified rule 14.11.1 PI will address this concern, in particular 14.11.1.1 (a)(ii) A-C.
475. Greig Metcalfe [602.49] and Horotiu Properties Limited [397.9] both seek to amend Rule 24.3.5. With respect to their request to replace the term ‘public’ with ‘reticulation’, the terminology needs to be consistent with the subdivision rule which requires ‘connections to public water and wastewater infrastructure’. I note that Mr Cleese has recommended that the words “to public water and wastewater infrastructure” are to remain as notified.
476. With respect to their request to remove the requirement for water supply, I agree that the lots can be self-sufficient, in particular for water, however, the rule should be consistent with the relevant subdivision rule (24.4.2 - Subdivision – Te Kowhai and Tuakau) which specifies public water and wastewater infrastructure. I note that the s42A for Topic 3: Strategic Objectives has also dealt with a similar amendment regarding the use of the term ‘private’ rather than ‘public’ and the author has stated:
- The Council policy direction is that where available (existing or planned), development in the Village Zone should connect to public infrastructure (refer to Policy 4.1.17(a)(ii) and Policy 4.3.3(a)). For both Tuakau and Te Kowhai where the Village Zone applies, both areas have the potential to connect to public infrastructure. The development of private infrastructure has the potential to make subsequent connection to the public supply problematic. Accordingly, although there is no policy support for private reticulation a proposal to provide private reticulation that would efficiently and effectively connect to a public supply is not precluded. In my opinion, it is preferable that the PWDP clearly signals that the policy direction is for public reticulation. (Submissions 397.2 Horotiu Properties Limited, 81.118 Waikato Regional Council and 602.34 Greig Metcalfe).*
477. I agree with the comments made by the Hearings Report author for Hearing 3 Strategic Objectives and in my opinion, those comments are applicable here as well. I note that GD

Jones supports both of the submissions [602.49] and [397.9] because; *The amendments provide for suitable flexibility for development should extensions to public reticulated networks not be feasible.* Despite this, my recommendations remain the same.

478. Waikato District Council [697.981] seeks to duplicate the impervious surfaces rule from Chapter 14 (14.11.1.2) to make it easier to find. While I agree that it is easier to find in the context of the individual zone chapter, in my opinion, it is an unnecessary duplication of rules and undermines the purpose of having the entire infrastructure and energy-related rules in one specific chapter.
479. Waikato District Council submission points [697.983], [697.984] and [697.985] seek to make minor corrections and clarifications. I agree with the amendments and recommend that they be accepted, as they improve upon the readability of the plan.
480. As I have recommended amendments to Rule 24.3.5, I partially disagree with the relief sought by Greig Developments No 2 Limited [689.21] and The Surveying Company [746.129]. GD Jones opposes both of these submission points [FS1091.33] and [FS1091.41] but has provided the same reasoning as the original submission. As such it is unclear as to the reasons for the further submissions [FS1091.33] and [FS1091.41] and accordingly I invite the submitter to provide clarification.

## Recommendations

481. I recommend, for the reasons given above, that the Hearings Panel:
- Reject Russell Grey submission [333.1], reject Mercury NZ Limited further submission [FS1386.463] and accept further submissions GD Jones [FS1091.6], Greig Developments No 2 Limited [FS1187.13], Horotiu Properties Limited [FS1286.13] and The Surveying Company [FS1308.18]
  - Accept in part Sharp Planning Solutions Ltd submission [695.135], reject Mercury Energy Limited [FS1387.339] further submission and reject in part further submissions GD Jones [FS1091.34], Greig Developments No 2 Limited [FS1187.14] and The Surveying Company [FS1308.104]
  - Reject Horotiu Properties Limited submission [397.9] and Mercury Energy Limited further submission [FS1388.134], and reject GD Jones further submission point [FS1091.11]
  - Reject Greig Metcalfe submission [602.49], reject Mercury Energy Limited further submission point [FS1388.1049] and reject GD Jones further submission point [FS1091.24]
  - Reject Waikato District Council submission point [697.981]
  - Accept Waikato District Council submission point [697.983] and reject Mercury Energy Limited further submission point [FS1387.755]
  - Accept Waikato District Council submission point [697.984] and reject Mercury Energy Limited further submission point [FS1387.756]
  - Accept Waikato District Council submission point [697.985] and reject Mercury Energy Limited further submission point [FS1387.757]
  - Accept in part Greig Developments No 2 Limited submission point [689.21] and reject Mercury Energy Limited further submission point [FS1387.291] and reject in part GD Jones further submission point [FS1091.33].

- Accept in part The Surveying Company submission point [746.129] and reject Mercury Energy Limited further submission point [FS/387.980] and GD Jones further submission point [FS/091.41].

### Recommended amendments

482. The following amendments are recommended:

#### 24.3.5 Building coverage

PI	<u>Within Te Kowhai or Tuakau and</u> <del>On</del> a lot connected to public wastewater and a water supply, the <del>total</del> building coverage must not exceed 40% <u>320m<sup>2</sup></u> .
P2	<u>On a lot outside Te Kowhai and Tuakau, connected to public wastewater and a water supply, the total building coverage must not exceed 40%.</u>
<del>P23</del>	On a lot not connected to public wastewater and a water supply, the <del>total</del> building coverage must not exceed 20%.
D1	A <del>Building coverage</del> that does not comply with Rules 24.3.5 PI or P2.

### Section 32AA evaluation

483. The following points evaluate the recommended change under Section 32AA of the RMA.

With respect to the minor amendments (deletion of the word ‘total’ and rewording of D1), I consider these recommended amendments will provide clarification to assist with the understanding and interpretation of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

With respect to the other recommended amendments to Rule 24.3.5 PI:

#### Other reasonably-practicable options

484. Other reasonable options to these recommended amendments include the retention of the notified requirement (40%) or alternatively, specifying both a percentage of the site and maximum building coverage, as per the request of Sharp Planning Solutions Ltd [695.135].

#### Effectiveness and efficiency

485. The recommended amendments will, in my opinion, link back to the recommended amendments to the respective subdivision rules sought in Mr Clease’s report. These will still reflect the relevant objective and policies contained within Chapter 4.3, including the recommended amendments to these by Mr Clease.

#### Costs and benefits

486. There is potential cost that may arise from the specificity of the building coverage, in that it may restrict the variation in housing stock within the Village Zone. It may also restrict the type and number of associated accessory type buildings (such as sheds and garages and minor dwellings). There are benefits however, in that it encourages the most efficient use of land and ultimately would encourage a more coherent character to the Village Zone. If the building coverage rule were to remain as notified, then there is potential that resultant large building coverages (i.e. 600m<sup>2</sup>) would disincentivise some of the lots from subdividing further due to significant non-compliance with the site coverage standard for serviced sites. This could then result in a land pattern that contains some smaller lots and others that are

relatively large. Furthermore, if one of these large building coverage lots were to subdivide and did not attempt to reduce the building coverage, they may seek to obtain concurrent landuse consent to retain what would be significant building coverage non-compliance. This would add cost and complexity through the consenting process with an uncertain outcome.

### Risk of acting or not acting

487. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

### Decision about most appropriate option

488. The amendment gives effect to the relevant objective and policies contained within Chapter 4.3 and aligns itself with the recommended amendment's to the subdivision rules for the Village Zone. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 4.3.21 Section 4.3 – Village – Amendments - Building setbacks – all boundaries and sensitive land use – 24.3.6.1 and 24.3.6.2

### Introduction

489. The Village Zone includes a number of rules that specify setbacks from boundaries (including roads) and specific setbacks for 'sensitive land use' from features such as the boundary of a designated railway corridor. The provisions generally seek to maintain the character of the Village Zone and to manage reverse sensitivity.

### Submissions

490. The following submission points were made:

Submission point	Submitter	Summary of submission
333.2	Russell Grey	Amend Rule 24.3.6.1 PI(i) Building setbacks- All boundaries so that a setback from a road at 3m is the same as a setback from an indicative road of 13m.
333.3	Russell Grey	Amend Rule 24.3.6.1 PI (iii) and (iv) Building setbacks - All boundaries to be a minimum of 3m.
695.136	Sharp Planning Solutions Ltd	Amend 24.3.6.1 PI(a)(ii) to include phrasing that if an indicative road is constructed and is open to the public the classification is redundant.
943.55	McCracken Surveys Limited	Amend 24.3.6.1 PI, to have the setback from the centre line of the indicative road.
397.12	Horotiu Properties Limited	Delete 24.3.6.1 P3 (Garage setback) AND Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.
602.1	Greig Metcalfe	Delete 24.3.6.1 P3 (Garage setback) AND Any consequential amendments and/or additional

		relief required to address the matters raised in the submission.
742.151	New Zealand Transport Agency	Amend 24.3.6.1 P1 and P2 to require a 15m setback from all state highways. AND Request any consequential changes necessary to give effect to the relief sought in the submission. Otherwise the submission seeks the retention of 24.3.6.1.
<i>FS1221.7</i>	<i>Cindy and Tony Young</i>	<i>Oppose submission 742.151</i>
<i>FS1283.7</i>	<i>Parkmere Farms</i>	<i>Oppose submission 742.151</i>
742.152	New Zealand Transport Agency	Amend 24.3.6.1 RDI matters of discretion <del>Road</del> transport network safety and efficiency; AND Request any consequential changes necessary to give effect to the relief sought in the submission. Otherwise the submission seeks retention of 24.3.6.1 RDI.
742.153	New Zealand Transport Agency	Retain 24.3.6.2 P1 – subject to relief sought in other submissions on acoustic treatment.
419.52	Horticulture New Zealand	Amend 24.3.6.2 P1 to add a new clause: <u>(vi) 100m from any boundary adjoining a Rural Zone where the sensitive activity is not a residential activity.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1388.200</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 419.52</i>
<i>FS1330.33</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose submission 419.52</i>
419.50	Horticulture New Zealand	Amend 24.3.6.1 P1 to add a new clause (v): <u>(v) 8m from any boundary adjoining a Rural Zone.</u> AND Any consequential or additional amendments as a result of changes sought in the submission.
<i>FS1171.34</i>	<i>T&amp;G Global</i>	<i>Support submission 419.50</i>
419.51	Horticulture New Zealand	Retain 24.3.6.1 RDI as notified.
466.51	Brendan Balle	Amend 24.3.6.2 P1 - to ensure adequate setbacks are maintained for sensitive land uses.
<i>FS1388.425</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 466.51</i>
697.987	Waikato District Council	Amend 24.3.6.2 P1 to add a new clause: <u>(vi) 300m from the boundary of another site</u>

		<u>containing an intensive farming activity.</u>
FSI350.120	Transpower New Zealand Limited	Oppose submission 697.987
FSI387.758	Mercury Energy Limited	Oppose submission 697.987
697.986	Waikato District Council	<p>Amend 24.3.6:  Add new clause (5) into Rule 24.3.6 Building setbacks, as follows:  <u>(5) Rule 24.3.6.4 Buildings and structures within the National Grid Yard</u>  AND  Add the following rule into Chapter 24, after Rule 24.3.6.4:  <u>24.3.6.4 Buildings and structures within the National Grid Yard</u>  <u>PI</u>  (a) <u>Within the National Grid yard, building alterations and additions to an existing building or structure must comply with the following conditions:</u>  (i) <u>Not involve an increase in the building height or footprint; and</u>  (ii) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions.</u>  <u>P2</u>  (a) <u>Within the National Grid yard, the maximum height of fences are 2.5m within 5m from the nearest National Grid Pole or 6m from the nearest National Grid tower.</u>  <u>P3 Within the National Grid yard, new buildings and structures that are not for a sensitive land use must comply with the following conditions:</u>  (i) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u>  (ii) <u>Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u>  <u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p>



		<p><u>NC1</u>  <u>Any building alterations or additions within the National Grid Yard that does not comply with Rule 24.3.6.4 P1, P2 or P3.</u></p>
FS1350.119	Transpower New Zealand Limited	Oppose submission 697.986
697.988	Waikato District Council	<p>Add to 24.3.6.2:</p> <p><u>P2</u>  (a) <u>Any building for a sensitive land use must be set back a minimum of:</u>  (i) <u>10m from the centre line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of up to 110kV;</u>  (ii) <u>12m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of 110kV or more.</u></p> <p><u>P3</u>  (a) <u>Within the National Grid yard, alterations or additions to a building used for an existing sensitive land use must comply with all the following conditions:</u>  (i) <u>Not increase the building height or footprint; and</u>  (ii) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u>  (iii) <u>Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663</u></p> <p><u>D1</u>  <u>Any building for a sensitive land use that does not comply with <del>in Rule conditions in Rule</del> 24.3.6.2 P1 or P2.</u></p> <p><u>NC1</u>  <u>Any activity within the National Grid Yard that does not comply with Rule 24.3.6.2 P3.</u></p> <p><u>NC2</u>  <u>Any new building for a sensitive land use within the National Grid Yard</u></p>

		<p><u>NC3</u> Any change of use of an existing building to a sensitive land use within the National Grid Yard</p> <p><u>NC4</u> The establishment of any new sensitive land use within the National Grid Yard</p>
FS1387.759	Mercury Energy Limited	Oppose submission 697.988
697.989	Waikato District Council	<p>Amend Rule 24.3.6.2 Building setbacks-sensitive land use to add “I” to DI;</p> <p>AND</p> <p>Amend Rule DI to read as follows: Any building for a sensitive land use that does not comply with <del>in Rule conditions in</del> Rule 24.3.6.2 P1.</p>
FS1387.760	Mercury Energy Limited	Oppose submission 697.989
986.56	KiwiRail Holdings Limited (KiwiRail)	<p>Amend Rule 24.3.6.2 Building setback - sensitive land use as follows (or similar amendments to achieve the requested relief):</p> <p>Building setback —<del>Sensitive land use</del></p> <p>P1 <u>Sensitive land use</u></p> <p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <p><del>(i) 5m from the designated boundary of the railway corridor</del></p> <p>...</p> <p><u>P2 Railway corridor</u> <u>any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u></p> <p>OR</p> <p>Retain Rule 24.3.6.2 P1(a)(i) Building setback - sensitive land use if the primary relief above is not accepted</p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
FS1031.9	Chorus New Zealand Limited	Oppose submission 986.56 (in part)
FS1032.9	Vodafone New Zealand Limited	Oppose submission 986.56 (in part)
FS1033.9	Spark New Zealand Trading Limited	Oppose submission 986.56 (in part)
986.69	KiwiRail Holdings Limited (KiwiRail)	<p>Add new matters of discretion relating to non-compliance with the 5m Building setback</p> <p>- railway corridor (sought elsewhere in other submission points) in Rule 24.1 Land Use Activities</p>

		<p>as follows (or similar amendments to achieve the requested relief):</p> <ol style="list-style-type: none"> <li>1. <u>The size, nature and location of the buildings on the site.</u></li> <li>2. <u>The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u></li> <li>3. <u>The outcome of any consultation with KiwiRail.</u></li> <li>4. <u>Any characteristics of the proposed use that will make compliance unnecessary.</u></li> </ol> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
419.53	Horticulture New Zealand	Retain 24.3.6.2 D as notified
<i>FS1388.201</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 419.53</i>
742.154	New Zealand Transport Agency	Retain 24.3.6.2 DI as notified
<i>FS1387.890</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 742.154</i>

## Analysis

491. Russell Grey [333.2] seeks to amend Rule 24.3.6.1 PI such that the road setback is the same as the indicative road setback. The indicative road setback is deliberately set at 13m, which allows for a 20m road corridor and a 3m road setback either side. Accordingly, I disagree with the relief sought.
492. Russell Grey [333.3] seeks to change the boundary setback (excluding road) and setback from a vehicle access to another site from 1.5m to 3m. The submitter states that there appears to be an anomaly in the setbacks. I consider the larger road setback is typically for the purpose of amenity, character and streetscape where a larger more open area is desired, compared to that of the side and rear boundaries for instance. As such, I disagree with the relief sought.
493. Sharp Planning Solutions Ltd [695.136] seeks to include wording in Rule 24.3.6.1 PI to address what happens to an indicative road once it is formed and opened to the public. I agree with the submitter, in that the notified version of the plan has no mechanism or explanation as to what happens to indicative roads once they are formed. While no wording has been suggested by the submitter, I consider that the following wording may be an appropriate addition to the rule:
- Despite Rule 24.3.6.1(a)(ii), this rule shall not apply where the indicative road has been formed, is open to the public and has been vested to Council.*
494. The inclusion of the wording '*and has been vested to Council*' is important, as it ensures that the exemption is not abused, as theoretically small road corridors far narrower than the desired width could be formed and made open to the public, which would undermine the intent of the rule.
495. With respect to McCracken Surveys Limited [943.55], I agree with the relief sought, as the centreline is the first point of measurement for the setback.

496. Horotiu Properties Limited [397.12] and Greig Metcalfe [602.1] seek to delete Rule 24.3.6.1 P3. It is my understanding that the rule is a rollover from Variation 13 – Te Kauwhata Structure Plan. There does not appear to be any explicit reason for the rule provided in the s32 reports.
497. The s32 reports for Variation 13 – Te Kauwhata Structure Plan state (with respect to the garage setback rule):
- Building setbacks play an important role in the overall amenity of a neighbourhood. The garage setback requirement ensures there is off-road parking available, and ensures that garages do not dominate the streetscape maintaining an open streetscape. This is an efficient and effective approach because it requires developers to consider these matters at the earliest opportunity and provides certainty about Council's requirements. This rule works in conjunction with the rules in Appendix A: Traffic.<sup>10</sup>*
498. It is important to note that the rule that these comments refers to includes a 6m setback which is not replicated in the current notified version. I understand from the processing of resource consents in the Franklin Section (which also has a 6m setback) that the main reason for said setback is to ensure that parking in front of a garage does not extend out onto the footpath (i.e. that there is sufficient room for off-road parking).
499. As such, it would appear that the notified rule requiring that garages be set back further than the front façade of the dwelling is related to streetscape and maintaining character.
500. I note that the Hamilton City District Plan has a similar rule in their Residential Zone:
- 4.8.3 Interface between Public and Private*
- a) The front wall of all accessory buildings that are detached, including carports and garages, should be no further forward of the front building line of the dwelling than 0.5m.*
501. The s42A report for the Residential Zone on the Hamilton City District Plan<sup>11</sup> states:
- The s.32 report sets out the different components Council has relied upon to ensure good amenity, achieve Crime Prevention Through Environmental Design principles (CPTED), along with ensuring a safer public environment through passive surveillance as well as positively contributing to the local character of the area.*
- To achieve this Council has:*
- Controlled the location of accessory buildings so they are not forward of the front line of a dwelling;*
  - Landscaping and planning along the frontage must allow viability between the dwelling and the public area;*
  - The primary entrance must face the street;*
  - At least one principal room window to face the street; and the manner in which the frontage of a site is fenced to ensure there is still visibility into the site*
- Nevertheless, these are the provisions that have been opposed strongly, and concerns raised about how this rule impacts on the developer/land owner's rights as to how they can develop a residential site. There has also been a misconception arise that the rule forces people to place their garaging to the rear of the section, which in turn will impact on the space available on site for private outdoor area opportunities, the introduction of longer driveways and so potentially causing a safety issue for children. In addition to these concerns it is widely recognised that the position of a garage and its appearance can impact on the streetscape and impact on the off-site*

<sup>10</sup> Section 32 Report on Schedule 21A – Living Zone Rules

<sup>11</sup> Section 42A Hearing Report 15, 16, 17 October 2013 - Report on Submissions and Further Submissions Chapter 4 Residential Vol 1 Appendix 3 Vol 2) states (on page 222-223)

amenity. Particularly if there is a entire street with one design approach, such as garaging with their doors all facing the street and dominating the front face of the dwelling.

Taking into consideration the opposition to the rule I have revisited the rule, the rationale for the rule, discussed the provision with Council's urban design planner, undertaken site visits and held discussions with stakeholders and a representative of the submitters.

Therefore, having regards to all points of concern I would recommend that the rule should be modified, to reintroduce a degree of flexibility for the development industry while ensuring the intent and direction of objectives 4.2.3 and 4.2.4 are maintained and the modifications are aligned with the matters set out in the s.32 report.

The following sets out the proposed modifications to Rule 4.4.7b):

- i. That all detached accessory buildings shall be located no further forward of the front building line of the dwelling than 0.5m;
- ii. That accessory buildings that are integral part of the design and construction of the dwelling shall, if the garage door is to face the street be located no further forward of the front building line of the dwelling than 0.5m;
- iii. That accessory buildings that are integral part of the design and construction of the dwelling shall, if the garage door is 90 degrees to the street shall be forward of the front line of the dwelling by no more than 8m;
- iv. Any wall, except the wall containing the garage door, of an accessory building facing the street must consist of at least 20% glazed materials.
- v. Amend Figures 4.4.7g and 4.4.7h.

However, in considering the residential layouts in existing residential area such as Rototuna, Daisy and Pearsons Streets, and Western Heights all have a degree of compliance with Rules 4.4.7 c), d) and e). Therefore, it is considered that these rules actually reflect the existing situation. In addition, Rule 4.4.7c) also aligns with Rule 4.4.3 Permeable Surface and Rule 4.4.8 Fences and Walls. . Accordingly, no amendments to these provisions is proposed.

502. While Auckland Council has a non-statutory document for garages<sup>12</sup> which states:

*R3.1 Garage doors should generally be set back a minimum of 0.5m from the front facade of the house. This helps make the habitable rooms of a house more visually prominent than the garage.*

503. As such, it appears to be generally agreed that having the garage setback further from the front façade of the dwelling prevents garages from visually dominating the streetscape. I do agree with the submitter's reasoning for seeking the rule to be deleted, as there can be instances where it is appropriate to have the garage located in front of the façade (i.e. dictated by lot dimensions and location), however, I disagree with the relief sought being the deletion of the rule in its entirety. It may also be appropriate in such instances that the potential visual dominance effects are assessed by way of the resource consent process. As such, I disagree with the relief sought. I am of the opinion that some flexibility could be afforded to the rule, such as that of Rule 4.8.3 of the Hamilton City District Plan, however it may go beyond the scope of the submission points.

504. With respect to New Zealand Transport Agency [742.151], there does not appear to be any Village-zoned land that is within proximity of either State Highway 39 or State Highway 2. Village-zoned land is adjacent to the Waikato Expressway however, and this is shown as 'State Highway 1'. It is unclear from the submission as to whether or not the submitter wishes the 15m setback to be applicable from State Highway 1, and I invite the submitter to clarify their position and provide evidence as to why a 15m setback is necessary for non-

<sup>12</sup> R3 – Residential Design Element – Garages – Version 1, dated Apr 2018, Auckland Council

habitable buildings. I note that further submissions Cindy and Tony Young [FS/221.7] and Gavin And Brenda Butcher on behalf of Parkmere Farms [FS/283.7] both oppose the submission, noting an inefficient use of land and a lack of resource management reasons for the setback (including the need for the setback on a state highway when compared to a district road). Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that submission point [742.151] be rejected, but I invite the submitter to provide expert evidence on the matter.

505. New Zealand Transport Agency [742.152] seeks to change the term ‘road’ to ‘transport’. The rule 24.3.6.1 PI (a) (l) is specific to a ‘road’ boundary, not a transport boundary. As such, I disagree with the relief sought.
506. New Zealand Transport Agency [742.153] seeks to retain the rule, subject to their other submission points on acoustic treatment. It is unclear from the submission as to what the other submission points are. Despite this, I assume that these other submission points are outside the scope of my report and this submission point shall be dealt with as a consequential at a later topic. Given that I have recommended amendments to 24.3.6.2 P2, I partially disagree with the relief sought.
507. Waikato District Council [697.987] seeks to include a 300m setback from the boundary of another site containing an intensive farming activity to protect against reverse sensitivity. I note that the rule is the same as the Rural Zone (22.3.7.2 PI (a)(vii). Given the likely fringe nature of the Village- zoned land (extents subject to the Rezone/Extents topic), it is my opinion that the setback is appropriate. Accordingly, I recommend that the submission be accepted. The further submission by Transpower [FS/350.120] appears to relate to Waikato District Council [697.19], which seeks to relocate notified rule 14.4.4 NC9. In this instance it is my opinion that the amendments sought by [697.987] are not as a result of amendments sought by the submitter in Chapter 14 but is rather to protect against reverse sensitivity. As such, I disagree with Transpower New Zealand Limited [FS/350.120].
508. Horticulture NZ [419.52] seeks an amendment to Rule 24.3.6.2 PI such that all sensitive land use activities, excluding residential activities (e.g. education facility including a childcare facility, waananga and koohanga reo, papakainga building, rest home, retirement village, travellers’ accommodation, home stay, health facility or hospital) would need to be a minimum of 100m from the boundary of the Rural Zone. I invite the submitter to expand on their submission reasoning as to why such a significant setback is required, especially given that activities undertaken within the Rural Zone are not just confined to ‘horticulture’ and include activities such as dry stock grazing. I note that such sensitive land use activities (excluding residential activities) would only be likely in those areas which have had substantial rezoning proposed (i.e. Te Kowhai or Tuakau). In this regard, Te Kowhai does not appear to be an area that is heavily utilised for horticulture, although it does appear to contain areas of ‘high class soils’ being LUC 2w2, 2s1, 1s1 and 2w3 (as per the New Zealand Land Resource Inventory<sup>13</sup>). With respect to Tuakau, there are a number of sites that are proposed to be zoned Village that are within relatively close proximity to horticulture being undertaken on Harrisville Road (areas outlined in a teal dashed line in Figure 3), however, the likelihood of sensitive land use activities of any significant size (excluding residential activities) being undertaken on these sites is likely to be low due to topography (i.e. it would be cheaper to establish these activities elsewhere in Tuakau). The remaining Village-zoned land proposed along Dominion Road appears to be surrounded by proposed Rural-zoned land that is generally not high class (i.e. LUC 4e4).

---

<sup>13</sup> Edition 2.1



Figure 3 – Village-zoned land in Tuakau close to ‘high class’ soils (teal dashed outline)

509. Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that submission point [419.52] be rejected but invite the submitter to provide expert evidence on the matter. I note that submitter Middlemiss Farm Holdings Limited [FS/330.33] opposes the submission, with the further submission noting the constraint that would be imposed to the land.
510. Horticulture New Zealand [419.50] seeks an 8m setback from any boundary adjoining the Rural Zone, as the submitter is of the opinion that 1.5m is insufficient to deal with reverse sensitivity effects that may arise from farming (i.e. any farming not deemed to be intensive farming). The reasoning for the amendment sought by the submitter is:

*There are pockets of land that have been rezoned from rural to village around the Tuakau area. This area is a prominent horticultural area and the potential for reverse sensitivity from a new rural-urban boundary should be avoided.*

511. While I agree that 1.5m is insufficient to deal with reverse sensitivity, it is my opinion that reverse sensitivity on the rezoned land in question will not only be dealt with as a part of the Rezone/Zone Extends topic, but is also addressed by Policy 4.7.11:

*4.7.11 Policy – Reverse sensitivity*

*Development and subdivision design minimises Reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and*

*Avoid potential Reverse sensitivity effects of locating new dwellings in the vicinity of an intensive farming, extraction industry or industrial activity.*



512. As such, an 8m setback is unnecessary, given that reverse sensitivity will need to be assessed against this policy as a part of any subdivision consent on any of the rezoned land. It will then be at the discretion of the processing planner as to the degree of potential adverse reverse sensitivity effects, and a specified building area/no-build zone enforced by way of a consent notice could be included as a part of a suite of consent conditions.
513. There is potential that some of the rezoned land (Rural to Village) in question in the Tuakau area could be vacant, therefore a dwelling could be located closer than the operative setback rule (10m). I have only found one property (on Barnaby Road) that is in this situation. While there is potential for dwellings to be demolished and rebuilt or extended, it is my opinion that there would either be a low probability of the re-built house being in a significantly different position (due to location of existing services and driveways) or said house would already be experiencing the effects that may give rise to reverse sensitivity.
514. Taking the above into consideration, I disagree with the submission Horticulture New Zealand [419.50]. I note that further submission T&G Global [FS1171.34] supports the setback proposed as it can address reverse sensitivity, however my opinion does not change.
515. It is my opinion that the matters sought by submission point Horticulture New Zealand [419.51] are addressed by submission point Waikato District Council [697.987] and as such Horticulture New Zealand [419.51] is unnecessary.
516. Brendan Balle [466.51] seeks an amendment to ensure that adequate setbacks are maintained for sensitive land uses. It is unclear what the exact relief is that is sought by the submitter and what is deemed to be 'adequate'. Despite this, it is my opinion that Waikato District Council [697.987] provides an adequate setback and as such, this submission is unnecessary.
517. Waikato District Council submission points [697.986] and [697.988] seek to duplicate the national grid rules from Chapter 14 (mixture of rules within 14.4.1) to make them easier to find. While I agree that it is easier to find in the context of the individual zone chapter, in my opinion, it is an unnecessary duplication of rules and undermines the purpose of having the entire infrastructure and energy-related rules in one specific chapter. I note that submission Transpower [FS1350.119] opposes [697.986] for similar reasons.
518. Waikato District Council [697.989] seeks amendments to the wording which will improve the readability and consistency of the plan. In terms of the amendment to D (being the change to 'DI') and the deletion of the words '*in Rule conditions in*', requested by Waikato District Council [697.989], I am agreeable to these amendments as they improve the readability of the rule.
519. In my opinion, the relief sought by submission point KiwiRail [986.56] would be better achieved if it were a rule contained within Chapter 14, however this may be out of scope of the submission. If it is out of scope, then I have provided for following assessment:
520. KiwiRail [986.56] seeks a 5m setback to be applied to all new buildings/alterations from the designated boundary of a railway corridor. This requirement is only applicable in Rule 24.3.6.2 for sensitive land use in the notified version. The submitter notes that a 5m setback from all buildings would account for safety, building maintenance, vehicle maintenance and the like. I agree with the reasons provided by the submitter. It is my opinion though that the 5m setback would be better placed within Rule 24.3.6.1 and the matters of restricted discretion (RDI)(b) be amended to include those suggested in the KiwiRail submission point [986.69], with the exception of '*The outcome of any consultation with KiwiRail*', as consultation with KiwiRail through the consents process is not mandatory and it is up to the decision of the processing planner. I note that Chorus New Zealand Limited [FS1031.9], Vodafone New Zealand Limited [FS1032.9] and Spark New Zealand Trading Limited [FS1033.9] all oppose in part, but this does not change my opinion here.



521. As I have recommend an amendment to Rule 24.3.6.2 D(D1) (above), I partially disagree with the relief sought by Horticulture New Zealand [419.53] and New Zealand Transport Agency [742.154].

### Recommendations

522. I recommend, for the reasons given above, that the Hearings Panel:

- Reject Russell Grey submission point [333.2]
- Reject Russell Grey submission point [333.3]
- Accept Sharp Planning Solutions Ltd submission point [695.136]
- Accept McCracken Surveys Limited submission point [943.55]
- Reject Horotiu Properties Limited submission point [397.12]
- Reject Greig Metcalfe submission point [602.1]
- Reject New Zealand Transport Agency submission point [742.151], accept Cindy and Tony Young further submission point [FS1221.7] and Parkmere Farms further submission point [FS1283.7]
- Reject New Zealand Transport Agency submission point [742.152]
- Reject in part New Zealand Transport Agency submission point [742.153]
- Reject Horticulture New Zealand submission point [419.52] and reject Mercury Energy Limited further submission point [FS1388.200] and accept Middlemiss Farm Holdings Limited further submission point [FS1330.33]
- Reject Horticulture New Zealand submission point [419.50] and T&G Global further submission point [FS1171.34]
- Accept Horticulture New Zealand submission point [419.51]
- Reject Brendan Balle submission point [466.51] and reject Mercury Energy Limited further submission point [FS1388.425]
- Accept Waikato District Council submission point [697.987], reject Transpower New Zealand Limited further submission point [1350.1220] and Mercury Energy Limited further submission point [FS1387.758]
- Reject Waikato District Council submission point [697.986] and accept Transpower New Zealand Limited further submission point [FS1350.119]
- Reject Waikato District Council submission point [697.988] and reject Mercury Energy Limited further submission point [FS1387.759]
- Accept in part Waikato District Council submission point [697.989] and reject Mercury Energy Limited further submission point [FS1387.760]
- Accept in part KiwiRail Holdings Limited (KiwiRail) submission point [986.56] and reject in part Chorus New Zealand Limited further submission point [FS1031.9], Vodafone New Zealand Limited further submission point [FS1032.9] and Spark New Zealand Trading Limited further submission point [FS1033.9]
- Accept in part KiwiRail Holdings Limited (KiwiRail) submission point [986.69]
- Accept in part Horticulture New Zealand submission point [419.53] and reject Mercury Energy Limited further submission point [FS1388.201]

- Accept in part New Zealand Transport Agency submission point [742.154] and reject Mercury Energy Limited further submission point [FS/387.890].

### Recommended amendments

523. The following amendments are recommended:

#### 24.3.6.1 Building setbacks – all boundaries

PI	<p>(a) Any building must be setback a minimum of:</p> <ul style="list-style-type: none"> <li>(i) 3m from a road boundary;</li> <li>(ii) 13m from <u>the centreline of</u> an indicative road;</li> <li>(iii) 1.5m from every boundary other than a road boundary; and</li> <li>(iv) 1.5m from every vehicle access to another site.</li> <li><u>(v) any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u></li> </ul> <p><u>(b) Despite Rule 24.3.6.1(a)(ii), this rule shall not apply where the indicative road has been formed, is open to the public and has been vested to Council.</u></p>
P2	<p>(a) A non-habitable building may be set back less than 1.5m from a boundary, where:</p> <ul style="list-style-type: none"> <li>(i) The total length of all buildings within 1.5m of the boundary does not exceed 6m; and</li> </ul> <p>(b) The non-habitable building does not have any windows or doors on the side of the building facing the boundary.</p>
P3	<p>A garage must be set back further from the road than the façade of the front of the dwelling.</p>
RDI	<p>(a) A building that does not comply with Rules 24.3.6.1 PI, P2 or P3.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) Road network safety and efficiency;</li> <li>(ii) Reverse sensitivity effects;</li> <li>(iii) Adverse effects on amenity;</li> <li>(iv) Streetscape;</li> <li>(v) Potential to mitigate adverse effects;</li> <li>(vi) Daylight admission to any adjoining site; and</li> <li>(vii) Effects on privacy at any adjoining site.</li> <li><u>(viii) The size, nature and location of the buildings on the site.</u></li> <li><u>(ix) The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u></li> <li><u>(x) Any characteristics of the proposed use that will make compliance unnecessary.</u></li> </ul>

#### 24.3.6.2 Building setback – sensitive land use

PI	<p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> <li>(i) 5m from the designated boundary of the railway corridor;</li> <li>(ii) 15m from the boundary of a national route or regional arterial;</li> </ul>
----	--

	<ul style="list-style-type: none"> <li>(iii) 25m from the designated boundary of the Waikato Expressway;</li> <li>(iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; and</li> <li>(v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.</li> <li>(vi) 300m from the boundary of another site containing an intensive farming activity.</li> </ul>
D1	Any building for a sensitive land use that does not comply with <del>in Rule conditions in</del> Rule 24.3.6.2 PI.

### Section 32AA evaluation

524. The recommended amendments to Rules 24.3.6.1 PI (a)(ii) , 24.3.6.1 PI(b) and 24.3.6.2 DI are to provide clarification to assist with the understanding of the purpose/intent of the rules and how they are to be assessed. Accordingly, no s32AA evaluation has been required to be undertaken.

### Section 32AA evaluation – Rule 24.3.6.1 (v) any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary, and associated matters of restricted discretion under RDI

525. The following points evaluate the recommended change under Section 32AA of the RMA.

#### Other reasonably-practicable options

526. Other options include having a larger setback than the 5m recommended by the amendment, or alternatively, having no setback at all, as per the notified rule. Alternatively, the rule could be placed within Chapter 14, where it would appear to be a more logical fit, given that Chapter 14 pertains to infrastructure.

#### Effectiveness and efficiency

527. The recommended amendments would give effect to objectives and policies within Chapter 6.1, in particular Objective 6.1.6 and Policy 6.1.7 and as such, would improve the effectiveness of implementing the policy. The matters of restricted discretion would then link to the recommended amendment to Rule 24.3.6.1 PI.

#### Costs and benefits

528. The inclusion of a 5m setback from all buildings to the boundary of a designated railway corridor has potential costs, as it will restrict where people can place buildings (including the likes of garden sheds) near a boundary of a railway corridor or alternatively, cost time and money by having people go through the resource consent process. This would also extend out to those who seek to extend or add to existing buildings within 5m of the designated railway corridor. It is important to note that these instances would be relatively rare, being constrained to 9 record of titles in Ohinewai, 4 in Pokeno and 1 in Tuakau (although the record of title in Tuakau could potentially subdivide under the notified rules but any subdivision would need to account for reverse sensitivity under Policy 4.7.11).

529. There are a number of benefits in that the 5m setback would provide a safe corridor for landowners to undertaken any required maintenance on the building without the need of accessing the railway corridor itself. This in turn then has the benefit of increasing peoples' safety, as they do not need to venture out into the railway corridor and run the risk of being hit by a train.

### **Risk of acting or not acting**

530. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

531. The amendment gives effect to the relevant objectives and policies contained within Chapter 6.1. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### **Section 32AA evaluation – 24.3.6.2 P1**

532. The following points evaluate the recommended change under Section 32AA of the RMA.

#### **Other reasonably practicable options**

533. Other options include having a larger setback than recommended or no setback at all as per the notified rule.

#### **Effectiveness and efficiency**

534. The recommended amendments would tie into the same rule that is contained within the notified Country Living Zone (23.3.7.2 P1) and also somewhat aligns with the corresponding rule in the Rural Zone (22.1.3), noting that the setback distance for Rule 22.1.3 is 500m, compared to the 300m in the Country Living Zone and the 300m recommended here. This would then give effect to Policy 4.7.11 – Reverse sensitivity.

#### **Costs and benefits**

535. As such, this would improve the readability of the rules and would make them consistent across the zones. Ultimately this benefits all plan users.

536. The recommended amendments also ensure that reverse sensitivity that could have otherwise arisen from sensitive land uses located in close proximity to an intensive farming activity are generally avoided. It will also give the ability for new intensive farming activities to establish in localities, without the likely impact of reverse sensitivity. This in turn gives the operators of intensive farming activities confidence in their ability to establish.

537. To a lesser degree, the 300m setback will also act to protect the amenity of the area.

538. I have assessed the aerial images of all of the Village-zoned locations and have identified instances where there are records of title within 300m of a site (measured from the boundary) that contain an intensive farming activity.

- Otua – Goldfish breeding operation at 757 Waiuku-Otua Road. One Village-zoned record of title within 300m that has an existing dwelling, although the dwelling itself is located approximately 300m away from the nearest boundary. As such, there are still opportunities afforded to the property to add to the existing dwelling (towards the west), although any extensions/additions to the house eastwards would incur costs through the resource consent process.



Figure 4 – Otatau Village Zone and proximity to fish breeding operation

539. Tuakau – There are three records of title at the end of Barnaby Road which are within 300m of a boundary of 274B Harrisville Road, which contains chicken sheds. These records of title are currently zoned Rural under the Operative Waikato District Plan: Franklin Section and as such, it is my opinion that this could be an appropriate consideration for the Rezone/Zone extents topic. In addition, Policy 4.7.11 – Reverse sensitivity would require (at the time of subdivision) that these records of title account for reverse sensitivity. Only one of these records of title is currently vacant. As such, there is the potential for increased costs, as people may need to go through the resource consent process.



Figure 5 – Tuakau Village Zone and proximity to the boundary of a site containing a chicken operation

540. The 300m setback would potentially restrict the locations where intensive farming activities could be established, however, this would already be dictated by the respective rule within the Rural Zone.

#### **Risk of acting or not acting**

541. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

#### **Decision about most appropriate option**

542. The amendment gives effect to the relevant objectives and policies contained within Chapter 4.7 and Policy 4.1.10 (in the case of Tuakau). It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### 4.3.23 Section 4.3 – Village – Amendments - Building setbacks – Waterbodies – 24.3.6.3

#### Introduction

543. The Village Zone includes a rule (24.3.6.3) that specifies a range of setbacks from a variety of waterbodies, such as wetlands and rivers.

#### Submissions

544. The following submission points were made:

Submission point	Submitter	Summary of submission
433.24	Auckland Waikato Fish and Game Council	Amend 24.3.6.3- PI(a) A building <u>that is not a maimai</u> must be set back a minimum of 30m from: ... P2 A building <u>that is not a maimai</u> must be setback at least 50m from a bank of the Waikato River and Waipa River. ... P3 A building <u>that is not a maimai</u> must be set back a minimum of 10m from the bank of a perennial or intermittent stream. AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1223.80</i>	<i>Mercury Energy Limited</i>	<i>Support submission 433.24</i>
397.13	Horotiu Properties Limited	Amend 24.3.6.3 PI: PI (a) A building must be setback a minimum of <u>30m</u> : (i) From the margin of any: A. Lake <u>with a bed area of 8ha or more</u> B. Wetland <u>with an area greater than 1ha</u> ; and C. River bank other than the Waikato River and Waipa River <u>whose bed has an average width 3m or more</u> . AND Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.
<i>FS1388.135</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 397.13</i>
602.3	Greig Metcalfe	Amend 24.3.6.3 PI: PI (a) A building must be setback a minimum of <u>30m</u> : (i) From the margin of any: A. Lake <u>with a bed area of 8ha or more</u>

		<p>B. Wetland <u>with an area greater than 1ha;</u> and</p> <p>C. River bank other than the Waikato River and Waipa River <u>whose bed has an average width 3m or more.</u></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
<i>FS1388.1027</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 602.3</i>
662.31	Blue Wallace Surveyors Ltd	<p>Amend 24.3.6.3 P1:</p> <p>PI (a) A building must be setback a minimum of 30m:</p> <p>(i) From the margin of any:</p> <p>A. Lake <u>over 4ha;</u></p> <p>B. Wetland with an area greater than 1ha; and</p> <p>C. River bank other than the Waikato River and Waipa River whose bed has an average width 3m or more. <input type="checkbox"/> D. <u>10m from a managed wetland</u></p>
<i>FS1387.112</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 662.31</i>
689.22	Greig Metcalfe	<p>Amend Rule 24.3.6.3 P1(a)(i)C Building set back - Waterbodies as follows:</p> <p><u>Named</u> River bank, other than the Waikato River and Waipa River.</p> <p>AND</p> <p>Amend Rule 24.3.6.3 P3 Building setback - Waterbodies as follows:</p> <p>A building must be setback a minimum of 10m from the bank of a perennial or intermittent <u>named or unnamed</u> stream.</p> <p>The submission otherwise seeks the retention of 24.3.6.3.</p>
<i>FS1387.292</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 689.22</i>
746.130	The Surveying Company	<p>PI(a)(i)C. <u>Named</u> River bank,</p> <p>P3. A building must be set back a minimum of 10m from the bank of a perennial or intermittent <u>named or unnamed</u> stream</p> <p>Otherwise the submission seeks the retention of 24.3.6.3</p>
<i>FS1387.981</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 746.130</i>
695.137	Sharp Planning Solutions Ltd	Amend 24.3.6.3 to be the same as 22.3.7.5
<i>FS1387.340</i>	<i>Mercury Energy Limited</i>	<i>Oppose submission 695.137</i>



697.469	Waikato District Council	Amend 24.3.6.3 to be consistent in terms of the terminology of structures across all zone chapters.
FS1387.453	Mercury Energy Limited	Oppose submission 697.469
FS1108.18	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose submission 697.469 <b>WITHDRAWN</b>
FS1139.17	Turangawaewae Trust Board	Oppose submission 697.469
697.990	Waikato District Council	Amend 24.3.6.3 P4 to read: A public amenity of up to 25m <sup>2</sup> , or a pump shed ( <u>public or private</u> ) within any building setback identified in Rule 24.3.6.3 P1, P2 or P3.
697.991	Waikato District Council	Delete 24.3.6.3 P3 and consequential amendment to D1: A building that does not comply with Rules 24.3.6.3 P1, P2, <del>P3</del> or P4.
FS1387.761	Mercury Energy Limited	Oppose submission 697.991
FS1286.14	Horotiu Properties Limited	Support submission 697.991
697.992	Waikato District Council	Amend 24.3.6.3: P1 (a) A building must be set back a minimum of <del>30</del> <u>23m</u> from: (i) the margin of any: A. Lake; B. Wetland; and C. River bank, other than the Waikato River and Waipa River. P2 A building must be set back at least <del>50</del> <u>28m</u> from a bank of the Waikato River and Waipa River.
FS1387.762	Mercury Energy Limited	Oppose submission 697.992
378.50	Fire and Emergency New Zealand	Retain 24.3.6.3 as notified
FS1035.156	Pareoranga Te Kata	Support submission 378.50

## Analysis

545. Auckland Waikato Fish and Game Council [433.24] seeks an amendment to Rule 24.3.6.3 to exclude maimai. I agree with the reasoning provided by the submitter and further note that the Waikato Regional Plan includes maimai as a permitted activity (Rules 4.2.7 and 16.4.2 of the Waikato Regional Plan). The rules include a number of conditions, such as a maximum floor space of 10m<sup>2</sup>. Excluding maimai from this rule will result in better alignment between the Waikato Regional Plan and the Proposed Waikato District Plan. This has also been addressed thoroughly as a part of the s42A report for Topic 2<sup>14</sup>. I generally agree with the

<sup>14</sup> Hearing 2: Plan Structure, All of Plan, paragraphs 241 – 245 (pages 64-65)

s42A author and subsequently recommend the same amendments with the exception that maimai's should be restricted to 10m<sup>2</sup>, rather than 25m<sup>2</sup>.

546. Horotiu Properties Limited [397.13] and Greig Metcalfe [602.3] both seek the same amendments to Rule 24.3.6.3, namely that the requirements for A-C match those set out in the Operative Waikato District Plan. Blue Wallace Surveyors Ltd [662.31] also seeks a size restriction be applied to A (Lake).
547. With respect to the amendments sought to A-C, It is my understanding that the sizes specified in the operative rule correspond with the respective sizes specified in the esplanade reserves and esplanade strips rule. For example, Rules 25.59.1 and 25.81.1 of the Operative Waikato District Plan specify:

*25.59.1*

*Construction or alteration of a building is a permitted activity if:*

- (a) the building is set back at least 32m from*
  - (i) the margin of any lake with a bed area of 8ha or more, and*
  - (ii) the bank of any river whose bed has an average width of 3m or more, and*
  - (iii) any wetland with an area greater than 1 ha and*
- (aa) the building is set back at least 37m from the Waikato River and the Waipa River, and*
- (ab) the building is set back at least 50m from the river on sites to which the River Bank Stability Area applies.*

*Despite the above, a public amenity of up to 25m<sup>2</sup> on an esplanade reserve, a public walkway, or a pump shed are not subject to this rule.*

*Note: Refer to rule 4.2.18.1 of the Waikato Regional Plan, which controls building within 10m of artificial watercourses (drains), modified watercourses or rivers within drainage districts and river control scheme areas that are managed by the Waikato Regional Council or the Waikato District Council.*

*25.81.1*

*Subdivision is a restricted discretionary activity if an esplanade reserve or strip 20m wide (or other width stated in Appendix G Esplanade Priority Areas) is created from every allotment:*

- (a) less than 4ha and within 20m of*
  - (i) mean high water springs, or*
  - (ii) the bank of any river whose bed has an average width of 3m or more, or*
  - (iii) a lake whose bed has an area of 8ha or more, or*
- (b) 4ha or more within 20m of mean high water springs or a water body identified in Appendix G (Esplanade Priority Areas).*

*Discretion restricted to:*

- deleted*
- the type of esplanade provided - reserve or strip*
- width of the esplanade reserve or strip*
- access to the esplanade reserve or strip*
- matters provided for in an instrument creating an esplanade strip or access strip*
- works required prior to vesting any reserve in the Council*
- costs and benefits of acquiring the land.*

548. It would appear from the s32 report on Landscape and Natural Character, that it is intended that the natural character of the coastal environment, wetlands and lakes and rivers and their margins be protected. This is reaffirmed by the notified Objective 3.5.1 (b):
- (b) The natural character of wetlands, and lakes and rivers and their margins are protected from inappropriate subdivision, use and development.*
549. And associated policies 3.5.2-3.5.4. Policy 3.5.4 (a)(iv) state:
- requiring appropriate setbacks of activities from wetlands, lakes and rivers.*
550. As such, the setbacks from rivers, wetlands and lakes go beyond that necessary to accommodate esplanade reserves, but also go towards protecting the natural character of wetlands, lakes and rivers and their margins. There is potential that if sizes were specified in the rule, a situation could arise where incrementally the natural character of lesser areas of wetlands, lakes and rivers are permanently changed.
551. The s32 report on Landscape and Natural Character assessed the scenario<sup>15</sup> where the status quo would be applied and that table stated:
- The existing provisions do not address the protection of natural character specifically enough. Areas that are identified in the existing provisions have been identified based on broader landscape values rather than specifically addressing the state of natural character. Would not map areas of high (or above) natural character.*
- This option would not be consistent with the RPS direction to identify, protect and avoid adverse effects on high and outstanding natural character areas. The areas currently identified, were identified using methodologies inconsistent with current best practice and the RPS in regards to addressing natural character and landscape matters specifically and separately.*
- The use of existing provisions may have a degree of community acceptance because these are known to Plan users. However, other community sectors may oppose them as they are not based on current best practice, or consistent with the approaches of other district councils in the region. Generally it is expected that retaining the existing provisions will be perceived to provide inadequate recognition and protection of the District's natural character.*
552. From my consenting experience, I acknowledge the broadness of the RMA definitions of Lake, Wetland and River that can be applied, even more so with the definition of Wetland and its application to moist/damp areas (i.e. 'wet areas' or 'wet conditions'). At the time of writing I have been unable to receive expert advice on what may be an appropriate size restriction (if any) for wetlands/rivers and lakes if a size limit were to be utilised, and as such, I invite the submitters to expand on their positions by providing evidence with particular regard to the natural character that the setback rule is also aimed at protecting. Alternatively, this may be dealt with as a part of another zone chapter, given that there are other submission points requesting the same relief (such as [943.19] for the Rural Zone) or it may be dealt with as a part of the Natural Environments topic.
553. With respect to the second part of the amendment sought by Blue Wallace Surveyors Ltd [662.31], being the new clause D, I generally agree with the submitter's reasons on this matter, and from my consenting experience I have seen consents granted that reduced setbacks to 10m. The 'managed wetlands' in my experience exhibit a high degree of artificialness, in particular with their shape, presence of stormwater devices and associated safety barriers (if required). As per my comments above however, this needs to be verified with relevant expert comments and advice.

---

<sup>15</sup> Section 32 Report – Part 2 – Landscape & Natural Character - Table 6 Assessment of Reasonably Practicable Options for Proposed Objectives 3.5.1, page 33

554. Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that submission points Horotiu Properties Limited [397.13], Greig Metcalfe [602.3] and Blue Wallace Surveyors Ltd [662.31] be rejected .
555. Greig Metcalfe [689.22] and The Surveying Company [746.130] both seek that the setbacks from a river bank only apply to a named river and a named or unnamed stream. The submitters state that it is important to define a stream to avoid confusion with the definition of a river. The RMA defines river as “a continually or intermittently flowing body of freshwater; and includes a stream and modified watercourse” if a watercourse is named “Stream” then it should be subject to the appropriate setback by the Plan. Given my recommendation on submission point Waikato District Council [697.991] (below), it is my opinion that the amendments sought by the submitters will not be necessary
556. Sharp Planning Solutions Ltd [695.137] seeks amendments to Rule 24.3.6.3 such that it matched the equivalent rule in the Rural Zone (22.3.7.5). It is my opinion that the rule should be matched up with the Residential Zone (16.3.9.3) rather than the Rural Zone, as it is my opinion that the zone aligns itself more towards residential, rather than rural. I note that submission point Waikato District Council [697.992] (discussed below) would result in a rule that is nearly identical to that of the Residential Zone, with the only difference being that the Village Zone rule does not include any setback from mean high water springs. Accordingly, I disagree with the relief sought.
557. Waikato District Council [697.469] seeks an amendment to the rule such that the terminology of structures is consistent across all zone chapters. While I agree in principle that terminology should be consistent within a plan, it is unclear from the submitter as to what the amendment may entail and as such, I disagree with the submitter. I note that the further submission by Turangawaewae Trust Board [FS/139.17] opposes this submission as it is ‘Unclear as to what is sought by the submission’.
558. Waikato District Council [697.990] seeks an amendment to clarify that a pump shed can be public or private. I agree with this, as it could be misunderstood as the rule refers to ‘public amenity’ and therefore gives potential for people to think that the rule is only applicable to public pump sheds. As such, I agree with the amendments proposed.
559. Waikato District Council [697.991] seeks to delete P3 as it is covered by the other setback requirements from water bodies. The submitter does not specifically state what the other setback requirement is that covers it, but it is my opinion that it is covered by the River setback, and I agree with this reasoning. I note that this matter has also been addressed as a part of Topic 2<sup>16</sup>, where it was noted that this particular rule’s inclusion in the Village Zone was ‘...something of an anomaly’.. These have not been correctly identified by the submission point. As such, I am generally supportive of the amendments proposed, as it reduces duplication and confusion but requires additional amendments to be made. I note that further submission Horotiu Properties Limited [FS/286.14] is supportive of the deletion of this rule (pending other amendments that the submitter is seeking).
560. Waikato District Council [697.992] seeks amendments to the rule such that the setback distances specified represent the respective esplanade reserve plus setback. The reasoning provided by the submitter does not acknowledge the role that setbacks play in protecting the natural character of the rivers, wetlands and lakes. Despite this, the amendments sought would bring the rule into better alignment with the Residential Zone, as opposed to the Rural Zone. It is my opinion that the Village Zone aligns itself more with the Residential Zone than the Rural Zone and as such, I agree with the amendments sought. Accordingly, I agree with the amendments proposed.
561. As I have recommended amendments to Rule 24.3.6.3, I partially disagree with Fire and Emergency New Zealand [378.50].

<sup>16</sup> Hearing 2: Plan Structure, All of Plan, paragraphs 69-74 (pages 28-29)

## Recommendations

562. I recommend, for the reasons given above, that the Hearings Panel:

- Accept in part Auckland Waikato Fish and Game Council submission point [433.24] and reject Mercury Energy Limited further submission point [FS/223.80]
- Reject Horotiu Properties Limited submission point [397.13] and reject Mercury Energy Limited further submission point [FS/388.135].
- Reject Greig Metcalfe submission point [602.3] and reject Mercury Energy Limited further submission point [FS/388.1027]
- Reject Blue Wallace Surveyors Ltd submission point [662.31] and reject Mercury Energy Limited further submission point [FS/387.112]
- Reject Greig Metcalfe submission point [689.22] and reject Mercury Energy Limited further submission point [FS/387.292]
- Reject The Surveying Company submission point [746.130] and reject Mercury Energy Limited further submission point [FS/387.981]
- Reject Sharp Planning Solutions Ltd submission point [695.137] and reject Mercury Energy Limited further submission point [FS/387.340]
- Reject Waikato District Council submission point [697.469] and reject Mercury Energy Limited further submission point [FS/387.453] and accept Turangawaewae Trust Board further submission point [FS/139.17]
- Accept Waikato District Council submission point [697.990]
- Accept in part Waikato District Council submission point [697.991] and reject Mercury Energy Limited further submission point [FS/387.761], and accept in part Horotiu Properties Limited further submission point [FS/286.14]
- Accept Waikato District Council submission point [697.992] and reject Mercury Energy Limited further submission point [FS/387.762].
- Accept in part Fire and Emergency New Zealand submission point [378.50] and Pareoranga Te Kata further submission [FS/1035.156].

## Recommended amendments

563. The following amendments are recommended:

### 24.3.6.3 Building setback – water bodies

PI	(a) A building must be set back a minimum of <del>30</del> <u>23m</u> from: (i) the margin of any: A. Lake; B. Wetland; and C. River bank, other than the Waikato River and Waipa River.
P2	A building must be set back at least <del>50</del> <u>28m</u> from a bank of the Waikato River and Waipa River.
<del>P3</del>	<del>A building must be set back a minimum of 10m from the bank of a perennial or intermittent stream.</del>
<del>P4</del>	A public amenity of up to 25m <sup>2</sup> , or a pump shed ( <u>public or private</u> ) <u>or maimai of up to 10m<sup>2</sup></u> , within any building setback identified in Rule 24.3.6.3 PI, P2 or P3.
D1	A building that does not comply with Rules 24.3.6.3 PI, P2, <u>or</u> P3 <del>or P4</del> .

### **Section 32AA evaluation**

564. The following points evaluate the recommended change under Section 32AA of the RMA.
565. With respect to the recommended amendments to Rule 24.3.6.3 P3, P4 and DI, it is my opinion that the recommended amendments are to provide clarification to assist with the understanding of the purpose, intent and readability of the rules. Accordingly, no s32AA evaluation has been required to be undertaken.

### **Section 32AA evaluation – Maimai**

566. The following points evaluate the recommended change under Section 32AA of the RMA.

### **Other reasonably practicable options**

567. With respect the exclusion of the maimai, the other options would be to exclude maimai from the definition of 'building', therefore this rule would not apply to them. Alternatively, a separation setback could be determined for maimai, or the notified provisions could be left as they are, where maimai would need to be setback 30m-50m.

### **Effectiveness and efficiency**

568. The amendments recommended may not necessarily align themselves with the objective and policies contained within Chapter 3.5, although it is my opinion that maimai are not necessarily 'inappropriate', given their likely scale and intensity. I also note that maimai up to 10m<sup>2</sup> can be a permitted activity under the Waikato Regional Plan (Rule 4.2.7) and as such, the recommended amendments would be in line with the Waikato Regional Plan.

### **Costs and benefits**

569. Given the likely scale and intensity of the maimai, it is my opinion that while there may be some cost to the environment in terms of natural character, it is likely to be minimal.
570. There are benefits to people and the community, in that maimai do provide for types of recreation, and excluding them from setback requirements will reduce the time and cost to people who would otherwise be forced to go through the resource consent process (i.e. highly unlikely to have a maimai that would be permitted under the notified provisions).

### **Risk of acting or not acting**

571. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

572. The amendment gives effect to the purpose of the RMA and aligns the rule to be consistent with the Waikato Regional Plan. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

### **Section 32AA evaluation – changes to setback distances in P1 and P2**

573. The following points evaluate the recommended change under Section 32AA of the RMA.

### **Other reasonably practicable options**

574. With respect to the amendments recommended to the setback distances, the other practicable options include having a different setback from that recommended, having no setbacks at all or retaining the notified setbacks.

### **Effectiveness and efficiency**

575. The amendments recommended may not necessarily align themselves with the objective and policies contained within Chapter 3.5 - Natural Character, although the recommended amendments would bring the rule into line with that of the Residential Zone, as opposed to the Rural Zone. As such, it has already been considered as a part of the notified framework that the setbacks from the Residential Zone align with the relevant objectives and policies, including those within Chapter 3.5 - Natural Character. It is my opinion that the Village Zone is much more in keeping with the Residential Zone, rather than the Rural Zone.

### **Costs and benefits**

576. The reduction in the setback recommended and alignment with the Residential Zone waterbodies setback rule will enable more flexibility to building locations within the Village Zone, with a more efficient use of land, and provide for a more consistent rule framework which will assist plan users. Accordingly it is likely to reduce costs imposed on people and the community if they had to either go through the resource consent process or spend time going through the district plan rules and potentially getting confused with differences in the rules. It will still enable sufficient width for esplanade reserves and will give plan users confidence in their ability to locate buildings in the Village Zone that may be subject to the rule.
577. There are potential costs involved in the natural character and the amenity of the environment, as the recommended amendments may result in buildings being located closer than what was specified in the notified provisions. Despite this, the recommended amendments to the setbacks align with the equivalent rule in the Residential Zone, where the setbacks were deemed to be sufficient under the notified framework, and it is my opinion that the Village Zone is more akin to the Residential Zone, than the Rural Zone.

### **Risk of acting or not acting**

578. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

### **Decision about most appropriate option**

579. The amendment would correctly align the Village Zone with the Residential Zone and would make the rule consistent in its application. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## **4.3.25 Section 4.3 – Village – Amendment – Zone Name**

### **Introduction**

580. The Proposed Waikato District Plan (notified version) does not explicitly state what the reasoning is for the term 'Village', but does contain policies which describe what the character/amenity/built form of the Village Zone is (such as Policy 4.3.2).

## Submissions

581. The following submission was made:

Submission point	Submitter	Summary of submission
249.2	Anton Marais	Amend the title for the "Village Zone", to use a more descriptive term such as "Rural Residential", "Residential Low Density", "Residential Large Lot" or similar.

## Analysis

582. I have undertaken an analysis of the district plans from adjoining territorial authorities, and I have found one instance where 'village' was used as a zone name (South Waikato District Plan - Arapuni Village Zone) and I note that both the Auckland Unitary Plan and the Waipa District Plan make use of large lot residential zones. I generally concur with the reasons provided by the submitter.
583. The term 'Village' for the notified zone appears to be a carry-over from the Operative Waikato District Plan: Franklin Section, where it was used to administer existing small settlements (such as Mangatawhiri/Naike) and some that were specifically identified for limited growth (such as Onewhero). While this may still be applicable to some of the areas proposed to be zoned as 'Village', this term does not appear within the National Planning Standards.
584. The National Planning Standards<sup>17</sup> include two zone names that may be applicable for the Village Zone:
- Large lot residential zone - Areas used predominantly for residential activities and buildings such as detached houses on lots larger than those of the Low density residential and General residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development.
  - Low density residential zone - Areas used predominantly for residential activities and buildings consistent with a suburban scale and subdivision pattern, such as one to two storey houses with yards and landscaping, and other compatible activities.
585. It is my opinion that either of these may be applicable to different areas of the notified Village Zone. For example, the 'low density residential zone' would potentially be applicable to Tuakau and Te Kowhai if the hearings panel are of mind to retain/include 'Village' zoning and the associated objectives/policies and rule framework. Otherwise, the term 'large lot residential zone' may be applicable to the remainder of the 'Village' Zone. While the National Planning Standards include 'Rural lifestyle zone', it is my opinion that this is more applicable to the likes of the notified 'Country Living Zone'.
586. Taking the above into consideration, I recommend that the submission point [249.2] be accepted.

<sup>17</sup> Table 13 – Zone Framework Standard, page 36



## Recommendation

587. I recommend, for the reasons given above, that the Hearings Panel:

- Accept Anton Marais submission point [249.2].

## Recommended amendments

588. Consequential amendments across the district plan to change references to the 'Village Zone' to either 'Large lot residential zone' or 'Low density residential zone'. It is likely that the amendments will be numerous and go across multiple chapters/sections and as such, have not been documented here.

## Section 32AA evaluation

589. The recommended amendments are to provide alignment with the National Planning Standards and are reflective of a technical correction, rather than fundamental change to the policy/rule framework. Accordingly, no s32AA evaluation has been required to be undertaken.

# 5 Conclusion

590. This report has provided an assessment of submissions received in relation to Chapters 4.3, 4.4 and 24, insofar as they relate to land use. The primary amendments that I have recommended relate to:

- Inclusion of an objective, policies and provisions for emergency service facilities and associated training/management
- Inclusion of wording into policies for consideration of CPTED
- Increases to the maximum earthworks volume, fill height.
- Increases and additional restrictions on the number of signs, types of signs and locations
- Increase to the daylight admission angle from 37 degrees to 45 degrees
- Building coverage
- Changes to the indicative road setback rule to assist plan users as to where the measurement is to be taken and what happens after an indicative road has been formed
- Inclusion of a 300m setback from intensive farming and sensitive land uses
- Inclusion of a 5m setback from buildings and railway corridors
- Exclusion of maimai from waterbodies setback
- Numerous corrections to address drafting errors

591. I consider that the submissions on the Village Zone land use matters should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of each analysis and in Appendix I below.

592. I recommend that provisions in Chapters 4.3, 4.4 and 24 be amended as set out in Appendix 2 below for the reasons set out in the report above.

593. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in this report.

No rei ra

Teena Koutou Katoa.