

# **SECTION 42A REPORT**

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

## **Hearing 6: Village Zone – Subdivision**

Report prepared by: Jonathan Clease

Date: 8<sup>th</sup> November 2019





# TABLE OF CONTENTS

<b>1</b>	<b>Introduction</b> .....	9
1.1	Qualifications and experience.....	9
1.2	Code of Conduct.....	9
1.3	Conflict of Interest .....	9
1.4	Preparation of this report .....	9
<b>2</b>	<b>Scope of Report and topic overview</b> .....	10
2.1	Matters addressed by this report .....	10
2.2	Overview of the topic / chapter.....	10
2.3	Statutory requirements .....	11
2.3.1	Resource Management Act 1991.....	11
2.4	Procedural matters .....	11
<b>3</b>	<b>Consideration of submissions received</b> .....	12
3.1	Overview of submissions .....	12
2.5	Structure of this report .....	12
<b>4</b>	<b>Village Zone Part A: Subdivision</b> .....	13
	Section 4.1.....	13
	Village – Objective 4.3.1 and Policy 4.3.2 .....	13
	Introduction .....	13
	Submissions.....	13
	Analysis .....	14
	Recommendations and Amendments .....	18
	Section 4.2.....	18
	24.4 – Village – Subdivision General – Rule 24.4.1 .....	18
	Submissions.....	18
	Analysis .....	23
	Recommendations and Amendments .....	28
	Section 4.3.....	28
	24.4 – Village – Subdivision – Te Kowhai and Tuakau – Policy 4.3.3 and Rule 24.4.2 .....	28
	Submissions.....	28
	Analysis .....	33
	Recommendations .....	41

Recommended amendments.....	42
4.1.5 Policy – Density .....	42
24.4.1 Subdivision – General (outside Te Kowhai and Tuakau).....	43
Section 32AA evaluation .....	45
Effectiveness and efficiency.....	45
Costs and benefits.....	46
Risk of acting or not acting.....	46
Decision about most appropriate option.....	47
Section 5.....	47
Rule 24.4.3 Subdivision Boundary Adjustments .....	47
Introduction .....	47
Submissions.....	47
Analysis .....	47
Recommendations .....	48
Recommended amendments.....	48
Section 32AA evaluation .....	48
Effectiveness and efficiency.....	48
Costs and benefits.....	48
Risk of acting or not acting.....	49
Decision about most appropriate option.....	49
Section 6.....	49
Rule 24.4.4 Subdivision amendments to cross lease and flats plans and conversions .....	49
Introduction .....	49
Submissions.....	49
Analysis .....	50
Recommendations .....	51
Recommended amendments.....	52
24.4.4 Subdivision – amendments to cross lease and flats plans and conversions.....	52
Section 32AA evaluation .....	52
Section 7.....	52
Rules 24.4.5-6 Subdivision title boundaries.....	52
Introduction .....	52
Submissions.....	53
Analysis .....	56
Recommendations .....	58
Recommended amendments.....	58

24.4.7 Title boundaries – Maaori sites and Maaori areas of significance to Maaori.....	60
Section 32AA evaluation .....	61
Effectiveness and efficiency.....	61
Costs and benefits.....	61
Decision about most appropriate option.....	61
Section 8.....	61
Rule 24.4.9 Road Frontage.....	61
Introduction .....	61
Submissions.....	61
Analysis .....	63
Recommended amendments.....	65
Section 32AA evaluation .....	65
Section 9.....	65
Rule 24.4.10 Subdivision Building Platform .....	65
Introduction .....	66
Submissions.....	66
Analysis .....	66
Recommended amendments.....	67
Section 32AA evaluation .....	68
Section 10.....	68
Rule 24.4.11 Subdivision Creating Reserves – .....	68
Introduction .....	68
Submissions.....	68
Analysis .....	69
Recommended amendments.....	71
Section 32AA evaluation .....	72
Effectiveness and efficiency.....	72
Costs and benefits.....	72
Risk of acting or not acting.....	72
Decision about most appropriate option.....	73
Section 11.....	73
Rule 24.4.12 Subdivision of Esplanade Reserves and Esplanade Strips.....	73
13.1 Introduction .....	73
Submissions.....	73
Analysis .....	74
Recommended amendments.....	76

Section 32AA evaluation .....	76
Effectiveness and efficiency.....	76
Costs and benefits.....	77
Risk of acting or not acting.....	77
Decision about most appropriate option.....	77
Section 12.....	77
Rule 24.4.13 Subdivision of Land Containing Mapped Off-road Walkways .....	77
Introduction .....	77
Submissions.....	77
Analysis .....	78
Recommended amendments.....	78
Section 32AA evaluation .....	79
Section 13.....	79
Section 24.4– New Rules.....	79
15.1 Submissions.....	79
Analysis .....	80
Recommended amendments.....	81
Section 32AA evaluation .....	82
<b>14 Conclusion .....</b>	<b>82</b>

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

<b>Original Submitter</b>	<b>Submission number</b>
Balle Bros Group Limited	466
Brent Trail	345
Brent Trail for Surveying Services Ltd	382
Counties Power Limited	405
GD Jones	110
Gerald Willis	436
Glenn Soroka & Louise Meredith for Trustees of the Pakau Trust	624
Greig Developments No 2 Limited	689
Greig Metcalfe	602
Fire and Emergency New Zealand	378
First Gas Limited	945
Horotiu Properties Limited	397
Horticulture New Zealand	419
Housing New Zealand Corporation	749
Jonathan Quigley for J and T Quigley	389
Kitty Burton	371
KiwiRail Holdings Limited (KiwiRail)	986
Lance Vervoot for Hamilton City Council	535
Lee Slomp	604
Lucy Smith for Terra Firma Resources Ltd	732
McCracken Surveys Limited	943
New Zealand Transport Agency (NZTA)	742
Richard Falconer for Terra Consultants (CNI) Ltd	296
Sharp Planning Solutions Ltd	695
Sherry Reynolds on behalf of Heritage New Zealand Lower Northern Office	559
Steven & Teresa Hopkins	451

<b>Further Submitter</b>	<b>Submission number</b>
<i>Andrew Mowbray</i>	<i>FSI305</i>
<i>Bowrock Properties Limited</i>	<i>FSI197</i>
<i>Bridget Murdoch on behalf of Counties Power</i>	<i>FSI134</i>
<i>Dave Roebeck</i>	<i>FSI133</i>
<i>Ethan &amp; Rachael Findlay</i>	<i>FSI311</i>
<i>Federated Farmers</i>	<i>FSI342</i>
<i>First Gas</i>	<i>FSI211</i>
<i>GD Jones</i>	<i>FSI091</i>
<i>Genesis Energy</i>	<i>FSI345</i>
<i>Greig Developments No 2 Limited</i>	<i>FSI187</i>
<i>Greig Metcalfe for CKL</i>	<i>FSI335</i>
<i>Hamilton City Council</i>	<i>FSI379</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FSI323</i>
<i>Horotiu Properties Limited</i>	<i>FSI286</i>
<i>Jennie Hayman</i>	<i>FSI268</i>
<i>Kristine Stead on behalf of Marshall &amp; Kristine Stead Lloyd &amp; Kylie Davis Jason Strongwick &amp; Nicola and Kerry Thompson</i>	<i>FSI178</i>
<i>Mark Glover for Kivitykes Ltd on behalf of Glover Family Trust</i>	<i>FSI144</i>
<i>Mercer Airport</i>	<i>FSI302</i>
<i>Mercury Energy Limited</i>	<i>FSI387</i> <i>FSI388</i> <i>FSI386</i>
<i>Michael Klaja</i>	<i>FSI015</i>
<i>NZTE Operations Limited</i>	<i>FSI339</i>
<i>Pareoranga Te Kata</i>	<i>FSI035</i>
<i>Rosalie Klaus</i>	<i>FSI112</i>
<i>Steven and Teresa Hopkins</i>	<i>FSI075</i>
<i>Stuart Quigley and Quigley Family Trust</i>	<i>FSI278</i>
<i>T&amp;G Global</i>	<i>FSI168</i>

Stuart Quigley	947
The Surveying Company	746
Vineyard Road Properties Limited	626
Waikato District Council	697
Waikato District Health Board	923
Waikato Regional Council	81
Wendy Oliver	438

<i>T&amp;G Global</i>	<i>FS1171</i>
<i>The Surveying Company</i>	<i>FS1308</i>
<i>Tony Harford</i>	<i>FS1056</i>
<i>Transpower New Zealand Limited</i>	<i>FS1350</i>
<i>Vineyard Road Properties Limited</i>	<i>FS1127</i>
<i>Waikato Regional Airport Ltd</i>	<i>FS1253</i>
<i>Watercare</i>	<i>FS1176</i>
<i>Z &amp; Z Developments Limited Partnership</i>	<i>FS1332</i>

**Please refer to Appendix 2 to see where each submission point is addressed within this report.**



# I Introduction

## I.1 Qualifications and experience

1. My full name is Jonathan Guy Cleese. I am employed by a planning and resource management consulting firm Planz Consultants Limited as a Senior Planner and Urban Designer.
2. I hold a Bachelor of Science (Geography), a Master of Regional and Resource Planning, and a Master of Urban Design. I am a Full Member of the New Zealand Planning Institute.
3. I have twenty-three years' experience working as a planner, with this work including policy development, providing s.42A evidence on plan changes, the development of plan changes and associated s32 assessments, and the preparation and processing of resource consent applications. I have worked in both the private and public sectors, in both the United Kingdom and New Zealand.
4. I have recently been involved in the review of District Plans for Christchurch and presented evidence on the notified provisions on behalf of submitters on commercial, industrial, Lyttleton Port, natural hazards, hazardous substances, and urban design topics. I have also recently been involved in the development of the second generation Selwyn and Waimakariri District Plans, and the preparation of s42A reports processing private plan change applications. These topics have included rural-residential housing, commercial, urban design, and signage matters.

## 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. Planz Consultants Ltd do not have any clients that have made submissions on the topics dealt with in this report.

## I.4 Preparation of this report

8. I am the author of this report.
9. The scope of my evidence relates to the evaluation of submissions and further submissions received in regards to the subdivision rules and policies for the Village Zone,. Matters relating to the Te Kowhai Airfield and rules applying to the Village Zone associated with the Airfield (such as noise and height of structures) are not dealt with in this report. Rather they are to be addressed within the Te Kowhai Airpark topic.
10. In preparing this report I have had regard to the related reports prepared by Mr Kelly Cattermole and the strategic policy framework and associated s42A report prepared by Mr Alan Matheson and considered by the Panel as part of Hearing 3.

11. 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.

## 2 Scope of Report and topic overview

### 2.1 Matters addressed by this report

12. This report is prepared in accordance with section 42A of the RMA. The report considers submissions that were received by the Council in relation to the subdivision rules and associated objective and policies of the Village Zone within the Waikato Proposed District Plan ('the Proposed Plan'). Provisions relating to the management of land use activities and building bulk and location in the Village Zone, along with the balance of the relevant objectives and policies, are addressed in a related Section 42A report that has been prepared by Mr Kelly Cattermole. It is recommended that these two reports be read together to gain an overall understanding of the Village Zone provisions and Officer recommendations.

### 2.2 Overview of the topic / chapter

13. The report by Mr Cattermole addresses the land use outcomes anticipated in the Village Zone, including both the range of anticipated activities that can occur within the zone, and the regulatory framework controlling the size and location of buildings.
14. My report considers the subdivision provisions as they relate to the Village Zone. It is noted that the Proposed Plan is structured such that each zone has its own bespoke set of subdivision provisions, rather than the District Plan subdivision provisions all being located within a single chapter (as is required by the National Planning Standards). This structure means that the recommendations made in this report (and the scope of the submissions received), are limited to the subdivision provisions as they apply to the Village Zone context. Whilst consistency across the Proposed Plan for provisions that address similar issues is generally anticipated, there may well be reasons for the Panel to determine that different approaches are appropriate for rules addressing similar matters, dependent on the specific zone context. For example, the requirement for all new lots to have a minimum length of road frontage may be appropriate in the Village Zone context, but may be found to require a longer minimum frontage in the more expansive Rural Zones, or conversely a smaller length of frontage may be appropriate in the higher density Residential Zones. The recommendations (and ultimately the Panel's findings) in this Chapter are therefore specific to the issues raised in this Chapter and the environmental outcomes anticipated for the Village Zone.
15. The anticipated environmental outcomes and character of the Village Zone are at the core of many of the submissions received. These high level outcomes are discussed first in this report, as this sets the scene for assessing submissions on the more detailed rules that follow.
16. This report therefore addresses in a coherent manner the zone objective (4.3.1) and the two key policies that implement the objective, namely Policy 4.3.2 which considers Village Zone character, and Policy 4.3.3 which considers future Village Zone development in Tuakau and Te Kowhai. This policy framework is then implemented through two key rules which control site size and layout – Rule 24.4.1 for the rural settlements where the Village Zone applies, and Rule 24.4.2 for Tuakau and Te Kowhai. These policies and associated rules, and

the submissions received on them, are highly interrelated, and as such this report considers the policy outcomes and the two key implementing rules in a single assessment.

17. Following consideration of these strategic outcomes and densities, the report then addresses submissions on each of the subsequent subdivision rules in turn. The report concludes with assessing submissions seeking the insertion of new rules into the Village Zone subdivision framework.

## 2.3 Statutory requirements

### 2.3.1 Resource Management Act 1991

18. As noted in the introduction of the s42A report by Mr Matheson<sup>1</sup>, sections 1.1 and 1.2 of *Chapter 1 - introduction* of the Proposed Plan set out the relationship between s5, s32, and s72 of the Resource Management Act 1991 ('RMA'), which are respectively:
  - The purpose of the RMA;
  - The functions of a territorial authority; and
  - The purpose of a district plan.
19. As set out in the various sections within *Chapter 1 – Introduction*, there are a number of guiding RMA plans such as the Waikato Regional Policy Statement ('WRPS'), documents such as the Future Proof Growth Strategy and associated Implementation Plan, and agreements such as the Waikato River Joint Management Agreement 2010 that provide guidance for the preparation and content of the Proposed Plan. These documents and the WRPS are discussed in more detail below where relevant to the Village Zone. The structure of a district plan is required to be consistent with the National Planning Standards ('NPS') that seek to provide a standard format for district plans across the country. This report relies on the NPS defined terms (14 – Definitions) which have been addressed in Hearing 5.
20. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness and risk. The effects of new policies and rules on the community, the economy, cultural matters and the environment need to be clearly identified and assessed as part of this examination. The analysis must be documented, so stakeholders and decision-makers can understand the reasoning behind policy decisions.

## 2.4 Procedural matters

21. At the time of writing this s42A report there have not been any pre-hearing conferences in relation to the subdivision provisions of the Village Zone. 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.
22. No pre-hearing meetings, Clause 8AA meetings, or further consultation on the submissions relating to Chapter 24.4 – Village Zone subdivision were held prior to the finalisation of this s42A report.

---

<sup>1</sup> Section 42A Report Hearing 3 Strategic Objectives, Alan Matheson (30 September 2019)

## 3 Consideration of submissions received

### 3.1 Overview of submissions

23. There are submissions from 33 separate parties that will be addressed within this report that relate to subdivision matters in the Village Zone. The submissions addressed within this report cover a wide range of issues, although there are some matters which are subject to a number of submissions and/or contain common themes, such as:
- The need for greater clarity as to the outcomes and purpose of the Village Zone at a policy level;
  - Whether smaller lots should be provided for below 3,000m<sup>2</sup>, especially where services are available;
  - Whether the transitional purpose of the Village Zone in Te Kowhai and Tuakau is plausible and constitutes sustainable urban growth;
  - Various amendments to the more detailed subdivision rules to improve clarity, efficiency and effectiveness;
  - Various amendments to the subdivision rules regarding the length of required frontages to roads and reserves, and the minimum size for building platforms, especially as it relates to the low density outcomes and large lots anticipated in the Village Zone; and
  - Rationalisation and consistent activity status for subdivision that occurs on sites with identified cultural, heritage, or natural values.
24. There are 34 further submissions from separate parties that will be addressed within this report. The majority of which relate to original submissions on the common themes above, with the exception of Mercury Energy Limited, who have generally opposed a wide range of original submissions. Mr Cattermole addresses the Mercury Energy Ltd approach to further submissions in his report and I agree with and adopt his approach to recommendations in relation to Mercury.
25. “All of Plan” submissions have been addressed in Hearing Report 2, which can be located on the council website link below, or found under Proposed DP - Stage 1 - Hearings - Hearing 2 - Council s42a report:
- [https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-2/section-42a-reports/hearing-2---s42a-report---plan-structure-and-all-of-plan.pdf?sfvrsn=bc40185a\\_8](https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-2/section-42a-reports/hearing-2---s42a-report---plan-structure-and-all-of-plan.pdf?sfvrsn=bc40185a_8)

### 2.5 Structure of this report

26. As noted above, this report is structured such that it begins with an integrated assessment of the key objective, two policies, and two rules that address the anticipated outcomes and the minimum densities in the Village Zone. The report then considers each of the subdivision rules in turn, in the order that they appear within the Proposed Plan - Chapter 24.4.

## 4 Village Zone Part A: Subdivision

### Section 4.1

#### Village – Objective 4.3.1 and Policy 4.3.2

##### Introduction

27. The Proposed Plan seeks to provide for existing low density settlements in the district through the Village Zone, along with using the Village Zone as an urban growth tool in the two larger townships of Tuakau and Te Kowhai. There is considerable diversity across the various Village Zone areas in terms of their size and location, which has led to a number of submissions seeking greater clarity as to the zone's purpose and the outcomes anticipated.
28. The proposed zone provisions provide for subdivision to 3,000m<sup>2</sup> minimum, with the ability for Tuakau and Te Kowhai areas to go down to 1,000m<sup>2</sup> lots when reticulated services become available.

##### Submissions

29. Seven submission points were received that sought amendments to Objective 4.3.1 and Policy 4.3.2, which provide the framework for the Village Zone. Policy 4.3.3 provides additional direction for growth in Tuakau and Te Kowhai and is addressed separately below. A further two submissions sought the retention of these provisions. A number of submissions seeking changes to the two main density rules also go to the heart of the zone purpose and the outcomes anticipated. The issues and outcomes sought by the zone are therefore assessed in a comprehensive manner below.

Submission point	Submitter	Summary of submission
749.4	Housing New Zealand Corporation	Retain Objectives and Policies in Section 4.3 Village Zone as notified.
<i>FS1387.991</i>	<i>Mercury Energy Limited for Mercury D</i>	<i>Oppose submission 749.4</i>
81.129	Waikato Regional Council	Amend Objective 4.3.1 Village Zone character to include a description or explanation of the character and purpose of the Village Zone including anticipated intensity of development.
<i>FS1091.48</i>	<i>GD Jones</i>	<i>Support submission 81.129</i>
<i>FS1091.50</i>	<i>GD Jones</i>	<i>Support submission 81.129</i>
81.130	Waikato Regional Council	Amend Policy 4.3.2 Character to provide greater clarity about the character of the Village Zone; to make a stronger correlation between infrastructure provision and the outcomes sought in terms of the Village zone; and to remove reference to 'semi-rural character'.
<i>FS1091.52</i>	<i>GD Jones</i>	<i>Support submission 81.130</i>
535.22	Hamilton City Council	Amend Section 4.3 Village Zone, to better define the purpose of the Village Zone which has more alignment with the objectives and policies relating to rural amenity. The Village Zone needs to better consider cross-

		boundary impacts of growth.
FS1091.20	GD Jones	Support submission 535.22
FS1335.2	Greig Metcalfe for CKL	Oppose submission 535.22
FS1388.696	Mercury Energy Limited for Mercury D	Oppose submission 535.22
81.180	Waikato Regional Council	Amend subdivision provisions to implement the objectives and policies of Chapter 4 subject to previous submission points.
923.52	Waikato District Health Board	Amend Objective 4.3.1- Village Zone character to include a stronger description of the character and purpose of the Village Zone including anticipated intensity of development.
FS1091.58	GD Jones	Oppose submission 923.52
923.53	Waikato District Health Board	Amend Policy 4.3.2- Character to provide greater clarity about the character of the Village Zone and to make stronger correlation with Infrastructure.
FS1091.59	GD Jones	Support submission 923.53
451.3	Steven & Teresa Hopkins	Retain Policy 4.3.2 Character.
FS1075.3	Steven and Teresa Hopkins	Support submission 451.3
378.69	Fire and Emergency New Zealand	Retain Policy 4.3.2 Character.
FS1035.176	Pareoranga Te Kata	Support submission 378.69
FS1075.10	Steven & Teresa Hopkins	Support submission 378.69

### Analysis

30. The Proposed Plan provides objective and policy direction primarily through two separate sections. Section 4.1 sets the strategic direction as to how growth is to be managed across the district, and Chapter 24 contains the rules for the Village Zone. I note that the objectives and policies for the Village Zone are contained in Chapter 4 “Urban Environment” rather than Chapter 5 “Rural Environment”. These provisions in Chapter 4 Urban Environment address development capacity, and set the high level framework or criteria for growth to be located, designed, staged, and serviced. Of relevance to the Village Zone, Policy 4.1.5(c) seeks to “achieve a minimum density of 8-10 households per hectare in the Village Zone where public reticulated services can be provided”.
31. Having established the high-level framework for growth management in the District, Section 4.1 then goes on to provide policy direction at a strategic level for each of the District’s larger townships. Some of these townships include areas of Village-zoned land, including Tuakau (Policy 4.1.10), Pokeno (Policy 4.1.11), and Te Kauwhata (Policy 4.1.12). These provisions, and associated submissions, are assessed in a separate s42A report prepared by Mr Alan Matheson and will be considered by the Panel as part of Hearing 3. It is noted that, apart from minor matters of clarification, Mr Matheson has not recommended any substantive changes to these policies.

32. Following on from the strategic directions, the Proposed Plan then provides more specific policy direction on a geographical basis for individual zones, and on a thematic basis for individual topics such as subdivision in section 4.7. It is these latter, individual zone provisions for the Village Zone that are the subject of this report and the related report by Mr Cattermole. Whilst my report is focused on the subdivision-related provisions as they relate to the Village Zone (section 4.3), the Panel will need to be mindful of the need to align their conclusions with the decisions that they will be separately making on both strategic directions, and the general subdivision provisions (section 4.7, and in particular policy 7.7.4(b), which seeks to “avoid undersized lots in the Village Zone”). There may well be the need for some consequential amendments to ensure that the decisions made on one chapter are aligned with those made on related provisions that are to be heard separately.
33. The policy framework for the Village Zone is as follows:

#### **4.3.1 Objective – Village Zone character**

- (a) *The character of the Village Zone is maintained.*

#### **4.3.2 Policy – Character**

- (a) *Buildings and activities within the Village Zone are designed, located, scaled and serviced in a manner that:*
- (i) *Is low density;*
  - (ii) *Maintains the semi-rural character;*
  - (iii) *Recognises lower levels of infrastructure and the absence of Council wastewater services.*
- (b) *Require activities within the Village Zone to be self-sufficient in the provision of on-site water supply, wastewater and stormwater disposal, unless a reticulated supply is available.*

#### **4.3.3 Policy – Future development – Tuakau and Te Kowhai**

- (a) *Buildings and access are located in a position to enable future subdivision and development in Tuakau and Te Kowhai when infrastructure and services become available.*
- (b) *Ensure buildings are positioned in a manner that provides for transition from large lots to smaller lots in Tuakau and Te Kowhai.*

34. The policy framework therefore addresses two different geographic contexts, namely the smaller settlements located across the District, and the two larger growth areas of Te Kowhai and adjacent to Tuakau. These two contexts are quite different and are therefore discussed separately below.

#### **Smaller settlements**

35. The Village Zone has its origins in the pre-amalgamation Franklin District Plan that provided for large lot development in some of that District’s smaller settlements. Subdivision was enabled at a minimum density of 2,500m<sup>2</sup>. Post-amalgamation these provisions formed part of the Operative District Plan – Franklin Section. Within the balance of the District, the smaller settlements had a mix of Living Zones (where subdivision down to Living Zone minimum density was in practice limited by the lack of reticulated wastewater

infrastructure), Countryside Living Zones (generally 5,000m<sup>2</sup> minimum lot size), and some small pockets of housing with an underlying Rural Zoning.

36. The proposed Village Zone seeks to provide a continuation of approach for the ex-Franklin settlements, and to extend that approach to similar small settlements in the balance of the District on a consistent basis. In moving to a consistent approach, the notified rule framework of a 3,000m<sup>2</sup> minimum lot size constitutes an increase in the required site size relative to the Operative Plan Village Zones (from 2,500m<sup>2</sup> minimum lot size to 3,000m<sup>2</sup>), and conversely a reduction in minimum site size for those areas that currently have a 5,000m<sup>2</sup> minimum in the Operative Plan Countryside Living Zones.
37. The core underlying rationale for the Village Zone is that for these small settlements a Rural Zoning is not appropriate as the land use, lot sizes, and function is clearly not rural, and therefore a rural zoning and associated rule framework is not an efficient or effective framework for what are in essence very low density residential rather than farming environments. As a generalisation, the Village-zoned areas have the appearance and function of existing dwellings set within large gardens with maybe an adjacent paddock, i.e. typically a mix of quarter acre (1,000m<sup>2</sup>) up to 1ha lifestyle blocks. The primary purpose of the land use is for residential accommodation, rather than any productive farming activities, albeit that small numbers of livestock or horticultural activities may be undertaken on some of the larger sites.
38. As the name suggests, the Village Zones are likewise formed as small settlements or villages. These settlements range in size from a dozen or so dwellings up to several hundred, with parts of the eastern side of Pokeno and Port Waikato having the largest of the Village-zoned areas outside of Tuakau and Te Kowhai. In general they form clusters of housing set within expansive rural farmland and are often located around a cross roads intersection reflecting historic patterns of land development. The Village-zoned areas do not generally contain schools, shops, or community facilities, although such elements may be available in some of the larger settlements or nearby townships.
39. These small settlements are currently either unserviced (at least for wastewater), or they have small reticulated schemes that do not have any further capacity in terms of pipe/ plant physical capacity, and/ or regulatory capacity in terms of being unable to increase discharges through limits imposed by existing Regional Council discharge consent conditions. It is understood from the information provided by Watercare, and also from a review of the Council's Long Term Plan prepared under the Local Government Act, that these smaller settlements are very unlikely to be serviced at any time within the 10-15 year life of the Proposed Plan. Servicing therefore is a key constraint in the ability for further urban growth to be accommodated in these areas, especially to more intensive suburban densities.
40. The other key issue behind the outcomes sought for the Village Zones is that as noted above, these settlements are generally geographically isolated and have limited employment opportunities or community facilities readily available. Strategically, new growth is sought to be accommodated primarily through consolidation within, and limited expansion adjacent to, the larger townships within the District. This strategy is expressed through strategic Objective 4.1.2 (considered in Hearing 3), where in response to submissions, Mr Matheson recommended that the objective be expanded to read as follows: "*future settlement pattern is consolidated in and around existing town and villages listed in Policies 4.1.10-4.1.18 of the district to support a compact urban form for each urban area*". Pokeno, Tuakau and Te Kowhai are the only townships with a Village Zone that are included in these policies. This approach of consolidation around the larger townships is likewise consistent with wider urban growth management outcomes sought through the Waikato Regional Policy Statement and associated 'Future Proof' process.
41. The proposed growth management approach enables the demand for additional housing to be met in locations where that demand can be serviced through reticulated infrastructure in



a cost-effective manner, and enables people to live in locations that are in close proximity to employment, schools, facilities, and public transport. From a strategic growth management perspective, high levels of further growth are not therefore anticipated within the Village Zones outside of Pokeno, Te Kowhai, and Tuakau.

42. The purpose or outcomes sought for the Village Zone, as it applies to the smaller rural settlements, can be summarised as follows:
- To provide recognition that these existing small settlements have an established character and function that is different from the adjacent Rural Zones. Some form of urban zoning is therefore considered to be appropriate;
  - To consolidate the diversity of regulatory approach that has occurred through the various legacy zones in the Operative District Plan Waikato and Franklin sections into a single zone framework that addresses similar village contexts in a consistent manner;
  - To provide a framework that seeks to maintain the existing very low density character of these smaller settlements; and
  - To provide only limited opportunities for further infill or zone expansion beyond Operative Plan boundaries, given the combination of a lack of reticulated services (reliance on site-by-site septic tanks) and distance from facilities, employment, and public transport.
43. A number of submissions were received seeking greater clarity in Objective 4.3.1 and Policy 4.3.2 regarding the purpose of the zone and the outcomes anticipated, although they did not generally propose specific text changes to the policy wording. I agree that greater clarity would be of benefit to Plan users. It is recommended that those submissions seeking this improved clarity be accepted. It is likewise recommended that Objective 4.3.1 and Policy 4.3.2 be amended as set out at the end of this section. I return to discuss Policy 4.3.3 in detail below in the section addressing Tuakau and Te Kowhai.
44. Given the lack of reticulated services becoming available in the life of the Proposed Plan for the majority of the smaller rural settlements, there would be benefit in making a consequential amendment to Strategic Policy 4.1.5(c) so that this strategic policy aligns with the direction proposed for the Village Zone. It is noted that no changes were recommended to this Policy by Mr Alan Matheson, however he did not have the benefit of considering the submissions specifically addressing the Village Zone. Suggested wording for this strategic policy is also provided at the end of this section.
45. It is also noted that Section 4.7 of the Proposed Plan sets the policy framework for subdivision and land development in general. Policy 4.7.4 addresses lot sizes and was notified as follows:
- (a) *Minimum lot size and dimension of lots enables the achievement of the character and density outcomes of each zone; and*
  - (b) *Avoid undersized lots in the Village Zone.*
46. This policy is addressed in the Hearing 3 s42A report by Mr Matheson, which does not recommend any substantive amendments and will be considered by the Panel in Hearing 3. As described above, the zone context is one where there may be site-specific circumstances that would justify the granting of consents for smaller lots on a case-by-case basis, with this context reflected in the Discretionary, rather than Non-complying, activity status under Rule 24.4.1 Subdivision - General. A consequential amendment is recommended to Policy 4.7.4 to 'limit' rather than 'avoid' undersized lots in the Village Zone, given that the term 'avoid' presents a challenging policy hurdle for resource consents to overcome and does not readily align with a discretionary activity status.

## Recommendations and Amendments

47. The recommendations on submissions and amendments to Policy 4.1.5(c), Policy 4.7.4, Objective 4.3.1, and Policy 4.3.2 as a result of the above assessment are set out at the end of this section, where the changes to the policies and rules are shown in a consolidated manner to make it easier to comprehensively see my recommendations.
48. The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions relating to the subdivision provisions applying to Te Kowhai and Tuakau.

## Section 4.2

### 24.4 – Village – Subdivision General – Rule 24.4.1

#### Submissions

49. Twenty-two submission points were received on Rule 24.4.1, which sets the minimum density of 3,000m<sup>2</sup> for the Village-zoned areas outside of Tuakau and Te Kowhai. These submissions ranged from support for aspects of the rule as notified, through to the majority seeking a reduction in the minimum lot size, especially where servicing is available. In summary, the outcomes sought in the submissions are:
- Retain elements of the rule as notified – Vineyard Road Properties Ltd [626.2], Terra Consultants Ltd [296.6], McCracken Surveys Ltd [943.57, 59];
  - Reduce the minimum site size or opposition to the rule – Vineyard Road Properties Ltd [626.4], Surveying Services Ltd [382.1], Kitty Burton [371.4], Wendy Oliver [438.2], Gerard Willis [436.1], J and T Quigley Ltd [389.6], Brent Trail [345.23], The Surveying Company [746.131], Waikato District Health Board [923.162], Stuart Quigley [947.7], Pakau Trust [624.3];
  - Add additional matters of assessment regarding strategic infrastructure – Counties Power Ltd [405.81], KiwiRail Holdings Ltd [986.89], First Gas Ltd [945.28];
  - Add additional matter of discretion relating to the provision of firefighting water supply – FENZ [378.51];
  - Minor amendments to improve rule clarity – Waikato District Council [697.999, 1000, 1002].

Submission point	Submitter	Summary of submission
697.999	Waikato District Council	Amend Rule 24.4 Subdivision title as follows: 24.4 Subdivision <u>Rules</u>
FS1387.763	Mercury NZ Limited	<i>Oppose</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>
FS1387.739	Mercury NZ Limited	<i>Oppose</i>
626.2	Vineyard Road	Amend the minimum net site area for general

	Properties Limited	subdivision in Village Zone to 2000m <sup>2</sup> , whether lots publicly reticulated or not; AND/OR Amend Proposed District Plan with any necessary consequential or other relief that addresses these concerns;
FS1387.21	Mercury Energy Limited	Oppose
FS1015.1	Michael Klaja	Oppose
FS1133.4	Dave Roebeck	Oppose
FS1197.27	Bowrock Properties Limited	Support
FS1091.26	GD Jones	Oppose
FS1056.1	Tony Harford	Oppose
FS1112.1	Rosalie Klaus	Oppose
FS1144.2	Mark Glover for Kiwitykes Ltd on behalf of Glover Family Trust	Oppose
FS1308.89	The Surveying Company	Support
FS1187.15	Grieg Developments No 2 Limited	Support
FS1311.22	Ethan & Rachael Findlay	Support
626.4	Vineyard Road Properties Limited	Retain the restricted discretionary activity status for general subdivision in the Village Zone and the associated matters of discretion.
FS1144.4	Mark Glover for Kiwitykes Ltd on behalf of Glover Family Trust	Oppose
FS1133.3	Dave Roebeck	Oppose
FS1387.23	Mercury Energy Limited	Oppose
382.1	Brent Trail for Surveying Services Ltd	No specific decision sought, but submission opposes Rule 24.4.1 Subdivision – General.
FS1132.5	Z & Z Developments Limited Partnership	Oppose
FS1388.78	Mercury Energy Limited	Oppose
371.4	Kitty Burton	Add a new restricted discretionary rule (RD 1(c)) for reticulated service lots of 1000m <sup>2</sup> for Matangi within the Village Zone.
FS1305.5	Andrew Mowbray	Support
296.6	Richard Falconer for Terra Consultants (CNI)	Retain Rule 24.4.1 – RDI (a) Subdivision – General, that has a minimum lot size of 3000m <sup>2</sup> .
FS1127.14	Vineyard Road Properties	Oppose

	<i>Limited</i>	
FS1386.306	<i>Mercury Energy Limited</i>	<i>Oppose</i>
438.2	Wendy Oliver	Add Rule 24.4.1 RDI (c) Subdivision, which allows a reticulated service option of 3,000m <sup>2</sup> lots for 50C Cedar Park Road, Tamahere.
FS1388.266	<i>Mercury Energy Limited</i>	<i>Oppose</i>
436.1	Gerard Willis	Amend Rule 24.4.1 RDI (a) Subdivision – General, so the minimum site area is 2500m <sup>2</sup> as in the Operative District Plan.
FS1091.14	<i>GD Jones</i>	<i>Support</i>
FS1127.16	<i>Vineyard Road Properties Limited</i>	<i>Support</i>
FS1388.261	<i>Mercury NZ Limited</i>	<i>Oppose</i>
389.6	Jonathan Quigley for J and T Quigley Ltd	No specific decision sought, but submission supports in part Rule 24.4.1 Subdivision – General.
FS1388.94	<i>Mercury NZ Limited</i>	<i>Oppose</i>
345.23	Brent Trail	Amend Rule 24.4.1 Subdivision – General to reduce the minimum lot size to 2500m <sup>2</sup> .
FS1091.7	<i>GD Jones</i>	<i>Support</i>
FS1127.15	<i>Julian Dawson on behalf of Vineyard Road Properties Limited</i>	<i>Support</i>
FS1386.491	<i>Mercury NZ Limited</i>	<i>Oppose</i>
378.51	Fire and Emergency New Zealand	Retain Rule 24.4.1 Subdivision - General, as subdivision is a restricted discretionary activity, except for the amendments sought below AND Amend Rule 24.4.1 Subdivision - General, as follows: (a) <u>Subdivision must comply with all of the following conditions:...</u> (x) <u>Proposed lots must be connected to water supply sufficient for firefighting purposes.</u> (b) <u>Council's discretion is restricted to the following matters:...</u> (x) <u>Provisions of infrastructure, including water supply for firefighting purposes.</u> AND Amend the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FS1035.157	<i>Pareoranga Te Kata</i>	<i>Support</i>
FS1134.93	<i>Bridget Murdoch on behalf of Counties Power</i>	<i>Support</i>
FS1388.45	<i>Mercury NZ Limited</i>	<i>Oppose</i>
405.81	Counties Power Limited	Add a matter of discretion to Rule 24.4.1 RDI (b) Subdivision - General, as follows:

		<u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
697.1000	Waikato District Council	Amend Rule 24.4 Subdivision, as follows: (1) Rule 24.4.1 provides for subdivision density <del>and applies across</del> <u>in the Village Zone outside of the Te Kowhai and Tuakau area.</u> (2) The following rules apply to specific areas and/or activities: (a) Rule 24.4.2 – Subdivision in Te Kowhai and Tuakau, applies to the Village Zone in these two areas. (b) Rules 24.4.1 and 24.4.2 are also subject to <u>compliance with the following subdivision controls:</u> ...
FS1091.35	GD Jones	Support
FS1387.764	Mercury NZ Limited	Oppose
697.1002	Waikato District Council	Amend title of 24.4.1 Subdivision – General, as follows: <u>24.4.1 Subdivision – General (outside Te Kowhai and Tuakau)</u> AND Amend Rule 24.4.1 RDI (a) Subdivision - General as follows: (a) <u>Proposed lots outside of Te Kowhai and Tuakau must have a minimum net site area of 3000m<sup>2</sup>, except where the proposed lot is an access allotment, utility allotment or reserve to vest.</u>
FS1091.36	GD Jones	Support
FS1387.766	Mercury NZ Limited	Oppose
746.131	The Surveying Company	Amend Rule 24.4.1 RDI (a) (i)- Subdivision- General as follows: (i) <u>Proposed lots not connected to public water and wastewater infrastructure must have a minimum net site area of 2500m<sup>2</sup> and an average net site area of 3000m<sup>2</sup>, except where the proposed lot is an access allotment or reserve lot.</u> (ii) <u>Proposed lots connected to public water and wastewater infrastructure must have a minimum net site area of 1,000m<sup>2</sup> except where the proposed lot is an access allotment or reserve lot.</u>
FS1091.42	GD Jones	Support
FFS112.17	Vineyard Road Properties Limited	Support
FS1132.6	Z & Z Developments Limited Partnership	Support
FS1387.982	Mercury NZ Limited	Oppose
923.162	Waikato District Health Board	Amend Rule 24.4.1- Subdivision- General to allow for more intensive subdivision in Village Zone areas directly adjacent to the commercial zones.
FS1387.1545	Mercury NZ Limited	Oppose

943.57	McCracken Surveys Limited	Retain Rule 24.4.1 RDI (a) Subdivision – General, as notified.
FS1127.18	Vineyard Road Properties Limited	Support
FS1387.1590	Mercury NZ Limited	Oppose
943.59	McCracken Surveys Limited	Retain the restricted discretionary 2000m <sup>2</sup> minimum net lot area in Rule 24.4.1 RDI (a) Subdivision – General and discretionary activity status criteria in Rule 24.4.1 RDI(b) as notified.
FS1091.64	GD Jones	Oppose
FS1387.1591	Mercury NZ Limited	Oppose
947.7	Stuart Quigley	No specific decision sought, but the submitter supports in part Rule 24.4.1 Subdivision - General; AND Amend the Proposed District Plan as necessary including provisions, consequential additions and cross references.
FS1278.7	Stuart Quigley and Quigley Family Trust	Support
FS1387.1602	Mercury NZ Limited	Oppose
986.89	KiwiRail	Add a new matter of discretion to Rule 24.4.1 RDI Subdivision – General as follows (or similar amendments to achieve the requested relief): <i>Reverse sensitivity effects, including on land transport networks</i> AND Any consequential amendments to link and/or accommodate the requested changes.
945.28	First Gas Limited	Add a new rule as follows: <i>Subdivision-Site containing a gas transmission pipeline:</i> <i>(a) The subdivision of land containing a gas transmission pipeline is a restricted discretionary activity.</i> <i>(b) Council's discretion shall be restricted to the following matters:</i> <i>(i) The extent to which the subdivision design avoids or mitigates conflict with the gas infrastructure and activities.</i> <i>(ii) The ability for maintenance and inspection of pipelines including ensuring access to the pipelines.</i> <i>(iii) Consent notices on titles to ensure on-going compliance with AS2885 Pipelines-Gas and Liquid Petroleum-Parts 1 to 3.</i> <i>(iv) The outcome of any consultation with First Gas Limited.</i>
624.3	Pakau Trust	Add a new rule to ensure the Trust's existing entitlement for 35 further transferable rural lots rights is

		retained.
FS1387.18	Mercury NZ Limited	Oppose

## Analysis

### Minimum Lot Sizes

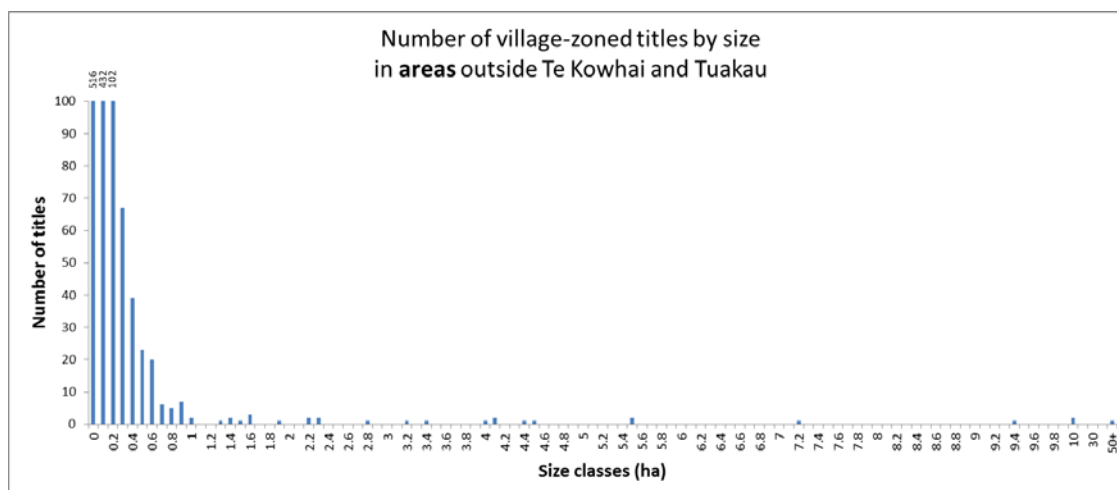
50. There are two key methods in the Proposed Plan for achieving the aforementioned policy outcomes for the Village Zone. The first method is the generally limited extent of the proposed Village Zone boundaries. In the smaller settlements, the Village Zone boundary reflects the on-the-ground extent of existing housing in the older settlements and/or existing undeveloped lots in areas with long-established Village or Countryside Living zoning in the Operative Plan. There is therefore limited provision made for any large or new 'greenfield' blocks to be included in the Village Zone that have a Rural Zoning in the Operative Plan apart from Tuakau and Te Kowhai. This lack of greenfield provision reflects the purpose of the zone, which is to maintain existing character and recognise the reality of smaller pockets of housing within a wider rural environment, and to conversely not provide for large areas of urban growth in isolated and unserved locations.
51. The second key method is Rule 24.4.1, which controls the minimum lot size for all Village Zones outside of Tuakau and Te Kowhai. The Proposed Plan as notified sets this minimum at 3,000m<sup>2</sup>. As noted above, the 3,000m<sup>2</sup> minimum represents an increase in the minimum site size required for the ex-Franklin areas that have a Village Zone in the Operative Plan (this was minimum 2,500m<sup>2</sup>), and conversely represents a decrease in minimum site size for those areas that currently have a Countryside Living zoning (these were 5,000m<sup>2</sup> minimum lot size).
52. A number of submissions sought that this minimum lot size be reduced to 2,500m<sup>2</sup>, or lower still where reticulated services are available (Gerard Willis [436.1], The Surveying Company [746.131], GD Jones [110.2], Brent Trail [345.23]). There were conversely two submissions seeking the retention of the 3,000m<sup>2</sup> minimum (Terra Consultants Ltd [296.6], McCracken Surveys Ltd [943.57]).
53. From a review of the s.32 assessment underpinning this chapter, there appears to be limited discussion as to the selection of the 3,000m<sup>2</sup> threshold. It may be that this threshold was determined with reference to the WRPS 'Future Proof' strategy proposed for Te Kowhai as a guide to enable future subdivision of a 3,000m<sup>2</sup> lot into 3 x 1,000m<sup>2</sup> lots. It also represents something of a mid-point between the existing minimums in the two main origin zones in the Operative Plan.
54. The existing character is reflected in the distribution of lot sizes within the Village Zone. The graph below charts the number of lots in the Village Zone (outside of Tuakau and Te Kowhai) on the vertical axis and the lot size in hectares on the horizontal axis. As can be seen, the majority of existing lots in the Village Zone are less than 0.5ha in size. The only large (75ha) block that has yet to be developed is located on the eastern side of Pokeno in the Dean Road area east of State Highway 1. This block has a long-established Village Zoning in the Franklin Section of the Operative Plan and is identified as a 'Village Growth Area B' with an associated concept plan in the Operative Plan. It is noted that Council has received a subdivision consent application<sup>2</sup> for this block that at the time of writing is on hold pending the receipt of further information under s.92 RMA. It is likewise noted that this block is subject to a separate submission point [458.1] seeking that this block have a Residential Zone, with this relief to be considered as part of Topic 25 Zone Extents.

<sup>2</sup> SUB0292/17



55. Three separate titles provide some 20ha of undeveloped Village-zoned land in Onewhero and are the only other large blocks in the zone. Outside of these two areas there is a small handful of individual sites that are between 1 and 4ha in size. Otherwise, the vast majority of sites in the Village Zone are less than 1ha in area.

### **Village Zone existing lot sizes**



56. As noted by submitters, the 2,500m<sup>2</sup> minimum has been in place in Franklin for several decades, and as such is well understood with reference to the Village-zoned areas, where development has been undertaken or planned down to this level. The 2,500m<sup>2</sup> threshold is therefore expressed through the on-the-ground development and associated character outcomes that have occurred in these parts of the District. The 2,500m<sup>2</sup> threshold is likewise of sufficient size to enable septic tank solutions with sufficient room for on-site disposal fields and the ability for such to gain the necessary regional consents. Setting the threshold at 2,500m<sup>2</sup> does not significantly increase development opportunities to the point that wider strategic outcomes around consolidation of growth in the larger townships would be threatened, as the majority of existing lots in the Village Zone are less than 5,000m<sup>2</sup> in area, and therefore would not be capable of further subdivision into 2 x 2,500m<sup>2</sup> lots. The regulatory implications of a shift in threshold is primarily for those lots sized between 5,000m<sup>2</sup> and 6,000m<sup>2</sup>, the latter being the minimum size necessary under the Proposed Plan to enable further subdivision (i.e. 2 x 3000m<sup>2</sup>). The number of lots in this band is relatively small (some 25 lots across the zone), along with enabling somewhat more intensive subdivision for the handful of larger lots that are over 1ha in size. It is therefore recommended that those submissions seeking a change to the threshold to align with the long-established Operative Plan threshold of 2,500m<sup>2</sup> be accepted.
57. Two submissions have sought that the minimum lot size be further reduced where reticulated water and wastewater networks are able to be made available (Horotiu Properties Ltd [397.3], Terra Firma Resources [732.3]). It is understood from information provided by Watercare Waikato that no further reticulation is programmed for these settlements in the 10-15 year life of the Proposed Plan. The proposed enabling trigger of reticulated infrastructure with sufficient capacity and that has the necessary Regional Council discharge consents, is not likely to be able to be activated. As set out above, management of wastewater is only one of the reasons for the proposed low density outcome. The other is the strategic management of urban growth at a District-wide level. This growth is to be consolidated in the larger townships, and therefore even if reticulation was available, the small settlements with Village Zoning are not identified as areas where high levels of growth or suburban-density development is anticipated. As such it is recommended that those

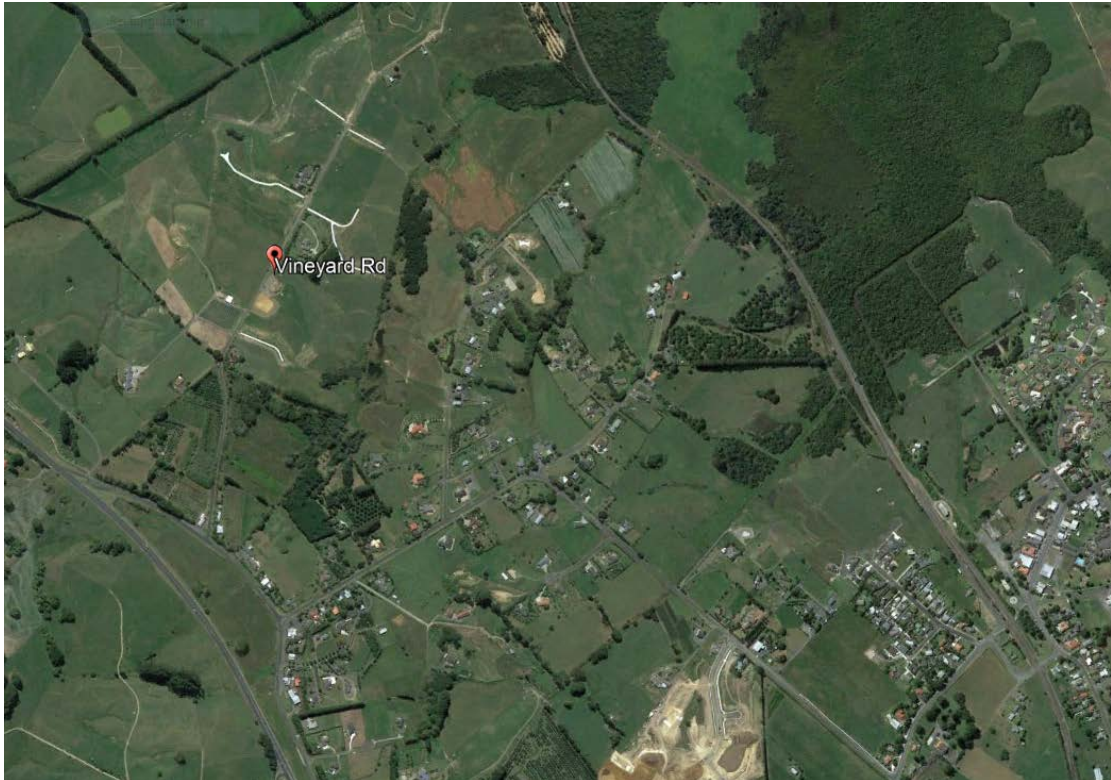


submissions seeking lower minimum lot sizes where reticulated services are available be rejected, along with those submissions seeking greater density in the smaller settlements, noting that the consideration of all submissions seeking changes to zone boundaries will be subject to further assessment through Topic 25 (Kitty Burton [371.4], Wendy Oliver [438.2], J & T Quigley Ltd [389.6], Stuart Quigley [947.7], Terra Firma Resources Ltd [732.3]).

58. In the event that reticulation is able to be made available in a specific settlement, and the wider policy outcomes regarding growth management are able to be adequately addressed, then the resource consent pathway is available on a case-by-case basis as a Discretionary, rather than as a Non-complying activity and associated s104D statutory test.
59. The Waikato District Health Board sought that Rule 24.4.1 be amended to enable an increase in density where the Village Zone is located directly adjacent to commercial areas [923.162]. The reasons for the submission is to better provide for housing choice, sustainable town centres, and the use of public transport. As noted above, the context for the Village Zone areas is one of existing small settlements that are relatively isolated. There are few Village-zoned areas that are directly adjacent to a commercial area (Business or Business Town Centre zones) outside of Tuakau and Te Kowhai. Whilst there are some Village Zones located within 500m of a Business Zone in Pokeno, Port Waikato, Aka Aka, and Mangatangi, these Business Zones are generally comprised of a small cluster of local shops that are not at a scale to support significant intensification of residential development. The submitter's rationale is supported for the larger townships and is consistent with a strategic approach of managing urban growth primarily through consolidation round existing larger towns, however it is not supported as it applies to the Village-zoned areas given their relative isolation, lack of servicing, and lack of nearby large commercial centres and associated facilities.
60. The Pakau Trust [624.3] sought a new rule to provide appropriate recognition for their entitlement to 64 lots (29 of which have been developed and 35 of which remain) as part of the Trust's wider conservation efforts. The submissions by the Pakau Trust are to be addressed primarily through the hearing on the Rural Zones, along with the complex planning history on the Trust's property. As such the Panel will need to cross-reference their findings in this separate hearing with the Trust's relief sought on the Village Zone provisions. For now it is simply noted that the Village Zone provisions do not set any limits on the number of lots, rather the rule sets a minimum site size. For large blocks such as those owned by the Trust, the 2,500m<sup>2</sup> requirement (as recommended) should not be an impediment to them achieving their desired number of lots.

### **Vineyard Road Estate, Te Kauwhata**

61. A number of submissions and further submissions were received on the Vineyard Road area on the outskirts of Te Kauwhata. This area is a recent greenfield development site that has a Countryside Living Zoning (5,000m<sup>2</sup> minimum) under the Operative Waikato District Plan - Waikato Section. Early stages of the area have been developed, with roads formed and houses being constructed on some of the lots. The area therefore appears as a new subdivision, with new large detached family homes, vacant sections, and future development stages where the construction of roading and formation of lot boundaries is ongoing (see below image sourced from Google Earth).



62. The developer of the subdivision has sought that the minimum site size be set at 2,000m<sup>2</sup> to enable more efficient use of the site. Existing residents of the development have conversely lodged further submissions that oppose both the notified Plan threshold of 3,000m<sup>2</sup>, and the relief sought by the developer. The resident submitters seek the retention of the Operative Plan's 5,000m<sup>2</sup> minimum.
63. As is often the case with district plan reviews, there is a tension between developing a simple, consistent zone framework that reduces regulatory complexity, and the reality that a 'one size fits all' approach will inherently be an awkward fit in some circumstances. This is especially the case where the proposed Village Zone is a consolidation of two different zones that have their origins in two different district plans, and were originally developed with somewhat different outcomes in mind. It is also the case with district plan reviews that towns and districts grow and change, and therefore zone frameworks are never set in stone but are subject to periodic review to ensure that the outcomes sought for any given area remain appropriate.
64. The Vineyard Road area does present as a different context to the Village Zones more generally. The Village Zones typically apply to small settlements that are long-established and have an existing character that has experienced little change over recent years. These established areas also typically have the majority of lots sized well below 5,000m<sup>2</sup>, i.e. their existing character is close to (or below) the proposed minimum lot size threshold. The Vineyard Road area in contrast is a greenfield growth area that is still being built out, and therefore its character is still evolving. The submissions therefore present a clash of views as to what the appropriate outcome is for this area. On the one hand, the developer seeks the opportunity to subdivide the remaining development blocks to smaller sites to increase yield. On the other hand are homeowners who have recently chosen to move to the area specifically for the low density outcome expressed through the Countryside Living Zone provisions, and who oppose the change in density on the basis that 'this is not what they signed up for'.
65. I consider that the Vineyard Road area can be readily differentiated from the balance of the Village-zoned areas as it is a new greenfield area that is still undergoing active development,

and where existing lot owners have recently purchased on the understanding of a specific end outcome that is quite different to what could be achieved with sections much smaller than the current 5,000m<sup>2</sup> requirement under the Operative District Plan. The Countryside Living Zone is an 'end state' zoning in the Operative Plan, insofar as it does not have a 'future proof' element or expectation that further subdivision will be possible; rather it is intended as a long-term, very low density, lifestyle block outcome. As such, it is recommended that this area retain the 5,000m<sup>2</sup> minimum lots size as sought by a number of submitters, and that Rule 24.4.1 be amended by having a new clause added. An alternative means for achieving this outcome could be to change the zoning of those properties to Country Living Zone which has a 5,000m<sup>2</sup> minimum lot size and would avoid the need for a location-specific clause and associated low density precinct on the planning maps in Rule 24.4.1.

66. It may be that all of the submitters have sections in Stages 1 and 2 of the development. If this is the case, then a more nuanced approach could be to retain the 5,000m<sup>2</sup> minimum for this portion of the development and apply the generic Village Zone provisions to the balance of the area that is yet to be developed and where there are no existing residents or established (or anticipated) character. Submitters are invited to provide more evidence on this point at the hearing.
67. The resource consenting pathway remains available for assessing proposals to subdivide below the minimum lot size, with such applications having a Discretionary rather than Non-complying status. A case-by-case assessment of any specific proposals is therefore possible, with reference to the outcomes sought through relevant objectives and policies. Such a pathway is an alternative route available to the developer for the later stages that have yet to receive subdivision consent.
68. For completeness, it is noted that the Vineyard Road area is the only existing (Operative) Countryside Living Zone where submissions were received from residents seeking retention of the 5,000m<sup>2</sup> minimum lot size. There does not therefore appear to be any widespread concerns in other Countryside Living-zoned areas regarding the shift in lot size minimums and resultant change in character that might eventuate.

### **Other Matters**

69. Waikato District Council sought a number of minor text amendments to both the introduction to the rules under 24.4 and to Rule 24.4.1 (submission points [697.1000] and [697.1002]). The amendments sought in Council's submission clarify that Rule 24.4.1 applies to the District generally, whilst Rule 24.4.2 is the provision that applies to the Village Zone in Tuakau and Te Kowhai, i.e. that for these latter two townships it is only Rule 24.4.2 that applies. It is recommended that these amendments (and associated further submissions in support) be accepted, as they bring clarity to how the rule package is intended to work.
70. KiwiRail Holdings Ltd [986.89] and Counties Power Ltd [405.81] lodged similar submissions that both seek additional matters of discretion to enable Council to consider the effects that subdivision applications might have on the ongoing operation of existing network infrastructure. First Gas Ltd [945.28] likewise lodged a submission seeking additional provisions to control the subdivision of sites containing reticulated gas pipelines. The concerns raised by these submitters include both the ability to access and maintain this infrastructure, and the potential for reverse sensitivity and/or public safety effects to arise. These issues are considered to be legitimate matters that decision-makers should have the ability or discretion to consider when assessing subdivision applications. Existing network infrastructure plays a strategic role in the well-being of the District's communities and represents significant existing sunk investment. It is noted that no further submissions were received opposing the relief sought. It is therefore recommended that an additional matter of discretion be added to enable consideration of these matters, grouped as 'effects on

regionally significant infrastructure’ rather than addressing each type of network utility separately. The term ‘regionally significant infrastructure’ is defined in the Waikato Regional Policy Statement with supporting policies regarding its use and development. As a phrase that may occur across chapters (and hearings) it is noted that the Panel may need to arrive at a definition that sits in the district plan, albeit that the final content of that definition will be dependent on how the phrase is used across other policies, rules, and contexts.

71. Fire and Emergency New Zealand [378.51] seeks that the rule be amended to require all new lots to be connected to a water supply that is sufficient for firefighting purposes, with applications becoming a Discretionary activity where such supply is not available. Given that many of the Village Zones are not serviced and are in reasonably isolated locations, a requirement to connect to a water supply with sufficient volume and pressure to meet firefighting standards is unlikely to be practicable. The issue of firefighting is tightly defined in scope, and as such a trigger to fully discretionary activity status is not considered to be appropriate or necessary for assessing the relevant effects. It is therefore recommended that the relief be accepted in part, with an additional matter of discretion added to 2.4.1 RDI to enable consideration of firefighting water supply where practicable. It is noted that Fire and Emergency New Zealand (‘FENZ’) sought similar relief to Rule 24.4.2 as it relates to Tuakau and Te Kowhai. It is recommended that a similar matter of discretion be included in this latter rule, noting that the installation of reticulated services such that higher densities are enabled will need to be designed to meet FENZ requirements prior to vesting with Council.

### **Recommendations and Amendments**

72. The amendments recommended to the introduction to section 24.4 and Rule 24.4.1 as they relate to the Village Zones outside of Te Kowhai and Tuakau are set out at the conclusion of this section, where all text changes are shown in a consolidated manner.
73. The s32AA evaluation is likewise undertaken in a consolidated manner below following the assessment and recommendations on submissions relating to the subdivision provisions applying to Te Kowhai and Tuakau.

## **Section 4.3**

### **24.4 – Village – Subdivision – Te Kowhai and Tuakau – Policy 4.3.3 and Rule 24.4.2**

#### **Submissions**

74. Twenty-two submission points were received on Policy 4.3.3 and Rule 24.4.2. Three of these submissions sought the retention of the rule as notified – Terra Consultants Ltd [296.2], Greig Developments no 2 Ltd [689.23], and The Surveying Company [746.132]. The balance of the submissions sought that the rule be amended, with the changes sought summarised as follows:
- Oppose development until servicing is available – Lee Slomp [604.1], Hamilton City Council [535.23, 80];
  - Reduce the minimum lot sizes – GD Jones [110.2], Surveying Services Ltd [382.2], Sharp Planning Solutions Ltd [695.138, 26], Waikato District Health Board [923.163];
  - Amend the policy reference to reticulated services to provide for these services not being Council or publicly-held – Greig Metcalfe [602.36];

- Extend the proposed transitional approach to other settlements where servicing is available – Terra Firma Resources Ltd [732.3], Horotiu Properties Ltd [397.3, 14];
- Provide recognition in the policy and matters of discretion regarding the protection of versatile soils in Tuakau and associated existing farming activity from reverse sensitivity effects– Horticulture New Zealand Ltd [419.86, 109, 110], Balle Bros Group Ltd [466.36];
- Provision of water supply for firefighting – FENZ [378.52].

Submission point	Submitter	Summary of submission
81.131	Waikato Regional Council	Amend Policy 4.3.3 Future development –Tuakau and Te Kowhai, to provide greater clarity about the urban outcomes sought for the Village Zone, including anticipated development density; to make a stronger correlation between infrastructure provision and the outcomes sought for the zone; and to remove reference to 'semi-rural character'.
FS1091.54	GD Jones	Support
FS1176.11	Watercare	Support
FS1335.6	Greig Metcalfe for CKL	Support
FS1379.11	Hamilton City Council	Oppose
923.54	Waikato District Health Board	Amend Policy 4.3.3- Future Development- Tuakau and Te Kowhai to provide greater clarity about the urban outcomes sought for the Village Zone, including anticipated development density AND Remove reference to "semi-rural character"; and make a stronger correlation between infrastructure provision and the outcome sought for the zone.
FS1091.60	GD Jones	Support submission 923.54
397.3	Horotiu Properties Limited	Amend Policy 4.3.3 Future Development - Tuakau and Te Kowhai, as follows: 4.3.3 Policy - Future Development- Tuakau and Te Kowhai Village Zone. AND Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.
535.23	Hamilton City Council	No specific decision sought, but submission opposes further growth in Te Kowhai and Policy 4.3.3 Future development Tuakau and Te Kowhai.
FS1286.8	Horotiu Properties	Oppose
FS1335.3	Greig Metcalfe for CKL	Oppose
419.86	Jordyn Landers for Horticulture New Zealand	Amend Policy 4.3.3 Future development - Tuakau and Te Kowhai, by expanding the policy to recognise the unique situation of Tuakau to the Pukekohe 'hub' of nationally significant rural production land.

		<p>AND</p> <p>Amend Policy 4.3.3 Future development - Tuakau and Te Kowhai, to address the actual and potential effects of reverse sensitivity for rural production activities at the rural/urban interface.</p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1171.44	T&G Global	Support
FS1268.8	Jennie Hayman	Support
466.36	Brendan Balle on behalf of Balles Bros Group Limited	<p>Amend Policy 4.3.3 Future development – Tuakau and Te Kowhai by expanding policy to protect high-class soils for commercial vegetable production, taking into account the viability of commercial vegetable production activities in this location. Specific regard should be given to:</p> <ul style="list-style-type: none"> <li>• Topography</li> <li>• Productivity</li> <li>• Sustainability (specifically avoidance of soil pests and diseases, suitably consented irrigation water)</li> <li>• Reverse sensitivity</li> <li>• Economic viability</li> </ul> <p>AND</p> <p>Amend Policy 4.3.3 Future development – Tuakau and Te Kowhai to ensure that reverse sensitivity matters are acknowledged and addressed through the Plan.</p>
FS1091.17	GD Jones	Support
FS1168.40	T&G Global	Support
602.36	Greig Metcalfe	<p>Amend Policy 4.3.2(a) (iii) - Character, as follows: <i>(iii) Recognises lower levels of infrastructure <u>and in some locations</u> the absence of Council <u>reticulated</u> wastewater services.</i></p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
FS1091.22	GD Jones	Support
695.26	Sharp Planning Solutions Ltd	<p>Amend Policy 4.3.3(a) Future development - Tuakau and Te Kowhai by replacing with the following wording: <i><u>Enable infrastructure and service availability so that future subdivision and development in Tuakau and Te Kowhai provides for suitable building and access locations to be identified.</u></i></p>
110.2	GD Jones	Retain all elements of the Village Zone including Section 4.3 Village Zone except for the amendments sought

		below. AND Amend Rule 24.4.2 RD1 (a) Subdivision - Te Kowhai and Tuakau, to reduce the minimum net site area from 3000m <sup>2</sup> to 2500m <sup>2</sup> . AND Amend Rule 24.4.2 RD2 (a) Subdivision - Te Kowhai and Tuakau, to reduce the minimum net site area from 1,000m <sup>2</sup> to 800m <sup>2</sup> .
FS1386.91	Mercury Energy Limited	Oppose
FS1335.13	Grieg Metcalfe for CKL	Support
604.1	Lee Slomp	Amend Rule 24.4.2 RD1 Subdivision - Te Kowhai and Tuakau to ensure that subdivision in Te Kowhai does not proceed until wastewater infrastructure is available to every property in Te Kowhai (existing, new and proposed capacity).
FS1335.9	Grieg Metcalfe for CKL	Oppose
732.3	Lucy Smith for Terra Firma Resources Ltd	Amend Rule 24.4.2 Subdivision - Te Kowhai and Tuakau, so that it also applies to the requested Village zoned land at Puketirini, as follows: <i>24.4.2 Subdivision - Te Kowhai, and Tuakau and Puketirini RD1 (a) Subdivision in Te Kowhai, and Tuakau and Puketirini must comply with all of the following conditions: ... RD2 (a) Subdivision in Te Kowhai, and Tuakau and Puketirini must comply with the following conditions: ...</i>
689.23	Greig Developments No 2 Ltd	Retain Rule 24.4.2 RD2.
382.2	Brent Trail for Surveying Services Ltd	Amend Rule 24.4.2 RD1 (a) (i) Subdivision -Te Kowhai and Tuakau, by reducing the net site area from 3000m <sup>2</sup> to 2500m <sup>2</sup> .
296.2	Richard Falconer for Terra Consultants (CNI)	Retain the subdivision and activity provisions and development controls of Chapter 24 - Village Zone as notified.
FS1091.3	GD Jones	Oppose
FS1386.303	Mercury Energy Limited for Mercury C	Oppose
378.52	Fire and Emergency New Zealand	Retain Rule 24.4.2 Subdivision - Te Kowhai and Tuakau, as subdivision is a restricted discretionary activity, except for the amendments sought below AND Amend Rule 24.4.2 Subdivision - Te Kowhai and Tuakau, as follows: <i>(a) Subdivision must comply with all of the following conditions:... x. Proposed lots must be connected to public-reticulated water supply or water supply sufficient for firefighting purposes. (b) Council's discretion is restricted to the following matters:... (x) Provision of infrastructure, including water supply for firefighting purposes.</i>



		<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>
FS1035.158	Pareoranga Te Kata	Support
FS1134.94	Bridget Murdoch on behalf of Counties Power	Support
397.14	Horotiu Properties Limited	<p>Amend Rule 24.4.2 Subdivision - Te Kowhai and Tuakau, as follows:</p> <p><del>Rule 24.4.2 Subdivision- Te Kowhai and Tuakau Village Zone</del></p> <p>AND</p> <p>Amend Rule 24.4.2 RD1 Subdivision - Te Kowhai and Tuakau, as follows:</p> <p><del>Rule 24.4.2 RD1 Subdivision - Te Kowhai and Tuakau Village Zone</del></p> <p>AND</p> <p>Amend Rule 24.4.2 RD2 Subdivision - Te Kowhai and Tuakau, as follows:</p> <p><del>Rule 24.4.2 RD2 D2 Subdivision Te Kowhai and Tuakau Village Zone</del></p> <p>AND</p> <p>Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.</p>
419.109	Jordyn Landers for Horticulture New Zealand	<p>Add a new clause (ii) to Rule 24.4.2 RD1 (a) Subdivision - Te Kowhai and Tuakau, as follows:</p> <p><u>(a) Subdivision in Te Kowhai and Tuakau must comply with all of the following conditions: ... (ii) Where a subdivision adjoins Rural Zone land, a buffer strip no less than 10m wide must be provided along the adjoining boundary.</u></p> <p>AND</p> <p>Add a new matter of discretion to Rule 24.4.2 RD1 (b) Subdivision - Te Kowhai and Tuakau, as follows:</p> <p><u>(ix) reverse sensitivity effects on land identified as high class soil, on land with rural production potential and on permitted farming activities.</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1171.53	T&G Global	Support
419.110	Jordyn Landers for Horticulture New Zealand	<p>Add a new clause (ii) to Rule 24.4.2 RD2 (a) Subdivision - Te Kowhai and Tuakau, as follows: (a) Subdivision in Te Kowhai and Tuakau must comply with all of the following conditions: ... (ii) <u>Where a subdivision adjoins Rural Zone land, a buffer strip no less than 8m wide must be provided along the adjoining boundary.</u></p> <p>AND</p>

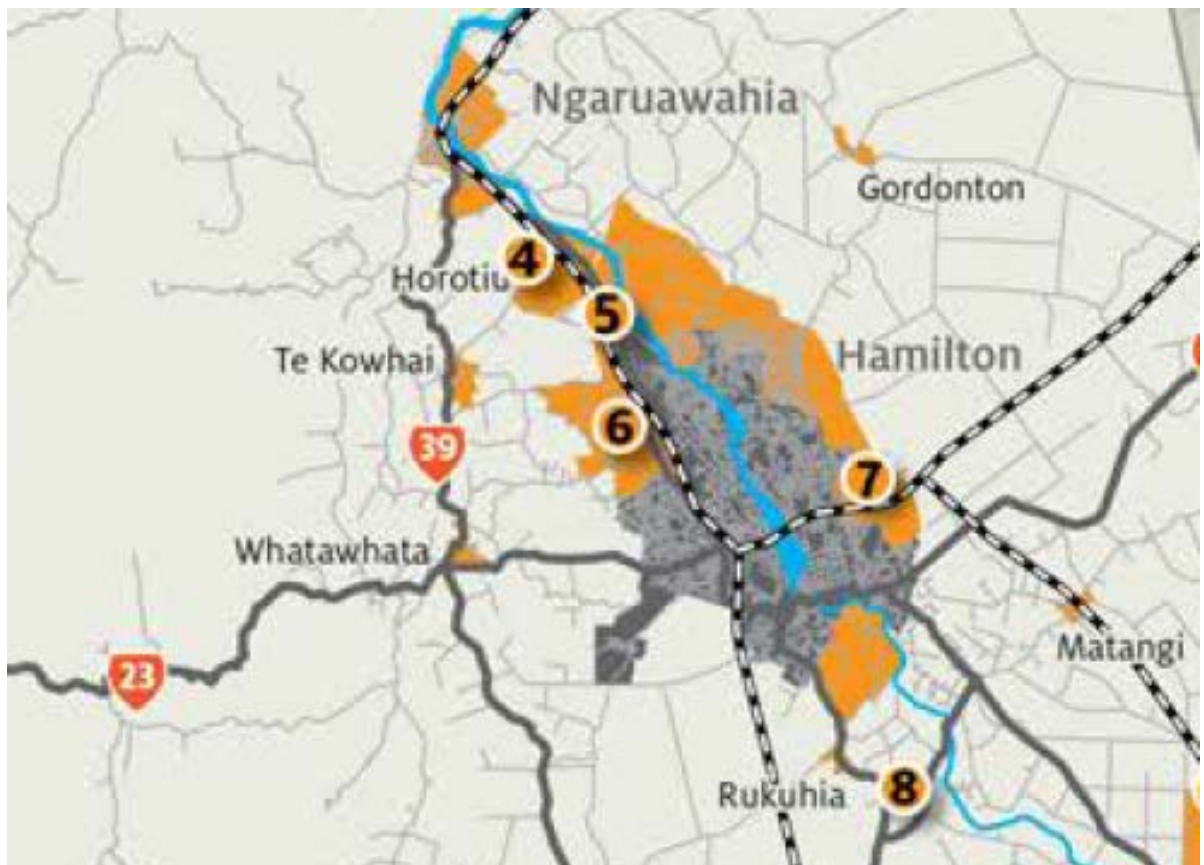


		<p>Add a new matter of discretion to Rule 24.4.2 RD2 (b) Subdivision - Te Kowhai and Tuakau, as follows: <u>(ix) reverse sensitivity effects on land identified as high class soil, on land with rural production potential and on permitted farming activities.</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
FS1171.53	T&G Global	Support
535.80	Hamilton City Council	No specific decision sought, but submission opposes the subdivision provisions for Te Kowhai in Rule 24.4.2 Subdivision Te Kowhai and Tuakau.
FS1335.4	Greig Metcalfe for CKL	Oppose
602.5	Greig Metcalfe	<p>Amend Rule 24.4.2 RD1 and RD2 Subdivision, as follows:</p> <p>RD1 (a) Subdivision in Te Kowhai and Tuakau must comply with <del>all</del> of the following conditions:</p> <p>(i) Proposed lots not connected to <del>public water</del> <u>and reticulated</u> wastewater infrastructure must have a minimum net area of 3000m<sup>2</sup>, except where the proposed lot is an access allotment, <u>utility allotment</u> or reserve lot.</p> <p>RD2 (a) Subdivision in Te Kowhai and Tuakau must comply with <del>all</del> of the following conditions:</p> <p>(i) Proposed lots connected to <del>public water</del> <u>and reticulated</u> wastewater infrastructure must have a minimum net site area of 1000m<sup>2</sup>, except where the proposed lot is an access allotment, <u>utility allotment</u> or reserve lot.</p>
695.138	Sharp Planning Solutions Ltd	<p>Amend Rule 24.4.2 RD1(a)(i) Subdivision – Te Kowhai and Tuakau to allow provision for 1000m<sup>2</sup> sized serviced lots on the outskirts of towns and villages;</p> <p>AND</p> <p>Add a rule to Rule 24.4.2 RD1 Subdivision – Te Kowhai and Tuakau that enables 2,500m<sup>2</sup> lots for non-reticulated serviced lots, consistent with the Regional Council net lot area requirement.</p>
FS1379.256	Hamilton City Council	Oppose
746.132	The Surveying Company	Retain Rule 24.4.2 RD2 (a) Subdivision – Te Kowhai and Tuakau as notified.
923.163	Waikato District Health Board	Amend Rule 24.4.2- Subdivision Te Kowhai and Tuakau to allow for more intensive subdivision in Village Zone areas directly adjacent to the commercial zones.

## Analysis

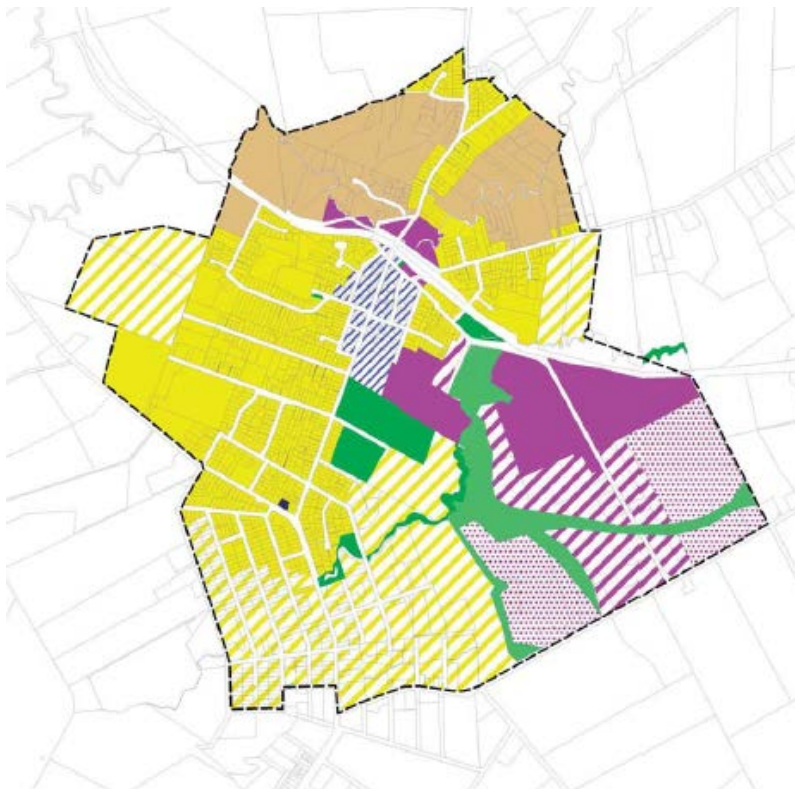
75. Unlike the Village Zones in the smaller settlements, the zone has a different origin and purpose for the two larger townships of Tuakau and Te Kowhai. Some of the area covered by the proposed Village Zone in these two townships have existing low density housing (and associated urban zoning), but the proposed Village Zone also includes several large blocks that have a Rural Zoning in the Operative Plan. As such, the Village Zone in these two townships provides a pathway for significant greenfield urban growth.
76. As an urban growth tool, rather than a 'maintain existing character' approach, the Village Zone provisions for these two townships seek to create a different outcome. As set out in the strategic objectives report by Mr Matheson, there is a considerable body of work currently underway regarding the long-term management of urban growth in the Waikato region and along the State Highway 1 corridor between Hamilton and Auckland (called the 'Hamilton to Auckland Corridor' project). Whilst these various work streams are progressing, the Waikato Regional Policy Statement ('WRPS') provides direction on growth management. In particular, Section 6 sets out the approach for growth within the area around greater Hamilton. Te Kowhai is located within the 'Future Proof' area, whereas Tuakau is not. With regards to Te Kowhai being within the Future Proof area, Policy 6.15 sets a target density of between 8 and 10 households per hectare for urban growth in the Waikato District villages where sewerage is reticulated.
77. At a strategic level, the Village-zoned areas in Te Kowhai are located within the geographic boundary of the indicative urban limits identified on Map 6-2 in the WRPS (shown in orange in the Map 6-2 extract below). They are located adjacent to an existing township that is of sufficient size to contain a range of amenities, whilst also being within easy commuting distance of Hamilton and the wide range of services and employment opportunities that Hamilton provides. At a District-level, the proposed Village Zone in Te Kowhai is considered to be an appropriate location for future urban growth.

**WRPS Map 6-2. Growth areas shown in orange**



78. Tuakau is located outside of the Future Proof area around Hamilton. It is however located within the area covered by the separate Franklin District Growth Strategy. This growth strategy is somewhat dated, having been adopted in 2007, with the Council required by WRPS Policy 6.12.3 to update this strategy and bring the ex-Franklin parts of the District within the 'Future Proof' framework. Until such time as this update occurs, the Franklin Growth Strategy provides strategic direction regarding the location and extent of urban growth in the northern part of the District. The importance of the Franklin Growth Strategy is recognised in WRPS Policy 6.12 which requires urban growth in this part of the District to be 'in accordance with' the general vision and development directions described in the growth strategy. The Franklin Growth Strategy (pg. 69) sets a target density of an average of 10 households per hectare for Tuakau. The greenfield areas proposed to have a Village Zoning in Tuakau only partially fall within the growth direction for this Township as set out in the Franklin Growth Strategy.
79. Maps 7.21 – 7.23 in the Franklin Growth Strategy show the growth of Tuakau (as anticipated in 2007) over the coming 30 years. These maps show the existing rural residential area to the south of the township transitioning to more urban/ residential densities by 2051 (shown as yellow cross-hatch below), with a large area of proposed 'end state' rural residential development (2-3 dwellings per hectare) shown to the north (light brown).
80. The Village Zone in the Proposed Plan takes in the existing low density areas to the south, and also provides for the northern greenfield growth areas. It is noted that the extent of the proposed Village Zone to the northeast of Tuakau is significantly larger than that anticipated in the Franklin Growth Strategy. The Proposed Plan as notified therefore sits uneasily with the WRPS direction contained in Policy 6.12. The transitional approach likewise sits uneasily with the Franklin Growth Strategy which anticipated the existing southern areas transitioning over time, with the northern growth areas remaining at low rural residential densities.

**Map 7.23, Franklin Growth Strategy for Tuakau 2051**



81. With the exception of the northeastern part of the Village Zone in Tuakau, the greenfield Village Zone extent for both these townships accords broadly with the strategic direction for growth in the WRPS, insofar as it is identified as being suitable in principle as a future urban growth area.
82. As set out in Mr Matheson's report, the strategic management of urban growth is not simply about the geographic location of that growth. It also requires growth to be staged and integrated with network infrastructure, and requires it to be in accordance with structure plans or similar tools to ensure it occurs in a connected and integrated manner.
83. The key constraint to realising this growth to suburban densities in both these townships is the lack of reticulated services, and in particular wastewater. The Proposed Plan (and s.32 assessment) recognised that this constraint exists in the short term. It therefore set a minimum lot size of 3,000m<sup>2</sup>, with the ability to go to 1,000m<sup>2</sup> in the future when reticulation becomes available. The notified Plan therefore establishes the Village Zone in these two townships as a transitional tool that provides for some growth and housing choice now, with a mechanism to enable more intensive development down the track to the densities anticipated in the WRPS for reticulated villages. This transitional approach is encapsulated in proposed Policy 4.3.3 that addresses future development in Tuakau and Te Kowhai. The Policy is as follows:

**4.3.3 Policy – Future development – Tuakau and Te Kowhai**

- (a) *Buildings and access are located in a position to enable future subdivision and development in Tuakau and Te Kowhai when infrastructure and services become available.*
- (b) *Ensure buildings are positioned in a manner that provides for transition from large lots to smaller lots in Tuakau and Te Kowhai.*
84. The Policy is implemented by Rule 24.4.2 RD1, which sets a minimum lot size of 3,000m<sup>2</sup> where public water and wastewater infrastructure is not available, with one of the matters of discretion being the “position of proposed building platforms and driveways to ensure future subdivision is not compromised”. Rule 24.4.2 RD2 sets a minimum lot size of 1,000m<sup>2</sup> for lots where connection to public water and wastewater is available.
85. The proposed approach has attracted a number of submissions challenging the transitional framework (Hamilton City Council [535.23], Lee Slomp [604.1], Waikato District Health Board [923.163]). There appear to be two key concerns with this approach raised by submitters. The first is that it is inappropriate to provide for 3,000m<sup>2</sup> lots as a growth strategy when the balance of the Proposed Plan strategy is about consolidation and intensification, i.e. an end state of 3,000m<sup>2</sup> lots is too low a density and is not a sustainable planning outcome for a large greenfield growth area, especially when these lots are not connected to reticulated services.
86. The second concern is about the plausibility of future infill and the ability for this to be undertaken in a manner that achieves good urban design outcomes.
87. The concerns raised by submitters do not appear to oppose growth in these townships per se, but rather focus on the challenges of successfully implementing the proposed transitional approach. As noted above, the primary constraint on higher density growth is the absence of reticulated wastewater. At the time the Proposed Plan was notified (and the s32 assessment undertaken) there was some uncertainty regarding the timing and likelihood of this infrastructure becoming available, however it was expected to be available within the life of the District Plan. This uncertainty regarding timing and funding remains.
88. For Te Kowhai, information provided by Watercare Waikato now considers that the provision of reticulated wastewater is unlikely to be provided within the 10-15 year life of the Proposed Plan, with no existing or programmed pipe network and no existing or programmed treatment plant (and associated regional discharge consents) available. I

understand from Watercare Waikato that there are two main options for providing wastewater to Te Kowhai – a cross boundary connection to Pukete which is within Hamilton although there is no available capacity at this plant, or a trunk line back to Ngaruawahia where there is limited available capacity also. A note exists within the WDC Asset Management Plan (2017) that earmarks \$5M for a wastewater solution for 2029-33. Watercare Waikato have cautioned that the origin of this figure is not known, and the wastewater solution for Te Kowhai is likely to cost substantially more. This timeframe sits outside the Long Term Plan. I understand that this is intentional, and a feature of many successive Asset Management Plans, given the uncertainty of any feasible solutions for the village.

89. For Tuakau, Watercare Waikato have confirmed that whilst that township is currently serviced by a reticulated wastewater network, there is no capacity in the existing wastewater treatment plant. The Tuakau wastewater treatment plant is located at Hayward Road in Tuakau on the northern side of the Waikato River. This treatment plant accepts wastewater from Pokeno, Tuakau, Buckland, Pukekohe and Paerata. Upgrades and expansion to that plant are considered to be both technically feasible and capable of obtaining the necessary regional consents, however they are not programmed for another 10-15 years. The treatment plant has only recently been granted a 35 year discharge consent from the Waikato Regional Council, however due to the considerable growth of Pokeno, Pukekohe and Paerata, the latent capacity will be taken up well before 35 years. In short, demand has well exceeded planned capacity, especially through the recently consented wet industry in Pokeno and rapid Pokeno residential growth that has exceeded planned rates. It is not an easy exercise to calculate the capacity that still remains due to the characteristics of wastewater from different sources i.e. discharges from residential and industrial users have different characteristics in terms of both volumes/ times of discharge during the day and chemical content. Given the high level nature of this information from Watercare Waikato, it may be that by the time of the hearing greater detail can be provided on the ability to provide services by both Watercare Waikato and submitters.
90. Watercare Waikato advises that the Structure Plan concept allowing staging of growth areas could allow for manageable extension of networks in Tuakau, where plant capacity would need to be monitored at each sequential stage. This arrangement would rely on the trend that any re-zoned land isn't developed immediately to enable sufficient time for the upgrade to be undertaken. As an alternative servicing solution, an upgrade to the existing Pukekohe plant (involving a SBR (bioreactor) unit) sits within the Watercare Asset Management Plan for 2030. There is the potential to bring this forward if it is funded in the Long Term Plan. Plant capacity to enable further residential growth in Tuakau is therefore technically feasible, however there is considerable uncertainty regarding the timing and costs associated with the design and implementation of these works, with no upgrades currently programmed.
91. As assessed by Mr Matheson (Hearing 3), the Proposed Plan includes policies that address the need to coordinate servicing and development. In response to submissions, Mr Matheson has recommended that Policy 4.7.6 be amended to recognise that reticulated infrastructure may be provided by the relevant agencies, or through 'other arrangements', i.e. public/ private partnerships or developer-led provision with subsequent vesting in Council. Alternative funding arrangements could therefore be pursued during the life of the Proposed Plan and remain an option depending on evidence from submitters as to whether such provision is plausible. In my experience as a planner, the design and vesting of private plants can be challenging for Councils in terms of correctly sizing them to provide capacity for the whole growth area (rather than small individual blocks) and such plants can be challenging in terms of the costs of their ongoing servicing, depreciation and ultimately their ability to successfully integrate into a wider reticulated network. Wastewater servicing is the key constraint and the key determinant of the recommended zone provisions. On the imperfect information currently available it appears that such servicing is not programmed or particularly plausible within the life of the Proposed Plan and this has been a key driver of my

subsequent recommendations. If submitters are able to provide evidence that demonstrates that servicing constraints can be overcome then I will need to review my recommendations either through rebuttal evidence or at the upcoming hearing.

92. The lack of ability to provide reticulated wastewater for a considerable period of time does raise a number of legitimate challenges to the proposed approach for Tuakau and Te Kowhai. There is a challenge regarding the willingness of homeowners on 3,000m<sup>3</sup> lots who have spent a considerable sum installing a new septic tank or other wastewater treatment solution such as a biocycle system to then remove that system in 10 years' time and pay to connect to a new reticulated network. Likewise, the initial development will need to fund and size roads, reserves, stormwater, and water supply infrastructure to meet the demands of future infill capacity - i.e. oversized to accommodate a potential tripling in the number of lots. Council will also have to maintain (and depreciate) an oversized asset that will operate under capacity for a number of years. Alternatively, initial infrastructure, roads and parks will be undersized for the ultimate density and will have to be upgraded or replaced in the future with associated costs to the community and the practical difficulties in retrofitting residential areas once a low density built form is in place.
93. The longer the time period is before large lots are able to be infilled, the more the existing community becomes accustomed to the amenity and character outcomes associated with a very low density residential environment of 3000m<sup>2</sup>. If reticulation becomes available in say 10 years' time, there is a risk that lifestyle block owners who have purchased because they like the low density character would oppose any up-zoning or shift to infill. Even if community objections to infill can be overcome (for instance through the ability to undertake infill being 'locked in' through the proposed rule framework), there is a risk that homeowners who are enjoying a low density level of amenity simply do not pursue further infill opportunities.
94. The delay in providing reticulated services increases the likelihood that a subdivision that creates 3,000m<sup>2</sup> lots essentially becomes an end-state outcome rather than a transition to a higher density suburban environment. Such an outcome may well still deliver a high amenity environment that is valued by residents, however it is unlikely to achieve the density targets of 8-10 households per hectare sought by the WRPS or the wider consolidation and infrastructure integration outcomes sought in the strategic policy framework.
95. In providing for urban growth, there is a range of tools available, with these tools located along a continuum depending on the level of certainty and the anticipated time frames for that growth to occur within. This suite of planning tools can be summarised as follows:
  - a) Providing a greenfield block with an urban zone where development is enabled now. This tool is suitable for areas where there is certainty regarding the appropriate built outcome e.g. suburban residential, and there are no servicing or other impediments that cannot be overcome in the short term;
  - b) Providing a greenfield block with an urban zone, but with a rule hurdle that must be overcome before development can happen. An example of such a hurdle might be confirmation that network infrastructure can be provided, or the approval of a structure plan to guide development layout and integration. This tool is useful for areas where the rule hurdles are plausibly able to be overcome within the life of the District Plan;
  - c) Providing a greenfield block with a 'Future Urban Zone' precinct overlay and a policy flag that at a high level the area is suitable for urban growth in the long term/ post proposed plan timeframe, but that there is too much uncertainty at this stage around the details/ ability to deliver/ or the most suitable type of urban zone. This tool would typically see the area retain a rural zoning, but with policy support and some direction to Council to inform Long Term Plan processes under the Local Government Act regarding 10 year servicing plans and long term capacity provision



in accordance with National Policy Statement Urban Development Capacity requirements;

- d) Retaining a rural zoning in cases where there is too much uncertainty regarding infrastructure timing and suitability of the block for accommodating urban growth.

96. There therefore appear to be two broad options available. Option 1 is to:

- (i) Retain the notified transitional approach for those parts of the Village Zone in Tuakau and Te Kowhai that have some form of urban zoning in the Operative Plan. The submission by GD Jones [110.2] sought that the minimum lot size be reduced to 800m<sup>2</sup> once servicing is available. It is recommended that this submission be accepted in order to increase the likelihood of the WRPS target densities of 8-10 households per hectare is able to be achieved;
- (ii) Identify the greenfield portions of the Village Zone as a future growth path at a policy level and align the minimum density requirements with the proposed Rural Zone, i.e. 20ha per lot to preserve urban growth potential and to avoid ad hoc development in the interim. This has the effect of a future urban zone where an intent for future urbanisation is indicated but not delivered until there is public reticulated wastewater network available for connection and structure plans in place; and
- (iii) When servicing becomes available, enable development to a density that achieves the 8-10 households per hectare required in the WRPS. Alternatively, a plan change process could be pursued in the future to enable development to Residential Zone densities. Option 1 is in essence a combination of tool (a) for the existing urban zoned areas and tool (b) for the greenfield blocks.

97. The second option is to retain the transitional approach as set out in the Proposed Plan, with minor amendments to better describe the zone's purpose and outcomes.

98. Under either option, Objective 4.3.1 should be amended to clarify that the Village Zone character will change in these two larger townships, with such an amendment consistent with submissions seeking that the policy provisions provide greater clarity as to the anticipated Zone outcomes (Waikato Regional Council [81.129], Hamilton City Council [535.22], Waikato District Health Board [923.52]). The matters of discretion for Rule 24.4.2 RDI would also need to be revised as a consequential amendment so that as well as building platforms, subdivision applications should also show indicative future lot boundaries to demonstrate that larger lots can logically be subdivided further once servicing becomes available.

99. This is a finely-balanced matter, with imperfect knowledge regarding servicing timeframes and funding. Given the recent advice from Watercare Waikato and the significant constraint of reticulated services being unlikely to be provided within the life of the Proposed Plan, it is recommended that the first option be pursued. This would mean that those parts of Tuakau and Te Kowhai that have a Rural Zoning in the Operative Plan be provided with a Village Zoning to reflect their long-term suitability for urban growth, with the proviso that subdivision is limited to align with the proposed Rural Zone provisions until such time as reticulated servicing is available. Once servicing is provided, development to 800m<sup>2</sup> is provided for, thereby enabling the density requirements in the WRPS to be realised in a coherent and cost-effective manner. This will allow growth to be integrated with the provision of infrastructure, in accordance with broader direction set out in the Proposed Plan's strategic objectives, and indeed Objective ODI and Policy PA3(b) of the National Policy Statement for Urban Development Capacity.

100. In recommending this approach I have given careful consideration to the need to integrate development with infrastructure. I am mindful of the fact that infrastructure (particularly wastewater) is not currently available to either the Village Zoned areas of Tuakau or Te

Kowhai. I have also carefully considered the efficient use of resources. To my mind, providing for very large new urban growth areas at very low densities is not an efficient use of the land resource or the use of community funds for infrastructure. Very low density residential development also does not allow sufficient population mass or density to support a more self-sufficient village in Tuakau or Te Kowhai where the latter in particular is currently only a small community which depends on the nearby areas of Ngaruawahia and Hamilton for daily needs). Given the lack of servicing capacity in combination with the lack of any existing structure plans for these growth areas, the reality is that this scenario is likely to result in:

- a. Ad hoc development and individual subdivisions where integration and connection between large blocks in different ownership is sub-optimal;
  - b. The challenges of right-sizing infrastructure such as water supply, parks, footpaths, and roads for 3,000m<sup>2</sup> lots that are also suitable for subsequent 800m<sup>2</sup> lots. Either infrastructure is oversized (and expensive) for the initial low density community and or it will need to be upgraded and retrofitted at a later date;
  - c. A poor urban design, as the optimal layout for 3000m<sup>2</sup> lots versus 800m<sup>2</sup> lots would be quite different;
  - d. Tension between residents that are seeking a rural country living environment versus those that will further subdivide;
  - e. Discordant character outcomes where some sites are infilled to suburban densities whilst others are kept at low densities;
  - f. Difficulty transitioning wastewater servicing from on-site treatment and disposal (or small package-plants) to a reticulated system.
101. There were a number of submissions received that sought a reduction in the minimum non-serviced lots size from 3,000m<sup>2</sup> to 2,500m<sup>2</sup> (Surveying Services Ltd [382.2], GD Jones [110.2], Sharp Planning Solutions Ltd [695.138]). It is recommended that these submissions be rejected, as smaller non-serviced lots simply increase the risk that future infill does not result in good design outcomes, and increases the likelihood of the zone effectively becoming a large lot 'end state' rather than a transition to higher densities.
102. Greig Metcalfe [602.5] sought a minor amendment that lots created for utility purposes be excluded from the minimum lot size requirements. It is recommended that this submission point be accepted as it is common for utility lots for relatively small electricity substations or pump stations to be located on their own fee simple title where the size of the lot is driven by the functional needs of the utility in question.
103. Lastly, and on a separate matter, for Tuakau several submissions (Horticulture NZ [419.109], Balle Bros Group Ltd [466.36]), focused on the loss of productive farmland and versatile soils, along with reverse sensitivity concerns regarding new residents being located in close proximity to active horticultural activities. As noted above, the location of the proposed Village Zones aligns with the strategic directions regarding growth management and the concentration of such around the larger townships. There are relatively few direct borders between the proposed Village Zone in Tuakau and actively-cultivated horticultural areas, with the subdivision consent process available to manage tensions through techniques such as locating new roads or larger lots along the interface. It is noted that Mr Cattermole has recommended the inclusion of a 300m setback rule for sensitive land uses from existing intensive farming operations, which works in tandem with the 300m setback requirement in notified Rule 24.4.5. It is recommended that an additional matter of discretion be added to Rules 24.4.2 RD1 and RD2 to enable Council to consider reverse sensitivity issues around the zone interface with established farming activities. Such a matter of discretion is consistent with the assessment and recommendations of Mr Matheson regarding Policy 4.7.11 (Hearing 3), which specifically addresses reverse sensitivity issues and urban growth.



## Recommendations

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

- a. Amend Objective 4.3.1 and Policies 4.3.2 and 4.3.3 to provide better clarity as to the Village Zone purpose. Amendments will better differentiate between maintaining existing character in the smaller settlements and enabling transitional urban growth outcomes in those parts of Tuakau and Te Kowhai with existing residential development and urban zoning in the Operative Plan. Amendments will provide for long-term urban growth once services are provided for those parts of the Village Zone that have a rural zoning in the Operative Plan.
- b. Make a consequential amendment to Policy 4.1.5 and Policy 4.7.4 to reflect the density outcomes sought (noting that the substantive consideration of these policies occurs as part of Hearing 3);
- c. Amend Rule 24.4.1 RDI to reduce the minimum lot size to 2,500m<sup>2</sup> in the smaller settlements and increase the minimum lot size to 5,000m<sup>2</sup> in the Vineyard Road Estate area in Te Kauwhata (with a low density precinct shown on the planning maps for this area);
- d. Amend Rule 24.4.2 RDI to:
  - 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;
  - For those sites in Tuakau and Te Kowhai that have an existing rural zoning in the Operative Plan, provide them with a Village Zoning but 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;
  - Amend the planning maps to show the different density precincts in Tuakau and Te Kowahi (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);
- e. Amend Rule 24.4.2 RDI and RD2 to exclude utility lots from the minimum site size requirements to improve clarity;
- f. Add an additional matter of discretion for non-reticulated subdivision applications in Tuakau and Te Kowhai to enable consideration of how the proposed lots might be plausibly further subdivided in the future should servicing become available;
- g. Add additional matters of discretion to enable consideration of potential effects on existing regionally significant infrastructure and nearby established agricultural activities. Submission scope on this matter is limited to Tuakau, however it does have wider relevance if the Panel determines that scope is available;
- h. Add an additional matter of discretion regarding the provision of water supply for firefighting purposes where practicable.

105. The recommendations on submissions rely on Option I being accepted by the Hearings Panel. It is recommended that the submissions from Waikato Regional Council [81.129, 81.130, 81.180, 81.131], Waikato District Health Board [923.52, 923.53, 923.54], Hamilton City Council [535.22], Vineyard Road Properties Ltd [626.4], Gerard Willis [436.1], Brent Trail [345.23], Counties Power Ltd [405.81], Waikato District Council [697.936, 697.999, 697.1000, 697.1002], KiwiRail Holdings Ltd [986.89], GD Jones [110.2], and Fire and Emergency New Zealand [378.69] be **accepted**.

106. It is recommended that the submissions from Housing New Zealand Corporation [749.4, Steven & Teresa Hopkins [451.3], Terra Consultants Ltd [296.2, 296.6], The Surveying Company [746.131, 746.132], McCracken Surveys Ltd [943.57, 943.59], Horticulture NZ [419.109, 419.110], Balle Bros Group Ltd [466.36], Fire and Emergency New Zealand [378.51, 52], First Gas Ltd [945.28], Greig Metcalfe [602.5], Pakau Trust [624.3], Greig Developments No 2 Ltd [689.23], Hamilton City Council [535.23, 535.80], be **accepted in part**.
107. It is recommended that the submissions from Vineyard Road Properties Ltd [626.2], Surveying Services Ltd [382.1, 382.2], Kitty Burton [371.4], Wendy Oliver [438.2], J & T Quigley Ltd [389.6], Waikato District Health Board [923.162, 923.163], Stuart Quigley [947.7], Lee Slomp [604.1], Terra Firma Resources Ltd [732.3], Horotiu Properties Ltd [397.3, 397.14], Horticulture NZ [419.86], Greig Metcalfe [602.36], Sharp Planning Solutions Ltd [695.138, 695.26] be **rejected**.
108. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

## Recommended amendments

### 4.1.5 Policy – Density

- (a) Encourage higher density housing and retirement villages to be located near to and support commercial centres, community facilities, public transport and open space.
- (b) Achieve a minimum density of 12-15 households per hectare in the Residential Zone.
- (c) ~~Achieve a minimum density of 8-10 households per hectare in the Village Zone where public reticulated services can be provided.~~ Maintain the existing very low density character of the Village Zone except within Tuakau and Te Kowhai where a minimum density of 8-10 households per hectare is to be achieved where reticulated water and wastewater services are provided.

### 4.7.4 Policy – Lot sizes

- (a) Minimum lot size and dimension of lots enables the achievement of the character and density outcomes of each zone; and
- (b) ~~Avoid Limit~~ undersized lots in the Village Zone.

### 4.3.1 Objective – Village Zone character

- (a) The very low density character of the Village Zone is maintained and further urban growth is limited due to the zone's lack of reticulated infrastructure and distance from employment, community facilities, and public transport.
- (b) Within Tuakau and Te Kowhai maintain a very low density character until reticulated water and wastewater services are provided. Once reticulated services are available the zone character is expected to change to a suburban density of at least 8-10 households per hectare.
- (c) Within the Village Future Urban Density Precinct in Tuakau and Te Kowhai maintain existing rural densities and character until a structure plan has been approved and reticulated water and wastewater services are provided. Once reticulated services are available enable change to a suburban density of at least 8-10 households per hectare.

### 4.3.2 Policy – Character

- (a) Buildings and activities within the Village Zone are designed, located, scaled and serviced in a

<p>manner that:</p> <p>(i) <del>Maintains the existing very low density</del> <u>low density character</u>;</p> <p><del>(ii) Maintains the semi-rural character;</del></p> <p>(iii) Recognises lower levels of infrastructure and the absence of Council wastewater services.</p> <p>(b) Require activities within the Village Zone to be self-sufficient in the provision of on-site water supply, wastewater and stormwater disposal, unless a reticulated supply is available.</p>
<p><b>4.3.3 Policy – Future development – Tuakau and Te Kowhai</b></p> <p>(a) Buildings, <del>and</del> access, <u>and lot boundaries</u> are located in a position to enable future subdivision and development in Tuakau and Te Kowhai when infrastructure and services become available.</p> <p>(b) <del>Ensure buildings are positioned in a manner that provides for transition from large lots to smaller lots in Tuakau and Te Kowhai. Recognise the role these townships play in accommodating future urban growth through enabling a transition to densities of at least 8-10 households per hectare in accordance with any applicable structure plans and connection to reticulated services.</del></p>

## 24.4 Subdivision

<p>Amend Rule 24.4 Subdivision, as follows:</p> <p>24.4 Subdivision <u>Rules</u></p> <p>(1) Rule 24.4.1 provides for subdivision density <del>and applies across in</del> the Village Zone <u>outside of the Te Kowhai and Tuakau area</u>.</p> <p>(2) The following rules apply to specific areas and/or activities:</p> <p>(a) Rule 24.4.2 – Subdivision in Te Kowhai and Tuakau, applies to the Village Zone in these two areas.</p> <p>(b) Rules 24.4.1 and 24.4.2 are also subject to <u>compliance with</u> the following <del>subdivision controls</del>:</p>
--

### 24.4.1 Subdivision – General

	<p>Amend the Title as follows:</p> <p>24.4.1 Subdivision – General <u>(outside Te Kowhai and Tuakau)</u></p>
RDI	<p>Amend Rule 24.4.1 Subdivision -General, as follows:</p> <p>(a) Proposed lots <u>outside of Te Kowhai and Tuakau</u> must have a minimum net site area of <del>3000m<sup>2</sup></del> <u>2,500m<sup>2</sup></u>, except where the proposed lot is an access allotment, utility allotment or reserve to vest.</p> <p><u>(b) Proposed lots located in the Vineyard Road Estate in Te Kauwhata must have a minimum net site area of 5,000m<sup>2</sup>, except where the proposed lot is an access allotment, utility allotment or reserve to vest.</u></p> <p><del>(b)</del> <u>(c)</u> Council's discretion is restricted to the following matters:</p> <p>(i) Shape, location and orientation of proposed lots;</p> <p>(ii) Matters referred to in the infrastructure chapter;</p> <p>(iii) Consistency with the matters, and outcomes sought, in Appendix 3.1 (Residential Subdivision Guidelines);</p> <p>(iv) Impacts on stormwater and wastewater disposal;</p>

	<ul style="list-style-type: none"> <li>(v) Impacts on Significant Natural Areas;</li> <li>(vi) Impacts on identified Maaori Sites of Significance; <del>and</del></li> <li>(vii) Roads and pedestrian networks;</li> <li><u>(viii) The provision of water supply for firefighting where practicable; and</u></li> <li><u>(ix) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of regionally significant infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.</u></li> </ul>
DI	Subdivision that does not comply with a condition of Rule 24.4.1 RDI.

### Subdivision – Te Kowhai and Tuakau

RD1	<p>(a) Subdivision in Te Kowhai and Tuakau <u>outside of the Village Future Urban Density Precinct</u> must comply with <del>all of</del> the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Proposed lots not connected to public water and wastewater infrastructure must have a minimum net site area of 3000m<sup>2</sup>, except where the proposed lot is an access allotment, <u>utility allotment</u>, or reserve lot.</li> </ul> <p>(b) <u>Subdivision in Te Kowhai and Tuakau within the Village Future Urban Density Precinct where the lots are not connected to public water or wastewater infrastructure must comply with the following condition:</u></p> <ul style="list-style-type: none"> <li>(i) <u>Have a minimum net site area of 20 hectares, except where the proposed lot is an access allotment, utility allotment, or reserve lot.</u></li> </ul> <p>(c) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) Shape, location and orientation of proposed lots;</li> <li>(ii) Position of proposed building platforms and driveways to ensure future subdivision is not compromised;</li> <li><u>(iii) Indicative future lot boundaries that demonstrate how the proposed lots can be subdivided in the future to achieve a gross density of a minimum of 8 households per hectare;</u></li> <li><del>(iii)</del> <u>(iv)</u> Matters referred to in the Infrastructure chapter;</li> <li><del>(iv)</del> <u>(v)</u> Consistency with the matters, and outcomes sought, in Appendix 3.1 (Residential Subdivision Guidelines);</li> <li><del>(v)</del> <u>(vi)</u> Impacts on stormwater and wastewater disposal;</li> <li><del>(vi)</del> <u>(vii)</u> Impacts on Significant Natural Areas;</li> <li><del>(vii)</del> <u>(viii)</u> Impacts on identified archaeological sites and Maaori Sites of Significance;</li> <li><u>(ix) Reverse sensitivity effects on farming activities on land identified as high class soils in Tuakau;</u></li> <li><u>(x) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of regionally significant infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks;</u></li> <li><u>(xi) The provision of water supply for firefighting where practicable; and</u></li> <li><del>(viii)</del> <u>(xii)</u> Roads and pedestrian networks.</li> </ul>
RD2	<p>(a) Subdivision in Te Kowhai and Tuakau <u>where the proposed lots are able to connect to public water and wastewater infrastructure</u> must comply with all of the following conditions:</p>

	<p>(i) <del>Proposed lots connected to public water and wastewater infrastructure</del> must have a minimum net site area of <del>1,000m<sup>2</sup>-800m<sup>2</sup></del>, except where the proposed lot is an access allotment, <u>utility allotment</u>, or reserve lot; <u>and</u></p> <p>(ii) <u>Within the Village Future Urban Density Precinct have a layout that is in general accordance with a structure plan that has been approved by Council.</u></p> <p>(b) The Council's discretion shall be limited to the following matters:</p> <p>(i) Shape, location and orientation of proposed lots;</p> <p>(ii) Position of proposed building platforms and driveways to ensure future subdivision is not compromised;</p> <p>(iii) Matters referred to in the Infrastructure chapter;</p> <p>(iv) Consistency with the matters and outcomes sought in Appendix 3.1 (Residential Subdivision Guidelines);</p> <p>(v) Impacts on stormwater and wastewater disposal;</p> <p>(vi) Impacts on Significant Natural Areas;</p> <p>(vii) Impacts on identified archaeological sites and Maaori Sites of Significance;</p> <p><u>(viii) Reverse sensitivity effects on farming activities on land identified as high class soils in Tuakau;</u></p> <p><u>(ix) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of regionally significant infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks;</u> and</p> <p><del>(viii) (x)</del> Roads and pedestrian networks.</p>
DI	Subdivision that does not comply with Rule 24.4.2 RDI, or RD2.

### Section 32AA evaluation

109. The above assessment of submissions addresses the notified provisions and the need (or not) for them to be amended to improve their effectiveness and efficiency, along with the costs and benefits of the recommended changes. The below evaluation is therefore a summary and should be read together with the substantive discussion set out above, which together form the s32AA evaluation.

### Effectiveness and efficiency

110. The recommended amendments to the objective and policies improve the direction provided at a policy level as to the outcomes anticipated for the Village Zone. As such they are considered to be more effective than the status quo notified wording.
111. The amendments to the rules enable better align with the long-established Franklin section of the Operative Plan, whilst also making provision for the distinctive context of the Vineyard Road area in Te Kauwhata. These changes are considered to be more efficient and effective than the notified rule. They are more effective at recognising the existing character of this area, whilst not restricting the ability of the greenfield area to develop.
112. Additional matters of discretion are added for Tuakau and Te Kowhai to enable consideration of the ability to further subdivide non-serviced lots to ensure that the growth management outcomes anticipated in the WRPS are able to be achieved. The reduction in the minimum site size for reticulated areas assists in making the rule more effective and efficient in delivering the anticipated density. The reduced density upon servicing being

available is an efficient use of the land resource and will enable a population density more able to support future services and activities. It also is an effective way to provide housing choices.

113. Other amendments are to improve rule clarity and to give effect to the strategic policies regarding network infrastructure.

### **Costs and benefits**

114. Better articulation of the zone purpose and outcomes is considered to provide benefit to Plan users with few if any associated costs. The recommended reduction in the minimum lot size to 2,500m<sup>2</sup> for the 'end state' zones outside of Tuakau and Te Kowhai will result in some benefit for the relatively small numbers of land owners who will now be able to subdivide relative to the notified Plan position. This limited amount of additional growth will likewise bring some benefits for the local community through enabling a range of housing choice and provision. Such additional growth is however limited, in keeping with the wider strategic outcomes sought for managing growth in the District, and therefore these benefits are likewise modest.
115. For the Vineyard Road area the recommended retention of the 5,000m<sup>2</sup> limit in Vineyard Road imposing no additional costs relative to the Operative Plan, and provides benefits to existing residents in terms of certainty regarding the amenity and character outcomes for the area. The recommendation does impose some costs on the developer relative to both the notified Plan provisions and the relief sought by the developer through submissions who will have to go through a discretionary consent process should they wish to subdivide below 5,000m<sup>2</sup>.
116. The most significant recommendation is in regards to the proposed growth areas on Tuakau and Te Kowhai. As set out in the above assessment, there are potentially significant costs in terms of both retrofitting infrastructure and in terms of good quality urban design outcomes if development is able to occur on a large scale in an ad hoc manner and without the provision of reticulated services. The recommended approach seeks to retain the long-term benefits to the community of enabling urban growth to higher densities, provided that growth occurs in accordance with a structure plan and when connection to reticulated services is possible. Until that time the potential for coordinated urban growth to occur is retained through maintaining rural densities. Once these constraints on coordinated growth are overcome, the recommendation to enable urban development to 800m<sup>2</sup> provides further benefits to both landowners and the community through enabling a higher density and associated accommodation of urban growth and consolidation adjacent to existing townships.
117. The recommended additional assessment matters enable consideration of effects on existing infrastructure, farming activities, and the ability for fire-fighting. Consideration of these matters has benefits to these parties and the wider community to ensure existing investment is recognised and is not compromised.

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

118. The primary risk of acting or not acting rests in rezoning what are currently large rural zoned blocks of land adjacent to Tuakau and Te Kowhai for subdivision as of right down to 3,000m<sup>2</sup> and in advance of any reticulated services being available. It is recognised that there is imperfect information as to servicing timeframes and costs, therefore there is a risk in acting / enabling subdivision to 3,000m<sup>2</sup> lots whereby sub-optimal growth outcomes will eventuate and where future intensification and infill presents challenges to achieving good end outcomes. This risk is able to be avoided if conversely the growth approach in the Proposed Plan is rejected and replaced with the maintenance of rural densities until servicing and an associated structure plan become available.

119. In the alternative where a rural zone is provided instead of a Village Zone, the risk is that growth and housing choice is not enabled in these two areas.

### Decision about most appropriate option

120. On balance, the proposed amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## Section 5

### Rule 24.4.3 Subdivision Boundary Adjustments

#### Introduction

121. Rule 24.4.3 in the Proposed Plan provides for boundary adjustments as a controlled activity, subject to any adjustments not resulting in any new building infringements and meeting the conditions of Rules 24.4.1 and 24.4.2. The result of these standards is that the lots with adjusted boundaries still need to meet the minimum site size requirements for the Village Zone. The rule has an additional condition that requires the proposed lots to not generate any additional building infringements to those which legally existed prior to the boundary adjustment. As notified, Council's control is limited to consideration of the proposed subdivision layout, and the shape of lots and variation in lot sizes.

#### Submissions

122. A single submission point was received from Counties Power Ltd [405.82] that sought that an additional matter of control be added to the rule to ensure that boundary adjustments do not prevent access to existing electricity infrastructure. For completeness, no submissions were received seeking that the rule be retained as notified.

Submission point	Submitter	Summary of submission
405.82	Counties Power Limited	Amend Rule 24.4.3 CI (b) Subdivision - Boundary adjustments so adjustments do not prevent access to existing electricity infrastructure.

#### Analysis

123. Boundary adjustments between existing lots are a relatively common activity and occur for a multitude of reasons. In my experience, it is common for them to be provided for as a controlled activity in district plans. The submission point by Counties Power Limited [405.82] requests that when Council is considering such applications, it is able to assess whether the amended boundaries would prevent access to existing electricity infrastructure.
124. Network infrastructure plays a strategic role in providing for the needs of the community. The ability to legally access and maintain existing infrastructure is generally provided for through a combination of either that infrastructure being located within publicly-held land such as road reserves, land held by the infrastructure provider, or access is guaranteed through legal mechanisms on the property title, such as easements in favour of the infrastructure provider. Given that mechanisms such as easements are likely to already be in place for existing infrastructure, it is unlikely in practice that access to existing infrastructure will be threatened by boundary adjustments.

125. That said, it is considered that the ability for Council to consider access arrangements to strategic infrastructure is a reasonable as a matter of control. It is noted that the rule is a controlled activity, and as such, an application for boundary adjustment cannot be declined. Consideration can however be given to the adjusted boundary and access to existing electricity infrastructure, with tools such as consent conditions or consent notices available to enable access whilst not frustrating the overall purpose of the application.

### Recommendations

126. I recommend that the submission by Counties Power Ltd [405.82] be **accepted**.

### Recommended amendments

127. It is noted that the ability to consider the ongoing provision of access to existing network infrastructure has broader relevance than just electricity-related networks. If the Panel consider that there is sufficient scope, it is recommended that the additional matter of control be broadened so that it relates to 'network infrastructure'.
128. The following amendments are recommended:

#### 24.4.3 Subdivision – Boundary Adjustments

CI	<p>(a) Boundary adjustments must comply with all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) The conditions specified in: <ul style="list-style-type: none"> <li>A. Rule 24.4.1 (Subdivision – General); or</li> <li>B. Rule 24.4.2 (Subdivision Te Kowhai and Tuakau).</li> </ul> </li> <li>(ii) Proposed lots must not generate any additional building infringements to those which legally existing prior to the boundary adjustment.</li> </ul> <p>(b) Council's control is reserved over the following matters:</p> <ul style="list-style-type: none"> <li>(i) Subdivision layout;</li> <li>(ii) Shape of lots and variation in lot sizes;</li> <li><u>(iii) The provision of access to existing network infrastructure.</u></li> </ul>
DI	Boundary adjustment that do not comply with Rule 24.4.3 CI

### Section 32AA evaluation

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

#### Effectiveness and efficiency

130. The additional matter of control ensures that access is able to be maintained to existing strategic network infrastructure when boundary adjustments are undertaken. The additional matter is considered to be effective in ensuring that such access is able to be maintained and is efficient as a matter that can be considered as part of wider consideration of lot size, shape, and layout through the resource consent process.

#### Costs and benefits

131. The amendment will provide benefit to the community by ensuring the ability to access and maintain existing network infrastructure. As a controlled activity consent cannot be declined, the amendment will not prevent boundary adjustments from being undertaken. As an additional matter of control, the amendment does not increase the need for consents, as applicants will already be required to obtain consent. Costs are therefore limited to the time associated with undertaking an additional assessment to demonstrate that access is able to be maintained to existing infrastructure, along with potentially having to modify the



proposed lot layout to demonstrate the provision of such access. Given the strategic role of network infrastructure, the benefits of the proposed amendment are considered to outweigh the costs to the community.

### Risk of acting or not acting

132. There are no additional risks in acting. As noted above, in most cases access to infrastructure will already be secured through the location of that infrastructure on publicly-held land or through the use of easements. There is therefore a low risk in not acting. There however remains a residual risk in not acting, in that there may be instances where lot boundaries are amended such that existing access to strategic infrastructure is lost, thereby impinging on the effective maintenance of that infrastructure. Whilst such risks are low, as assessed above the costs in avoiding such risks through the addition of a further matter of control are also low, and are outweighed by the benefits in ensuring the ongoing provision of network infrastructure to the community.

### Decision about most appropriate option

133. The amendment continues to give effect to the relevant objective and policies of Chapter 4.3 as well as the objectives in the Infrastructure and Energy chapter. 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.

## Section 6

### Rule 24.4.4 Subdivision amendments to cross lease and flats plans and conversions

#### Introduction

134. Rule 24.4.4 provides for amendments to cross lease and flats plans and the conversion of tenure from cross lease to fee simple.

#### Submissions

135. One submission was received in support of the rule as notified (Surveying Services Ltd [382.3]), with five submission points seeking amendments as follows:
- Waikato District Council [697.1003, 1004, 1005] sought three amendments to improve rule clarity, including the deletion of 24.4.4 D1, on the grounds that cross lease amendments do not need to cascade to a fully Discretionary activity status;
  - Greig Metcalfe [602.6] and Horotiu Properties Ltd [397.15] sought to delete reference to areas for exclusive use, on the grounds that such matters are not a 'subdivision' under s218 RMA, but are instead a private covenant matter which is not able to be controlled by Council;
  - McCracken Surveys Ltd [943.61] sought a permitted activity pathway subject to applicants obtaining a Certificate of Compliance.

The following submission points were received:

Submission point	Submitter	Summary of submission
602.6	Greig Metcalfe	Amend Rule 24.4.4 C2 (a) Subdivision - Amendments to cross lease and flats plans and conversions, as follows: (a) <i>Amendment or update to a cross lease flats plan including additions or alterations to any buildings, and areas for</i>

		<del>exclusive use by an owner or owners.</del> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
382.3	Brent Trail for Surveying Services Ltd	No specific decision sought, but submission states support for Rule 24.4.4 Subdivision - Amendments to cross lease and flats plans and conversions.
397.15	Horotiu Properties Limited	Amend Rule 24.4.4 C2 Subdivision - Amendments to cross lease and flats plans and conversions, as follows: (a) Amendment or update to a cross lease flats plan including additions or alterations to any buildings <del>and any areas for exclusive by an owner or owners.</del> AND Amend the Proposed District Plan to make any consequential amendments necessary to address the matters raised in the submission.
697.1003	Waikato District Council	Amend rule 24.4.4 C1 (b) Subdivision - Amendments to cross lease and flats plans and conversions, as follows: (b) Council's control is reserved to <u>over</u> the following matters: (i) Effect on existing buildings; (ii) Site layout and design; (iii) Compliance with building rules.
697.1004	Waikato District Council	Amend Rule 24.4.4 C2(b) Subdivision - Amendments to cross lease and flats plans and conversions, as follows: (b) The Council's control shall be <u>reserved over</u> limited to the following matters: (i) Purpose of the boundary adjustment; (ii) Effect on existing buildings; (iii) Site layout and design of a cross lease or flats plan; (iv) Compliance with permitted building rules.
697.1005	Waikato District Council	Delete Rule 24.4.4 D1 Subdivision - Amendments to cross lease and flats plans and conversions.
943.61	McCracken Surveys Limited	Amend Rule 24.4.4 C1 (a) Subdivision - Amendments to cross lease and flats plans and conversions, to be a Permitted activity subject to Certificate of Compliance. AND Add criteria to Rule 24.4.4 - Subdivision - Amendments to cross lease and flats plans and conversions, as follows; Amendments shall be for the purpose of showing alterations to existing buildings or additional lawfully established buildings. The alteration shall be either permitted or otherwise lawfully established.

## Analysis

136. Cross lease is a form of tenure that was common in the 1960s and 1970s for multi-unit developments. Although still available today, it is uncommon for it to be used in new

subdivisions, with fee simple titles generally preferred and unit titles available as an alternative form of tenure for multi-unit developments. Cross lease titles provide all owners with an equal share in the entire site, with the lease period typically being for a period of 999 years from the time the title was originally issued. The title document includes a 'Flats Plan' that shows the location of buildings and any areas of land for exclusive and communal use, i.e. private courtyards and communal driveways. In the event that building extensions are subsequently undertaken, the Flats Plan is required to be updated to reflect the change in building footprint and any associated changes to the communal and private areas. Because the Flats Plan forms part of the title, amendments to that plan are required to go through a subdivision consent process and be confirmed by Land Information New Zealand before replacement titles can be issued. I therefore support the retention of the rule to include amendments to the areas set aside for exclusive use by owners. In my experience, amendments to a Flats Plan is a straightforward process from a subdivision consent perspective, with changes to building size also subject to the District Plan's suite of land use consent provisions.

137. Conversion of cross lease titles to fee simple tenure is also relatively common. The buildings are usually existing and site development potential is generally maximised when the units were originally built. As such, any change in tenure does not generally generate any effects or change to the existing environment. Instead it simply provides owners with a 'cleaner' form of tenure where they have exclusive ownership of their site, with any rights to access or services over what were previously shared areas typically secured via easements, and if need be by the installation of separated services to each title.
138. The amendments sought by the Council to improve rule clarity are supported, as is the deletion of Rule 24.4.4. DI. The preceding controlled activity rule does not include a trigger mechanism that would result in applications cascading to a higher activity status. In my experience, it is common for district plans to provide for cross lease subdivision amendments as a controlled activity. Conversely, I have never encountered a district plan that provided for such changes as a permitted activity, as amendments to the Flats Plan or changes in tenure inherently involve a subdivision consent and associated amendment to the property title. It is noted that the costs and information requirements necessary for a Certificate of Compliance are similar to those required for a controlled activity resource consent, and as such there is little cost or time saving in the amendments proposed by McCracken Surveys Ltd [943.61] for the activity to be permitted instead of controlled. As such, it is recommended that the submission point be rejected.

### Recommendations

139. It is recommended that the submission points from Waikato District Council [697.1003, 1004, 1005] be **accepted**.
140. It is recommended that the submission points from Surveying Services Ltd [382.3] be **accepted in part**.
141. It is recommended that the submission from McCracken Surveys Ltd [943.61], Greig Metcalfe [602.6], and Horotiu Properties Ltd [397.15] be **rejected**.
142. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

143. The following amendments are recommended:

#### 24.4.4 Subdivision – amendments to cross lease and flats plans and conversions

C1	<p>(a) Conversion of a cross lease and flats plan to fee simple.</p> <p>(b) Council’s control is reserved <del>to</del> <u>over</u> the following matters:</p> <ul style="list-style-type: none"> <li>(i) Effect on existing buildings;</li> <li>(ii) Site layout and design;</li> <li>(iii) Compliance with building rules.</li> </ul>
C2	<p>(a) Amendment or update to a cross lease flats plan including additions or alterations to any buildings, and areas for exclusive use by an owner or owners.</p> <p>(b) The Council’s control shall be <del>limited to</del> <u>reserved over</u> the following matters:</p> <ul style="list-style-type: none"> <li>(i) Purpose of the boundary adjustment;</li> <li>(ii) Effect on existing buildings;</li> <li>(iii) Site layout and design of a cross lease or flats plan;</li> <li>(iv) Compliance with permitted building rules.</li> </ul>
<del>D1</del>	<p><del>Any conversion of a cross lease flats plan or amendment or update to a cross lease flats plan that does not comply with Rule 24.4.4 C1 or C2.</del></p>

### Section 32AA evaluation

144. The recommended amendments are to provide clarification to assist with the readability of the rule and to reflect the lack of a controlled rule trigger that would result in a cascade to a Discretionary Activity. Accordingly, no s32AA evaluation is required.

## Section 7

### Rules 24.4.5-6 Subdivision title boundaries

#### Introduction

145. The Proposed Plan includes a number of rules relating to proposed lot boundaries and associated effects on significant natural areas, notable trees, sites of significance to Maaori, and historic heritage. As these rules address similar matters (mostly s6 RMA), I have assessed in a consolidated manner. Rules 24.4.6 – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maaori, 24.4.7 Title boundaries – Maaori sites and Maaori areas of significance to Maaori and 24.4.8 Subdivision of land containing heritage items address issues specific to Tangata Whenua and Historic Heritage, and will be addressed in those respective hearings.

146. There is always a challenge when considering submissions as to whether they are best addressed on a zone-basis, or on a thematic basis. This is particularly the case with matters such as sites of significance to Maaori or heritage. I have considered these matters primarily in terms of how the subdivision rules are structured. The primary forum for considering the outcomes sought on these topics will be in the thematic hearings on Maaori values and heritage. There may well be a need for a somewhat iterative decision-making process where

the detail of the subdivision rules are reviewed to ensure they are effective in delivering whatever outcomes are sought for these topics in their substantive hearing.

## Submissions

### Rule 24.4.5

147. Two submission points were received from Waikato District Council [697.1006 & 1007] seeking that the scope of the rule be significantly changed such that it only relates to title boundaries for lots containing existing buildings. One submission was received from Surveying Services Ltd [382.4] seeking that the rule be deleted.
148. A related submission from Waikato District Council [697.1014] seeks that a new rule be added such that any subdivision of land containing a Significant Amenity Landscape or a natural hazard area be considered a Discretionary Activity.
149. Waikato Regional Council [81.74] seeks general amendments to Chapter 24 to ensure the Village Zone provisions appropriately manage subdivision within landscape and natural character overlay areas.

### Rule 24.4.6

150. Three submission points were received from Waikato District Council [697.1008, 1009 & 1010] seeking to add notable trees into the rule scope as a consequential amendment of the rationalisation of the scope of Rule 24.4.5. The Council also sought that the activity status of 24.4.6 NCI be changed to Discretionary to better align with the type of effects associated with the rule. Heritage New Zealand Pouhere Taonga [FS/323.31] lodged a further submission opposing the change in activity status.
151. Two submission points were received from Heritage New Zealand Lower North Island Office [559.265 & 270] that supported the rule, subject to amendments to align the wording with that used in other chapters.

### Rule 24.4.7

152. One submission point was received from the Waikato District Council [697.1011] seeking that the activity status of Rule 24.4.7 be changed from Non-complying to Discretionary. One submission was received from Surveying Services Ltd [382.5] seeking that the rule be deleted, with this submission opposed in a further submission from Heritage New Zealand Pouhere Taonga [FS/323.32].

### Rule 24.4.8

153. Two submissions were received from Heritage New Zealand Lower Northern Office seeking that matter of discretion (b)(iii) be amended so that it relates to the heritage item being contained within a single lot. The submitter also sought that the activity status for Rule 24.4.8 DI be changed from Discretionary to Non-complying to ensure that the heritage values of the item associated with its setting are maintained.
154. The following submission points were made:

Submission point	Submitter	Summary of submission
<b>24.4.5 Title boundaries – Natural hazard area, contaminated land, Significant Amenity Landscape- Dune, notable trees and intensive farming activities</b>		
697.1006	Waikato District Council	Amend the title of Rule 24.4.5 as follows: <i>Title boundaries – <del>Existing Buildings natural hazard area, contaminated land, Significant Amenity Landscape, notable</del></i>

		<del>trees, intensive farming activities, aggregate extraction areas</del>
FS1387.767	Mercury NZ Ltd	Oppose submission 697.1006
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.
697.1007	Waikato District Council	<p>Amend Rule 24.4.5 as follows:</p> <p><del>(a) Subdivision of land containing contaminated land, notable trees and intensive farming activities and aggregate extraction areas must comply with all of the following conditions:</del></p> <p><del>(i) (a) The boundaries of every proposed lot with existing buildings must demonstrate compliance with the following building rules (other than where any non-compliance existed lawfully prior to the subdivision) relating to:</del></p> <p><del>A (i) Daylight admission (Rule 24.3.4);</del></p> <p><del>B (ii) Building coverage (Rule 24.3.5);</del></p> <p><del>C (iii) Building setbacks (Rule 24.3.6);</del></p> <p><del>(ii) The boundaries of every proposed lot must not divide the following:</del></p> <p style="padding-left: 40px;"><del>A. A natural hazard area;</del></p> <p style="padding-left: 40px;"><del>B. Contaminated land;</del></p> <p style="padding-left: 40px;"><del>C. Significant Amenity Landscape; or</del></p> <p style="padding-left: 40px;"><del>D. Notable tree.</del></p> <p><del>(iii) The boundaries of every proposed lot must be setback by 300m from any area operating an intensive farming activity.</del></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p style="padding-left: 40px;">(i) Landscape values;</p> <p style="padding-left: 40px;">(ii) Amenity values and character;</p> <p style="padding-left: 40px;">(iii) Reverse sensitivity;</p> <p style="padding-left: 40px;">(iv) Effects on existing buildings;</p> <p style="padding-left: 40px;">(v) Effects on natural hazard areas;</p> <p style="padding-left: 40px;">(vi) Effects on contaminated land;</p> <p style="padding-left: 40px;"><del>(vii) Effects on any notable tree;</del></p> <p style="padding-left: 40px;"><del>(viii) Effects on an intensive farming activity.</del></p>
FS1387.768	Mercury NZ Ltd	Oppose submission 697.1007
382.4	Surveying Services Ltd	Delete Rule 24.4.5 RDI (a)(ii) Title boundaries.
FS1388.79	Mercury NZ Ltd	Oppose submission 382.4
<b>New Rule 24.4.14</b>		
697.1014	Waikato District	Add new title as follows:

	Council	<u>24.4.14 Subdivision within identified areas</u> AND Add new rule as follows: <u>24.4.14 D1 (a) Subdivision of any land containing any of the following areas:</u> (i) Significant Amenity Landscape; (ii) A natural hazard area
FS1091.37	GD Jones	Oppose submission 697.1014
FS1387.769	Mercury NZ Ltd	Oppose submission 382.4
<b>24.4.6 Title boundaries – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maori</b>		
559.265	Heritage NZ Lower North Island Office	Retain Rule 24.4.6 RDI and align with wording in other chapters
559.270	Heritage NZ Lower North Island Office	Retain Rule 24.4.6 NCI and align with wording in other chapters
697.1008	Waikato District Council	Amend the heading to Rule 24.4.6 as follows: <i>Title boundaries – Significant Natural Areas, heritage items, archaeological sites, sites of significance to Maori, <u>notable trees</u></i>
697.1009	Waikato District Council	Amend Rule 24.4.6 RDI (b) as follows: (b) Council's discretion is restricted to the following matters: (i) Effects on Significant Natural Areas and (iii) Effects on any Maori Sites of Significance; <u>and</u> (iv) Effects on notable trees.
697.1010	Waikato District Council	Amend Rule 24.4.6 NCI to be a Discretionary Activity
FS1323.31	Heritage New Zealand Pouhere Taonga	Oppose submission 697.1010
<b>24.4.7 Title boundaries – Maori sites and Maori areas of significance to Maori</b>		
382.5	Surveying Services Ltd	Delete Rule 24.4.7
FS1323.32	Heritage New Zealand Pouhere Taonga	Oppose submission 382.5
697.1011	Waikato District Council	Amend Rule 24.4.7 NCI to be a Discretionary Activity
<b>24.4.8 Subdivision of land containing heritage items</b>		
559.250	Heritage NZ Lower North Island Branch	Amend Rule 24.4.8 RDI as follows: (a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)

		(b) Council's discretion is restricted to the following matters: (i) Effects on heritage values; (ii) Context and setting of the heritage item; (iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u> .
559.257	Heritage NZ Lower North Island Branch	Amend Rule 24.4.8 DI to be a Non-complying Activity

### Analysis

155. The submissions from the Council on Rule 24.4.5 seek a significant revision of the rule's scope. The amendments will change the focus of the rule from being a trigger for considering title boundary effects on a wide range of somewhat disparate matters, to simply focus on the location of title boundaries for lots containing existing buildings. It is noted that, despite the significant change in rule scope, no further submissions were received on this matter. There is a legitimate need for a rule that enables Council to assess potential effects of proposed new title boundaries on lots containing existing buildings to ensure that those new boundaries do not give rise to amenity and character effects.
156. In summary, Rule 24.4.5 is proposed to be rationalised such that it deals solely with changes to lot boundaries of sites containing existing buildings. Consideration of subdivision of sites containing notable trees is to be included in Rule 24.4.6. Consideration of the subdivision of sites with Significant Amenity Landscapes and natural hazards is to move to a new fully discretionary rule. Consideration of the subdivision of sites with contamination is addressed through the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES – Soil Contamination'). It is noted that Mr Cattermole has recommended the inclusion of a 300m setback rule for sensitive land uses from existing intensive farming operations, which would be more effective than the 300m setback requirement in notified Rule 24.4.5. The amendments recommended by Mr Cattermole dovetail with the recommendations of Mr Matheson regarding Policy 4.7.11 (Hearing 3), which specifically address reverse sensitivity issues and urban growth.
157. It is recommended that the submission points be accepted as a more efficient and effective approach to assessing subdivision of blocks with a range of thematic issues. Given the change in scope, it is recommended that the submission by Surveying Services Ltd seeking the rule be deleted be accepted in part, insofar as much of the rule as notified is recommended to be removed.

### Rule Structure

158. The Proposed Plan contains three rules 24.4.7-8 that address similar (primarily s6 RMA) matters, namely the subdivision of sites that are identified as a Significant Natural Area, of significance to Maaori (listed in Schedule 30.0 or 30.4), or that contain a listed heritage item identified in Schedule 30.1. Whilst not sought by submitters, the clarity of the rules may be improved by focusing 24.4.6 solely on Significant Natural Areas, 24.4.7 on sites of significance to Maaori, and 24.4.8 on heritage items and archaeological sites.
159. These rules include a degree of overlap or duplication which is potentially confusing to Plan users, especially in light of the changes sought by Council to Rule 24.4.5 and 6 along with the introduction of a new rule for subdivision of sites in a natural hazard area or Significant Amenity Landscapes as a fully discretionary activity. Waikato Regional Council have likewise



sought additional provision to address subdivision within landscape and natural character overlay areas.

160. The title of Rule 24.4.6 contains reference to “heritage items” and “archaeological sites” when in fact historic heritage items are not addressed in this rule, and are instead addressed in Rule 24.4.8. Likewise sites of significance to Maaori are addressed in both Rule 24.4.6 and 24.4.7. Landscape-related areas will be addressed in Rule 24.4.6 and the new rule sought by Council. As a clause 16 amendments I therefore recommend deletion of the terms “historic heritage” and “archaeological sites” from the title of Rule 24.4.6.
161. There appears to be scope within submissions, in combination with Clause 16 RMA which enables minor amendments to improve clarity and to fix errors, to improve the way in which this section of the Plan is structured. It is recommended that the rules be arranged as follows:
- Rule 24.4.5: Lots containing existing buildings;
  - Rule 24.4.6: Lots located within or containing Significant Natural Areas, notable trees;
  - Rule 24.4.7: Lots located within Significant Amenity Landscape, High Natural Character Area, Outstanding Natural Character Area, or Natural Hazard Area;
  - Rule 24.4.8: Sites of significance to Maaori;
  - Rule 24.4.9: Sites containing heritage items or archaeological sites.

#### Activity status

162. Council has sought an amendment to Rules 24.4.6 and 24.4.7 to alter the activity status for subdivision that does not meet the Restricted Discretionary requirements to be a Discretionary rather than Non-complying activity. This change was opposed by Heritage New Zealand Pouhere Taonga who have lodged their own submission seeking the retention of non-complying status for Rule 24.4.6. Two submission points were received on Rule 24.4.8 from Heritage New Zealand Lower Northern Office supporting the rule and the associated matters of discretion and sought their retention, subject to a minor amendment to the assessment criteria to recognise that the retention of a heritage item and its setting is best achieved when they are located within the same lot. The submitter also sought that Rule 24.4.8 DI be replaced with non-complying status on the grounds that this more stringent activity status would assist in ensuring that the heritage values of the heritage item with its setting are maintained.
163. Historic heritage is identified as a matter of national importance in s6(f), along with the relationship of Maori and associated sites (s6(e)). Section 6 requires the protection of historic heritage from inappropriate subdivision, use, and development and the need to recognise and provide for s6(e) matters. It is therefore wholly appropriate that proposals to subdivide land containing heritage items and sites of significance to Maori are subject to assessment to ensure that such subdivision is not ‘inappropriate’.
164. Within the Village Zones there are twelve heritage items listed in Schedule 30.1. As such the application of rule 24.4.8 is relatively limited. No submissions were received opposing this rule or from the owners of those heritage items. Mr Matheson considered the matter of recognising historic heritage in his s42A report with reference to Policy 4.7.2 which addresses subdivision location and design. He recommended that an amendment be made to the policy such that it reads “*ensure subdivision is located and designed to: (viii) protect significant historic heritage and cultural values and incorporate those values into subdivision design*”.
165. Historic heritage values are intrinsic to the item itself, with those values also often encapsulated within the item’s setting or context. The loss of that context and sense of place within its setting can have an adverse effect on heritage and cultural values. I agree with the

amendment sought to the matter of discretion 24.4.8 RDI (b)(iii) so that it reads “*the extent to which the relationship of the heritage item with its setting is maintained within one lot*”.

166. Heritage items, sites of cultural significance, and significant natural areas are diverse in terms of their size, location, context, and associated values. As such there may well be site-specific situations where subdivision could be ‘appropriate’. As such Discretionary rather than Non-complying status is considered to be appropriate for enabling consideration of effects and alignment of the proposed activity with the relevant objectives and policies.

### Recommendations

167. I recommend, for the reasons given above, that the Hearings Panel:
- Amend Rule 24.4.5 so it relates only to lots containing existing buildings;
  - Amend Rule 24.4.6 so it relates to lots located within or containing Significant Natural Areas, notable trees and amend 24.4.6 NCI to discretionary status;
  - Add a new rule for lots located within Significant Amenity Landscape, High Natural Character Area, Outstanding Natural Character Area, or Natural Hazard Area as a discretionary activity;
  - Consolidate those elements of Rules 24.4.6 and 24.4.7 that address sites of significance to Maaori into a single rule;
  - Consolidate those elements of Rules 24.4.6 and 24.4.8 that address historic heritage and archaeology into a single rule, with a discretionary rather than non-complying status.
168. The insertion of a new rule means that there is a need for consequential changes to rule numbering for the rest of the chapter. Consequential changes to rule numbering are also generated through a new rule in relation to subdivision adjacent to the National Grid (discussed at the end of this report). For ease of reference such changes are NOT reflected in the below assessment of the remaining rules in order to maintain consistency in the discussion with the rule number as notified and as submitted on.
169. It is recommended that the submissions from Waikato District Council [697.1002, 1006, 1007, 1008, 1009, 1010, 1011, 1014], and from Waikato Regional Council [81.74] be **accepted**.
170. It is recommended that the submissions from Surveying Services Ltd [382.4] and Heritage New Zealand Lower Northern Office [559.265, 250] be **accepted in part**.
171. It is recommended that the submissions from Heritage New Zealand Lower Northern Office [559.270, 257] and Surveying Services Ltd [382.5] be **rejected**.
172. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

173. The following amendments are recommended:

#### Rule 24.4.5

Amend Rule 24.4.5 title as follows:

Title boundaries – ~~Existing Buildings natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities, aggregate extraction areas~~

RDI	<p>Amend Rule 24.4.5 as follows:</p> <p><del>(a) Subdivision of land containing contaminated land, notable trees and intensive farming activities and aggregate extraction areas must comply with all of the following conditions: (i) (a) The boundaries of every proposed lot with existing buildings must demonstrate compliance with the following building rules (other than where any non-compliance existed lawfully prior to the subdivision) relating to:</del></p> <p><del>A (i) Daylight admission (Rule 24.3.4);</del></p> <p><del>B (ii) Building coverage (Rule 24.3.5);</del></p> <p><del>C (iii) Building setbacks (Rule 24.3.6);</del></p> <p><del>(ii) The boundaries of every proposed lot must not divide the following:</del></p> <p><del>A. A natural hazard area;</del></p> <p><del>B. Contaminated land;</del></p> <p><del>C. Significant Amenity Landscape; or</del></p> <p><del>D. Notable tree.</del></p> <p><del>(iii) The boundaries of every proposed lot must be setback by 300m from any area operating an intensive farming activity.</del></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Landscape values;</p> <p>(ii) Amenity values and character;</p> <p>(iii) Reverse sensitivity;</p> <p>(iv) Effects on existing buildings;</p> <p><del>(v) Effects on natural hazard areas;</del></p> <p><del>(vi) Effects on contaminated land;</del></p> <p><del>(vii) Effects on any notable tree;</del></p> <p><del>(viii) Effects on an intensive farming activity.</del></p>
DI	Subdivision that does not comply with Rule 24.4.5 RDI

### Rule 24.4.6

<p>Amend Rule 24.4.6 title as follows:</p> <p>Title boundaries – Significant Natural Areas, <del>heritage items, archaeological sites, sites of significance to Maaori, notable trees</del></p>	
RDI	<p>Amend Rule 24.4.6 as follows:</p> <p>(a) The boundaries of every proposed lot must not divide the following:</p> <p>(a) Significant Natural Area;</p> <p><del>(b) A Maaori Site of Significance as listed in Schedule 30.3; or</del></p> <p><del>(c) A Maaori Area of Significance as listed in Schedule 30.4.</del></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on Significant Natural Areas;</p> <p><del>(ii) Effects on any Maaori Area of Significance; and</del></p> <p><del>(iii) Effects on any Maaori Sites of Significance; and</del></p> <p>(ii) <u>Effects on notable trees.</u></p>
NCI	Subdivision that does not comply with Rule 24.4.5 RDI

<u>DI</u>	
-----------	--

**Rule 24.4.7****24.4.7 Title boundaries – Maori sites and Maori areas of significance to Maori**

RDI	Amend Rule 24.4.7 as follows:  (a) Subdivision of sites containing a Maori Sites <u>of Significance as listed in Schedule 30.3</u> and/or a <u>Maori Area of Significance as listed in Schedule 30.4. Areas of significance to Maori</u> that includes all of the site or area within a proposed lot.  (b) Council's discretion is restricted to the following matters: (i) Effects on sites of significance to Maori; (ii) Effects on areas of significance to Maori.
<del>NCI</del> <u>DI</u>	Subdivision that does not comply with Rule 24.4.7 RDI.

**Rule 24.4.8**

Amend Rule 24.4.6 title as follows:

24.4.8 Subdivision of land containing heritage items or archaeological sites

RDI	Amend Rule 24.4.8 as follows:  (a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items) <u>or archaeological sites</u> must contain the heritage item <u>or archaeological sites</u> wholly within one lot. (b) Council's discretion is restricted to the following matters: (i) Effects on heritage <u>or archaeological</u> values; (ii) Context and setting of the heritage item; and (iii) The extent to which the relationship of the heritage item with its setting is maintained.
DI	Subdivision that does not comply with Rule 24.4.8 RDI.

**New Rule 24.4.9**Title boundaries – Significant Amenity Landscape, High Natural Character Area, Outstanding Natural Character Area, or Natural Hazard Area

<u>DI</u>	(a) <u>Subdivision of any land containing any of the following areas:</u> (i) <u>Significant Amenity Landscape;</u> (ii) <u>High Natural Character Area;</u> (iii) <u>Outstanding Natural Character Area;</u> (iv) <u>Natural Hazard Area.</u>
-----------	--

## Section 32AA evaluation

### Effectiveness and efficiency

174. The rationalisation of this package of rules improves the efficiency of the Proposed Plan through avoiding unnecessary duplication and ambiguity. It also improves effectiveness in enabling better consideration of proposed title alterations with lots containing existing buildings or s6 RMA matters.
175. Having a consistent approach to Discretionary rather than a non-complying activity status improves Plan efficiency and adequate ability to assess the effects and alignment with policy direction on a case-by-case basis.

### Costs and benefits

176. There are limited costs associated with the proposed amendments, as the changes generally reduce regulation through changes in activity status and improve the ease of Plan use, with associated benefits to land owners. The additional control over lots containing existing buildings does impose some additional costs on landowners, however these costs are considered to be outweighed by the benefits of ensuring that new lot boundaries achieve a reasonable level of amenity and outcomes that are consistent with the character anticipated of the area.
177. A change in activity status from non-complying to discretionary still enables a robust assessment of effects and policy alignment to be undertaken, therefore does not result in any costs to the community in terms of loss of protection for sites with heritage or cultural value.

### Risk of acting or not acting

178. There are no additional risks in acting or not acting, noting that in the Village Zone there are only a small number of heritage items or sites with cultural or natural value. 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

179. 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.

## Section 8

### Rule 24.4.9 Road Frontage

#### Introduction

180. Rule 24.4.9 requires all new lots to have a minimum of 20m road frontage. The purpose of the rule is to achieve both transport safety outcomes (though providing separation between access points), and wider amenity and urban design outcomes consistent with the zone's low density village character.

#### Submissions

181. Seven submission points were received in relation to the road frontage rule. The submissions seek a range of outcomes, from supporting the retention of the rule (Sharp

Planning Solutions Ltd [695.139]), supporting it with minor modification, or seeking it to be replaced with a minimum 3m rather than 20m frontage requirement.

182. The reasons for the relief sought are:

- Waikato District Council [697.1012] seeks several minor amendments to add clarity and to remove a matter of discretion that references rural character which is not appropriate for a residential zone. Revised wording to improve clarity is likewise sought by Greig Metcalfe [602.7] and Horotiu Properties Ltd [397.16].
- Greig Developments No 2 Ltd [689.24] and The Surveying Company [746.133] seek similar relief that the 20m frontage requirement be deleted and replaced by Rule 26.6.4 in the Franklin Section of the Operative Plan which requires a 3m rather than 20m frontage. The reasons are that the layout of a development is dependent on the size and shape of the site as well as its topography (amongst other constraints). While a 20m minimum width along a road boundary can generally work in many developments that have the ability to follow a grid design, not every site is flat with no size/shape constraints.
- NZTA [742.155] supports the proposed 20m minimum width for lots with a road boundary as this will enable safe separation distance between vehicle entrances. They also seek (with minor amendment) the retention of the proposed matter of discretion that enables consideration of the safety and efficiency of the road network.

183. The following amendments are sought:

Submission point	Submitter	Summary of submission
602.7	Greig Metcalfe	Amend Rule 24.4.9 RDI (a) Road frontage, by deleting RDI(a) and replacing with the following: <i><u>(a) Every proposed lot must have at least 20m frontage to a road boundary, except where the proposed lot is an access allotment, utility allotment or a right of way or access leg is provided.</u></i> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
397.16	Horotiu Properties Ltd	Amend Rule 24.4.9 RDI (a) Road frontage, by deleting RDI(a) and replacing with the following: <i><u>(a) Every proposed lot must have at least 20m frontage to a road boundary, except where the proposed lot is an access allotment, utility allotment or a right of way or access leg is provided.</u></i> AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
697.1012	Waikato District Council	Amend Rule 24.4.9 Road frontage, as follows: <i>(a) Every proposed lot <del>as part of the subdivision</del> with a road boundary, <del>other than a proposed lot containing</del> other than any access allotment, utility allotment, right of way or access leg, must have a width along the road boundary of at least 20m.</i> <i>(b) Council's discretion is restricted to the following matters:</i> <i>(i) Safety and efficiency of vehicle access and road network; and</i>

		(ii) <i>Amenity values <del>and rural character.</del></i>
689.24	Greig Developments No 2 Ltd	Amend Rule 24.4.9 RDI (a) Road frontage to adopt the provisions in the Operative District Plan – Franklin Section 26.6.4 Frontage to Road (Vehicular Access Requirement).
746.133	The Surveying Company	Delete Rule 24.4.9 RDI (a)-Subdivision - Road Frontage. AND Amend 24.4.9 RDI (a)-Subdivision-Road Frontage to adopt the Vehicular Access Requirements of the Operative Waikato District Plan- Franklin Section.
695.139	Sharp Planning Solutions Ltd	Retain the 20m frontage as proposed in Rule 24.4.9 RDI (a) Road frontage.
FS1187.17	Greig Developments No 2 Ltd	<i>Oppose submission 695.139</i>
FS1286.15	Horotiu Properties Ltd	<i>Support submission 695.139</i>
FS1308.105	Leigh Shaw on behalf of The Surveying Company	<i>Oppose submission 695.139</i>
742.155	NZTA	Retain Rule 24.4.9 RDI Road frontage, except for the amendments sought below AND Amend Rule 24.4.9 RDI Road frontage matter of discretion (b)(i), as follows: <i>Safety and efficiency of vehicle access and <del>road</del> <u>transport</u> network;</i> AND Request any consequential changes necessary to give effect to the relief sought in the submission.

## Analysis

184. Two submissions seek that the rule be amended to require a minimum 3m road frontage rather than the proposed 20m frontage. It is important that new lots are able to be provided with legal access to avoid lots becoming 'landlocked' and the owner unable to gain access without having to cross other privately-held property. Regardless of the content of the District Plan, s.106(1)(c) RMA enables the consent authority to refuse to grant a subdivision consent, or impose conditions, if it considers that insufficient provision has been made for legal and physical access to each allotment to be created by the subdivision.
185. There are no submissions opposing the principle of a rule requiring that each new lot be provided with legal access from a road. The issue is whether it is sufficient that the rule require the minimum width necessary, i.e. 3m, which equates to the minimum width of a functional vehicle access / driveway, or whether the frontage requirement should be larger.
186. The ability to gain physical access to a lot is only one part of the reasons for the rule. The rule also seeks to deliver reasonable separation between access points with associated road safety outcomes, and likewise seeks to deliver urban design and amenity outcomes commensurate with the low density village character anticipated in the zone.
187. Given my recommendations set out earlier that the minimum lot size in the Village Zone be 2,500m<sup>2</sup>, a requirement for lots to have a road frontage of 20m is not considered to be

unreasonable. A 20m frontage of a 2,500m<sup>2</sup> lot means that the lot will be some 125m deep, with lots that are larger in area than the minimum being deeper still. A requirement for a road frontage that is at least 20m long is not therefore considered to be unduly restrictive in terms of the design or layout for lots of this size. A 20m long frontage is consistent with the dimensions delivered on traditional ‘quarter acre’ sections, which are often 20m wide by 50m deep. A number of the Village-zoned areas reflect this traditional subdivision pattern, with the section width sufficient to enable dwellings to be set within their allotments, with garden planting and view shafts through and between dwellings commensurate with the established character in small settlements.

188. The 20m frontage requirement is potentially problematic in Tuakau and Te Kowhai where development down to 800m<sup>2</sup> lots is anticipated once servicing is in place. It is therefore recommended that where proposed lots are to be less than 1,000m<sup>2</sup>, the required frontage is reduced to 15m. This reduced dimension aligns with the equivalent rule in the Residential Zone (Rule 16.4.11) and recognises the smaller nature of these sites and the more suburban character that is anticipated.
189. It is important to emphasise that the rule does not apply to lots containing a right of way or access leg, i.e. ‘back sections’ or lots with shared driveways. The rule does not therefore preclude the formation of rear lots, rather it simply requires that front lots adjacent to the public road network have a reasonable length of frontage.
190. Whilst topography or site-specific circumstances can at times limit the ability to deliver lots with a reasonable length of road frontage, such circumstances do not appear to be generally applicable in the areas with a proposed Village Zoning. The majority of the smaller settlements are located on flat or gently rolling land and existing lots have a typically rectangular shape and/or a road frontage of at least 20m. All subdivision activities require that applicants go through a consent process - unlike landuse activities, there is no permitted activity route available. In the event that site-specific circumstances do make the provision of the required 20m length problematic, then the only regulatory consequence is that the resource consent that is required in any event has its status changed from being a restricted discretionary to a fully discretionary activity. This change in activity status enables the full range of site-specific constraints (and effects) to be fully assessed.
191. Submission points [602.7], [397.16] and [697.1012] all seek that the rule drafting be amended to improve clarity. Three alternative wordings are proposed, with the regulatory outcome the same across all three versions. The Council also seeks that reference in the matters of discretion to ‘rural character’ be deleted, as the Village Zone outcomes and character are not rural. I agree that reference to rural amenity is not appropriate, however reference to the anticipated character and amenity outcomes of the Village Zone in my view remains appropriate as a matter of discretion. The key reason for the minimum road frontage requirement is to achieve an open, spacious, low density village character. As such, it is recommended that this submission point be accepted in part, with the reference to rural character amended to instead read ‘low density village character’.
192. NZTA supports the rule and associated transport-related matter of discretion due to the transport safety benefits in having reasonable separation between vehicle access points (which is also a matter controlled through the Proposed Plan’s Transport provisions). The NZTA seek that matter of discretion (b)(i) be amended as follows “safety and efficiency of vehicle access and ~~road~~ transport network”. On the face of it there is little meaningful difference between the terms as they might apply to a matter of discretion. Consideration of the road network’s efficiency and safety would necessarily take into account effects on the users of the road network across different modes, e.g. pedestrians, cyclists, and car drivers. Given that the rule relates to road frontage length and is a commonly-understood term, it is recommended that the matter of discretion be retained unchanged.

## Recommendations



193. I recommend, for the reasons given above:
194. That the submissions from Greig Metcalfe [602.7], Horotiu Properties Ltd [397.16] and Sharp Planning Solutions Ltd [695.139], be **accepted**.
195. That the submissions from Waikato District Council [697.1012] be **accepted in part**.
196. That the submissions from NZTA [742.155] [689.24], The Surveying Company [746.133], and Surveying Services Ltd [382.5] be **rejected**.
197. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

198. The following amendments are recommended:

#### 24.4.9 Road Frontage

RDI	<p>Amend Rule 24.4.9 Road frontage, as follows:</p> <p><del>(a) — Every proposed lot as part of the subdivision with a road boundary, other than a proposed lot containing other than any access allotment, utility allotment, right of way or access leg, must have a width along the road boundary of at least 20m.</del></p> <p><u>(a) Every proposed lot must have at least 20m frontage to a road boundary, except where the proposed lot is an access allotment, utility allotment, or a right of way or access leg is provided. Or</u></p> <p><u>(b) In Tuakau and Te Kohai, where lots of less than 1,000m<sup>2</sup> are proposed, every lot must have at least 15m frontage to a road boundary, except where the proposed lot is an access allotment, utility allotment, or a right of way or access leg is provided</u></p> <p>(b) Council’s discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) Safety and efficiency of vehicle access and road network; and</li> <li>(ii) Amenity values and <del>rural</del> <u>low density village</u> character.</li> </ul>
DI	Subdivision that does not comply with Rule 24.4.9 RDI

### Section 32AA evaluation

199. The recommended amendments to Rule 24.4.9 RDI will provide clarification to assist with the understanding and readability of the rules and to reference the zone outcomes sought in the associated objective and policies. The amendments also provide better alignment with the equivalent Residential Zone rule and outcomes where smaller lots are anticipated in Tuakau and Te Kowhai. Accordingly, no s32AA evaluation is required.

## Section 9

### Rule 24.4.10 Subdivision Building Platform

## Introduction

200. Rule 24.4.10 requires proposed new lots to demonstrate that they are capable of containing a building platform. The reason for the rule is to ensure that lots are created where the primary anticipated activity (residential dwellings) is able to be plausibly constructed to a compliant design. The rule proposes two alternative standards, namely that lots can contain either a circle with a minimum diameter of 18m exclusive of yards, or a rectangle of at least 200m<sup>2</sup> and 15m width exclusive of yards.

## Submissions

201. Four submission points were received on this rule. One was in support from Surveying Services Ltd [382.6], two sought minor amendments to improve clarity (Greig Metcalfe [602.8] and Horotiu properties Ltd [397.10]), and one sought that either the rule trigger dimensions be inclusive of yard setbacks, or the minimum dimension for a building platform circle be reduced from 18m to 15m to better align with the 20m road frontage rule (and associated side yard setback requirements).

202. The following submission points were made:

Submission point	Submitter	Summary of submission
602.8	Greig Metcalfe	Amend Rule 24.4.10 (a) RDI Subdivision - Building platform, as follows:  <i>(a) Every proposed lot, other than <del>a new lot specifically for access, utility allotment &amp; an access allotment, utility allotment or reserve allotment</del>, must be capable of containing a building platform upon which a dwelling could be sited as a permitted activity, with the building platform being contained within either of the following dimensions...</i>
FS1388.1028	Mercury NZ Ltd	Oppose submission 602.8
382.6	Surveying Services Ltd	Support Rule 24.4.10
FS1388.80	Mercury NZ Ltd	Oppose submission 382.6
397.10	Horotiu Properties Ltd	Amend Rule 24.4.10 RDI Subdivision - Building Platform, as follows:  <i>(a) Every proposed lot, other than <del>a new lot specifically for access, utility allotment &amp; access allotment</del> <u>an access allotment, utility allotment or reserve allotment, must be capable of containing a building platform.</u></i>
943.60	McCraken Surveys Ltd	Amend Rule 24.4.10 RDI (a) (i) Subdivision - Building platform, to be inclusive of yards. OR Amend Rule 24.4.10 RDI (a) (i) - Subdivision - Building platform, as follows;  <i>(i) A circle with a diameter of at least <del>18</del> <u>15m</u> exclusive of yards;</i>

## Analysis

203. Horotiu Properties Ltd and Greig Metcalfe seek identical amendments to improve the clarity of the rule. I agree that the wording sought in the submissions assists in rule clarity and that these two submissions should therefore be accepted.
204. McCracken Surveys Ltd seeks that the rule be amended so that the required building platform dimensions are either inclusive of the required side and road boundary yard setbacks, or that the dimension of the building platform circle be reduced from 18m to 15m. I agree that the rule, as notified, is problematic when used in tandem with related Rule 24.4.9 requiring a minimum 20m road frontage. Lots that provide a 20m frontage (and are rectangular in shape) will not be able to provide a circle with a dimension of 18m and concurrently comply with the required yard setbacks (1.5m from side boundaries and 3m from road boundaries under Rule 24.3.6.1). A circle with a dimension of 15m as sought by the submitter provides an area of some 176m<sup>2</sup>. Whilst this is significantly less than the 254m<sup>2</sup> area required under an 18m diameter circle, it is still large enough to provide for a detached family home of a reasonable size. In reality, on lots that are at least 3,000m<sup>2</sup>, it should be generally straightforward to provide a functional building platform unless lots have a particularly irregular shape.
205. In Tuakau and Te Kowhai, if reticulated services become available and lots down to 800m<sup>2</sup> are enabled, then it is recommended that the building platform requirement simply be a 100m<sup>2</sup> rectangle excluding required yard setbacks to demonstrate that a modest single storey home can be contained within one of these smaller lots.
206. It is recommended that a consequential amendment is made to the rule to reference the specific boundary setback rule rather than the generic reference to 'yards' in order to improve rule clarity and certainty.

### Recommendations

207. I recommend, for the reasons given above, that the Hearings Panel:
- Amend Rule 24.4.10 to improve clarity;
  - Reduce the required minimum diameter of a building platform circle from 18m to 15m. In Tuakau and Te Kowhai include provision for a 150m<sup>2</sup> platform where lots are less than 1,000m<sup>2</sup>.
208. It is recommended that the submissions from McCracken Surveys Ltd [943.60], Horotiu Properties Ltd [397.10], and Greig Metcalfe [602.8] be **accepted**.
209. It is recommended that the submission from Surveying Services Ltd [382.6] be **accepted in part** due to the amendments recommend in response to other submissions.
210. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

211. The following amendments are recommended:

#### 24.4.10 Building Platform

RDI	(a) Every proposed lot, other than <del>a new lot specifically for access, utility allotment &amp; access allotment</del> <u>an access allotment, utility allotment, or reserve allotment</u> , must be capable of containing a building platform upon which a dwelling could be sited as a permitted activity, with the building platform being contained within either of the
-----	---

	<p>following dimensions:</p> <p>(i) a circle with a diameter of at least <del>18m</del> <u>15m</u> exclusive of the <del>yards</del> <u>boundary setbacks required in Rule 24.3.6.1</u>; or</p> <p>(ii) a rectangle of at least 200m<sup>2</sup> with a minimum dimension of 12m exclusive of <del>yards</del> <u>the boundary setbacks required in Rule 24.3.6.1</u>; or</p> <p>(iii) <u>In Tuakau and Te Kohai, proposed lots of less than 1,000m<sup>2</sup> must show a building platform of at least 150m<sup>2</sup> exclusive of the boundary setbacks required in Rule 24.3.6.1.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Subdivision layout;</p> <p>(ii) Shape of allotments;</p> <p>(iii) Ability of allotments to accommodate a practical building platform;</p> <p>(iv) Likely location of future buildings and their potential effects on the environment;</p> <p>(v) Avoidance or mitigation of natural hazards;</p> <p>(vi) Geotechnical suitability for building;</p> <p>Ponding areas and primary overland flow paths.</p>
DI	Subdivision that does not comply with Rule 24.4.10 RDI

### Section 32AA evaluation

212. The recommended amendments to Rule 24.4.10 RDI are to provide clarification to assist with the understanding and readability of the rules and to better integrate with the related rules controlling road boundary frontage and yard setbacks, whilst maintaining the purpose of the rule as notified to ensure that new lots are capable of plausibly containing a compliant dwelling. Accordingly, no s32AA evaluation is required.

## Section 10

### Rule 24.4.11 Subdivision Creating Reserves –

#### Introduction

213. Rule 24.4.11 requires reserves that are proposed to be vested in Council (other than esplanade reserves) to be bordered by roads along at least 50% of their boundary. The purpose of the rule is to ensure that Crime Prevention Through Urban Design ('CPTED') outcomes are achieved by enabling passive surveillance of parks, along with easy accessibility by the public as part of enabling parks to be actively used, visible, and valued open spaces.

#### Submissions

214. Four submission points were received that sought amendments to this rule. The submissions seek:
- That the 50% road frontage requirement be reduced to 20% (Surveying Services Ltd [382.7]). The reasons for the submission are that the rule does not promote sustainable development and the cost of housing due to the additional road construction costs required by the rule, unless Council is doing the development or is willing to reimburse the developer for the additional costs incurred;

- Greig Developments No 2 Ltd [689.25] and The Surveying Company [746.134] both oppose the rule and seek that it be deleted, with the design of reserves to vest instead, forming a matter of discretion under the general subdivision matters (i.e. Rule 24.4.1 or 24.4.2). The reason for opposing the rule in its entirety is due to the costs and arbitrary nature of the rule with outcomes that would be better achieved through the use of assessment matters.
- Counties Power Ltd [405.83] seeks that an additional assessment matter be added to ensure that the design of reserve lots maintains access to existing network infrastructure assets.
- For completeness, no submitters sought that the rule be retained.

215. The following submission points were made:

Submission point	Submitter	Summary of submission
689.25	Greig Developments no 2 Ltd	Delete Rule 24.4.11(a) and make road frontage length a matter of discretion
746.134	The Surveying Company	Delete Rule 24.4.11(a) and make road frontage length a matter of discretion
382.7	Brent Trail for Surveying Services Ltd	Amend Rule 24.4.11 RDI(a) <i>(a) reserve, including where a reserve is identified within a structure plan or master plan (other than an esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% 20% of its boundaries.</i>
FS1308.30	The Surveying Company	Oppose submission 382.7
FS1187.16	Greig Developments No 2 Ltd	Oppose submission 382.7
405.83	Counties Power Ltd	Add a matter of discretion to Rule 24.4.11 RDI(b) Subdivision Creating Reserves as follows: <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets.</u>
FS1211.56	First Gas	Support submission 405.83

## Analysis

216. The rule as notified applies to all reserves that are to be vested in Council (apart from esplanade reserves). The purpose of the rule is to achieve good outcomes for recreation reserves / parks, and as such should not apply to reserves that are vested for other purposes such as roading, utility infrastructure, or local purpose reserves for walkways. It is likewise noted that the term 'reserve' has both a general meaning of a synonym for park, and a specific meaning in terms of the Reserves Act 1977, where land becomes a 'reserve' when it is vested for a specified purpose. The rule is intended to apply to all lots that are to be vested in Council for recreation purposes. It is recommended that the rule be amended to provide greater clarity on these points and is restructured to provide better grammatical clarity. These drafting amendments will have the effect of reducing the impact of the rule,

and as such fall broadly within the scope of the relief sought by the submitters and further submitters that sought the complete deletion of a minimum road frontage requirement.

217. The purpose of the rule, as it relates to the design of lots that are to be vested in Council for use as public parks, is to ensure that these parks are clearly visible from the street. There is a threefold purpose in ensuring this connection, as expressed in Policies 4.7.2 and 4.7.10:
- a. **Accessibility:** For parks to be used, they need to be readily accessible to the community they serve. This is especially the case for people with restricted mobility, and also to provide easy access from adjacent on-street parking to facilitate formal and informal use;
  - b. **Visibility:** part of the character of the Village Zone is the large lots and open, spacious environment with views between dwellings. The location of parks can assist in maintaining and enhancing this spacious character by providing views to larger areas of open space from roads;
  - c. **Safety:** Passive surveillance and overlooking of parks from both adjacent road corridors and dwellings can be a key determinant of good CPTED outcomes.
218. The rule is a tool to achieve these outcomes and to ensure that the Council is not provided with lots that are intended for use as public parks that are ‘tucked away’ behind houses. This outcome results in public spaces that are less accessible and provide fewer amenity benefits than would be the case if they were located with a reasonable road frontage. These outcomes were considered by Mr Matheson in his s42A report to Hearing 3, where he recommended an amendment to Policy 4.7.2 relating to subdivision location and design so as to “*ensure subdivision is located and designed to:...(iv) retain existing access to public space and public access to new areas of public space that promote park edges that enhance the interface with urban design and amenity; (v) Promote safe communities through quality urban design including implementation of Crime Prevention through Environmental Design (CPTED) and accessibility for emergency and other services*”.
219. I therefore support a requirement for new parks to have a reasonable proportion of road frontage. The proposed requirement for a minimum of 50% road frontage is, however, considered to be problematic. In practice, it will mean that parks have to be located on corner sites where at least two sides are open to the road. Parks will alternatively need to extend through a block to have two road frontages that are in combination at least as long as the park’s internal boundaries. Any other layout option becomes mathematically challenging to achieve a road frontage of at least 50% across all boundaries. A 50% frontage requirement is therefore considered to be unduly limiting in terms of subdivision layout and is not necessary for achieving the above outcomes.
220. Some requirement for a minimum road frontage length is however considered to be appropriate, as reliance solely on assessment matters can be challenging when schemes are presented with parks largely landlocked or hidden behind development lots. These proposals require a substantial redrafting of the subdivision layout to achieve the desired outcomes when relying solely on assessment matters.
221. The minimum frontage of 20% sought by Surveying Services Ltd [382.7] is considered to strike an appropriate balance between enabling design flexibility, whilst concurrently ensuring that new parks are provided with a reasonable level of openness and visibility from the adjacent road network. The 20% frontage will in particular enable the provision of mid-block parks and parks that connect through the middle of a block where the road frontages are shorter than the internal boundaries. A requirement for 20% road frontage is a minimum standard, with lot shape, layout, and location remaining matters of discretion that enable Council to seek a higher proportion of road frontage where necessary, as part of the subdivision consent process. As the rule only relates to lots that are to vest in Council,

Council also has a level of control over the shape and design of the reserve through its role as ultimate asset owner and its acceptance (or not) of the land to vest.

222. The submission from Counties Power Ltd [405.83] seeks that an additional assessment matter be included in the rule to provide opportunity for Council to consider whether the proposed layout of any new parks would unduly impede access to, and maintenance of, existing network infrastructure. Given the strategic role that network infrastructure plays in meeting the wider needs of the community, it is recommended that this submission point and associated further submission [FS1211.56] in support be accepted.

### Recommendations

223. I recommend, for the reasons given above, that the Hearings Panel:
- a. Amend Rule 24.4.11 to improve clarity and to focus its scope on reserves for recreation purposes;
  - b. Reduce the required minimum road frontage from 50% to 20%.
224. It is recommended that the submissions from Surveying Services Ltd [382.7] and Counties Power Ltd [405.83] be **accepted**.
225. It is recommended that the submission from Greig Developments No 2 Ltd [689.25] and The Surveying Company [746.134] be **rejected**.
226. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

227. The following amendments are recommended, noting that rule RDI(a) is proposed to be reordered to improve grammatical clarity. It is therefore shown as entirely struck through. The only substantive change is in relation to the change from 50% to 20% road frontage:

#### 24.4.11 Subdivision Creating Reserves

RDI	<p><del>(a) Every reserve, including where a reserve is identified within a structure plan or master plan (other than an esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% of its boundaries.</del></p> <p>(a) <u>Every reserve, including where a reserve is identified within a structure plan or master plan, and is proposed for vesting for recreation purposes as part of the subdivision, must be bordered by roads along at least 20% of its boundaries (other than an esplanade reserve or local purpose reserve for walkway purposes).</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>(i) The extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy;</li> <li>(ii) Consistency with any relevant structure plan or master plan;</li> <li>(iii) Reserve size and location;</li> <li>(iv) Proximity to other reserves;</li> <li>(v) The existing reserve supply in the surrounding area;</li> <li>(vi) Whether the reserve is of suitable topography for future use and development;</li> </ol>
-----	---

	<p>(vii) Measures required to bring the reserve up to council standard prior to vesting;</p> <p>(viii) The type and standard of boundary fencing;</p> <p>(ix) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets.</p>
DI	Subdivision that does not comply with Rule 24.2.11 RDI

### Section 32AA evaluation

228. The following points evaluate the recommended changes under Section 32AA of the RMA.

#### Effectiveness and efficiency

229. The amendments relating to improving rule clarity and scope are considered to be both effective and efficient compared with the uncertainty in the rule as notified.
230. The reduction in the minimum road frontage requirement to 20% is considered to be effective in ensuring that new parks will have a reasonable length that is adjacent to the public road network, whilst concurrently being effective in not unduly precluding design flexibility. The 50% requirement is mathematically challenging for new parks that are not located on corner sites, therefore is likely to generate unnecessary consents, as fully discretionary activities which would be inefficient.
231. The additional matter of discretion enables consideration of the shape and location of proposed recreation reserve lots to ensure that access is able to be maintained to strategic network infrastructure. The additional matter is considered to be effective in ensuring that such access is able to be maintained, and is efficient as a matter that can be considered as part of wider consideration of lot size, shape, and layout through the resource consent process.

#### Costs and benefits

232. The drafting amendments to improve clarity will reduce costs through ensuring that the rule is correctly applied and targeted on the frontages of new parks, rather than all types of land that is vested in Council for non-recreation purposes.
233. The amendments to reduce the road frontage requirements will ensure that unnecessary costs and loss of design flexibility are not placed on developers, whilst concurrently still delivering the benefits associated with new parks having a reasonable road frontage.
234. The additional matter of discretion regarding the provision of access to strategic infrastructure does not increase the need for consents, as applicants will already be required to obtain consent. Costs are therefore limited to the time associated with undertaking an additional assessment to demonstrate that access is able to be maintained, along with potentially having to modify the proposed lot layout to demonstrate the provision of such access. Given the strategic role of network infrastructure, the benefits of the proposed amendment are considered to outweigh the costs to the community.

#### Risk of acting or not acting

235. The risk of acting to reduce the road frontage requirement is considered to be low, as the rule will continue to require a reasonable length of road frontage as a minimum, with overall park layout and design remaining as a matter of discretion, and also a matter that Council has a degree of control over as ultimate asset owner. The risks of not acting are that the 50% requirement is unduly onerous, restricts design flexibility, will add costs through additional consenting requirements associated with a change in activity status.



236. With the proposed new assessment matter, whilst such risks of not acting are low, as assessed above the costs in avoiding such risks through the addition of a further matter of discretion are also low, and are outweighed by the benefits in ensuring the ongoing provision of network infrastructure to the community.

### Decision about most appropriate option

237. The amendment continues to reflect to the relevant objective and policies of Chapter 4.3. It is my opinion that the recommended amendment is more appropriate in achieving the purpose of the RMA than the notified version.

## Section 11

### Rule 24.4.12 Subdivision of Esplanade Reserves and Esplanade Strips

#### 13.1 Introduction

238. Rule 24.4.12 requires the provision of an esplanade reserve or strip of 20m (or as otherwise specified in Appendix 4 'Esplanade Priority Areas'), where subdivision is proposed near waterways of more than 3m width, mean high water springs (i.e. the coastal edge), or lakes that are larger than 8ha.
239. It is noted that this rule is repeated across the subdivision provisions relating to different zones. In relation to the geographic locations of the Village Zones, there are very few instances of such zones being placed directly adjacent to the coastline or larger lakes where there is not already a vested road reserve located between the zone boundary and the waterbody. Being adjacent to waterways is therefore the likely trigger for this provision, as it applies specifically to the Village Zone.

#### Submissions

240. Three submission points were received that sought amendments to the rule. Two submissions - Greig Developments No 2 Ltd [689.26] and The Surveying Company [746.135] - sought that the rule be replaced by Rule 11.5 in the Franklin Section of the Operative District Plan. The submitters acknowledged the need for esplanade reserves and strips to be provided, however they considered that this needs to be assessed on a case-by-case basis, with a waiver or reduction in width possible in certain circumstances.
241. The submission from Counties Power Ltd [405.84] sought an additional matter of discretion to enable consideration of the effects of any proposed esplanade reserves or strips on the operation of existing infrastructure assets.
242. For completeness, no submissions were received seeking the retention of the rule as notified.
243. The following submission points were made:

Submission point	Submitter	Summary of submission
689.26	Greig Developments No 2 Ltd	Delete rule 24.4.12 and replace it with Rule 11.5 in the Franklin Section of the Operative Plan.
746.135	The Surveying Company	Delete rule 24.4.12 and replace it with Rule 11.5 in the Franklin Section of the Operative Plan.

405.84	Counties Power Ltd	Add an additional matter of discretion to Rule 24.4.12(b): <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u>
--------	--------------------	---

## Analysis

244. The ability for Councils to seek to take esplanade reserves and strips has long been a feature of district plans as an important tool for enabling the development of walkway networks and public access to rivers, lakes and the coastline. Section 229 RMA sets out the purposes of esplanade reserves and strips, which in summary are for conservation, public access, and natural hazard mitigation. Section 230 RMA sets out the requirements for when esplanade reserves or strips are to be taken. It sets an expectation that such reserves will be taken when land is proposed to be subdivided adjacent to waterways, lakes, or the coastline (Mean High Water Spring), with the default dimension from the reserve set at 20m. The RMA provides for this default requirement to be altered via rules in a district plan to reflect the priorities of the affected community. Compensation is not payable for the taking of reserves for lots of less than 4ha and width of less than 20m. For lots larger than 4ha or widths over 0m, then compensation is payable unless the owner agrees otherwise (s.237E).
245. No submissions were received in opposition to the principle of taking such reserves, with the two submissions accepting that such reserves provide benefits through enabling public access and recreation.
246. Rule 24.4.11 as notified to a certain extent reflects s230 RMA which sets out the scenarios for when reserves are to be taken. The rule as notified is however ambiguous in its treatment of lots larger than 40m, or lots that are located more than 20m from the edge of a waterbody. Given that there are few substantial waterbodies within the Village Zoned areas and esplanade reserve would be of limited recreation value where waterways are less than 3m wide, it is recommended that the rule be rationalised to remove ambiguity. In making this recommendation it is noted that there is only a small section of Port Waikato that is adjacent to the coastline, with this area subject to natural hazard risk where further subdivision or intensification is not anticipated (and would be a fully discretionary activity under proposed rule 24.4.9 discussed above).
247. Whilst accepting the principle behind the rule, the submitters sought that the wording of the rule be replaced with a similar provision from the Franklin Section of the Operative Plan. This alternative provision includes a mechanism for Council to provide a 'waiver' from the need to provide such reserves, or alternatively to reduce the required width. The relevant Operative Plan provision is as follows:

*Rule 11.5 – Esplanade Reserves and Strips*

1. *Where any subdivision of land adjoining:*

- (i) *The coastal marine area,*
- (ii) *A river whose bed has an average width of 3 metres or more, or*
- (iii) *A lake whose bed has an area of 8 hectares or more,*

*creates a lot of less than 4 hectares, an esplanade reserve or an esplanade strip of 20 metres in width, measured in a landward direction from the mark of Mean High Water Springs or from the bank of any river or lake shall be set aside, except where a waiver or reduction is granted under Rule 3 and Rule 4 below.*

- 2. *Council may require an esplanade reserve of strip of a width greater than 20 metres where areas have been identified on the district planning maps.*

3. *Requirements for esplanade reserves or strips may be waived where the applicant can demonstrate that:*
    - (i) *The land has little or no value in terms of the objectives and policies of this plan.*
    - (ii) *Where existing conservation values are protected in perpetuity, provided that where appropriate public access is secured along the margins of the coast, river or lake concerned.*
  4. *Requirements for esplanade reserves or strips may be reduced where:*
    - (i) *Existing buildings are located within the 20 metre area and it is not appropriate to remove the building, and public access can still be secured along the margins of the coast, river, or lake.*
    - (ii) *The features or topography of the site means little benefit is gained from acquiring the full 20 metre width.*
248. Subdivision activity is different from most other activities undertaken in the District, insofar as there is no permitted baseline or level of subdivision that can occur without the need for a resource consent. Apart from boundary adjustments and the conversion of cross leases as controlled activities (Rules 24.4.3 and 24.4.4), all other types of subdivision require consent as a restricted discretionary activity (at a minimum). As such, gaining a waiver from the esplanade reserve requirements does not mean that the activity is permitted. A resource consent will still need to be obtained under the general subdivision provisions of Rules 24.4.1 or 24.4.2. The waiver, as sought by the submitters, does not therefore avoid the need for consent, rather it avoids the change in activity status from a restricted discretionary to a fully discretionary activity.
249. The waiver requirements in the Operative Plan include inherently subjective elements that require a degree of assessment and value judgement, such as achieving the Plan's objectives and policies. As such, I am not convinced that they function effectively as rule triggers or thresholds. I do, however, agree with the submitters that there may well be instances where a case-by-case assessment is necessary, and where there are site-specific circumstances that would mean that little public access or conservation value would be gained by taking reserves and/or where the width of the reserve could be reduced.
250. The rule as notified includes matters of discretion that relate to consideration of the width of the strip. There would be merit in the inclusions of additional matters of discretion enable consideration of site-specific circumstances such as topography, the presence of existing buildings, or conservation values, that mean that reduced or no reserves would be appropriate. Such assessment matters would not, however, avoid the change in activity status from restricted discretion to full discretion, as the trigger rests in clause (a) of the rule and the associated 20m minimum dimension.
251. Whilst not avoiding the change in activity status, additional matters of discretion would nonetheless provide direction to both applicants and Council officers that there may be case-by-case circumstances where a reduction in width or not taking reserves is appropriate. In this sense, the proposed approach is little different to that for subdivision applications in general, where there is no permitted route available and instead all applications are subject to assessment of their merits and site-specific circumstances through the consent process. Given that the appropriate width and location of reserves is inherently a matter requiring site-specific consideration, on balance it is considered that including a subjective waiver is less effective than retaining the notified approach, albeit with the inclusion of additional matters of discretion that provide direction for considering the types of circumstances addressed in the Operative Plan rule set out above.
252. On a separate matter, Counties Power Ltd [405.84] sought a further matter of discretion to enable consideration of the impact that new esplanade reserves or strips might have on the operation of existing infrastructure. Given the community benefits derived from network

infrastructure, it is considered that effects on this infrastructure is a legitimate matter to consider.

### Recommendations

253. I recommend, for the reasons given above, that:
254. The submission point from Counties Power Ltd [405.84] be **accepted**;
255. The submission points from Greig Developments No 2 Ltd [689.26] and The Surveying Company [746.135] be **accepted in part**.

### Recommended amendments

256. The following amendments are recommended:

#### 24.4.12 Subdivision of Esplanade Reserves and Esplanade Strips

RDI	<p>(a) Subdivision of an esplanade reserve or strip at least 20m wide (or other width stated in Appendix 4 (Esplanade Priority Areas) that is required to be created from every proposed lot shall vest in Council where <u>any of</u> the following situations apply:</p> <ul style="list-style-type: none"> <li>(i) <del>less than 4ha and</del> within 20m of: <ul style="list-style-type: none"> <li>A. Mean high water springs;</li> <li>B. The bank of any river whose bed has an average width of 3m or more; or</li> <li>C. A lake whose bed has an area of 8ha or more; <del>or</del></li> </ul> </li> <li>(ii) <del>more than 4ha;</del></li> <li>(iii) <del>or more than 20m from mean high water springs or a water body identified in Appendix 4 (Esplanade Priority Areas).</del></li> </ul> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) The type of esplanade provided - reserve or strip;</li> <li>(ii) Width of the esplanade reserve or strip;</li> <li>(iii) Provision of legal access to the esplanade reserve or strip;</li> <li>(iv) Matters provided for in an instrument creating an esplanade strip or access strip;</li> <li>(v) Works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris.</li> <li>(vi) <u>Layout and design in regard to effects on the operation, maintenance, upgrading and development of existing infrastructure assets;</u></li> <li>(vii) <u>Topography, the location of existing buildings, or alternative methods of securing ecological protection, that would justify a reduction in width or not requiring esplanade reserves or strips to be taken.</u></li> </ul>
DI	Subdivision that does not comply with Rule 24.4.12 RDI

### Section 32AA evaluation

257. The following points evaluate the recommended changes under Section 32AA of the RMA.

#### Effectiveness and efficiency

258. The additional matter of discretion is effective in enabling consideration of the site-specific circumstances of the subdivisions to be taken into account when assessing the width of the reserve or the need for the reserve at all. The additional matter is considered to be efficient as a matter that can be considered through the resource consent process as part of wider

consideration of lot size, shape, and layout that is required in any event through the general subdivision provisions.

259. The additional matter of discretion ensuring effects on the operation, maintenance, upgrading and development of existing infrastructure assets are assessed is an effective way of achieving Objective 6.1.1.

#### **Costs and benefits**

260. The amendments provide direction that there may be site-specific reasons for taking a small or no reserve where there would be limited or no value to recreation or conservation values. As such, the amendment helps to avoid the costs associated with taking unnecessary reserves, and likewise provides benefits to landowners where land of limited conservation or access value will be able to be retained in private ownership rather than vested in Council.
261. The additional assessment matters enable consideration of the presence of existing infrastructure and the benefits to the community of ensuring that the ongoing operation and maintenance of this infrastructure is not jeopardised by proposed subdivision layouts.

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

262. There are limited risks in either acting or not acting. All subdivision requires consent, with matters of discretion enabling consideration of lot layout and the vesting of reserves. The proposed amendments assist in providing further guidance as to circumstances where taking reserves may not be necessary. The risk of not acting is that the rule provides less guidance than it might, therefore esplanade reserves may be taken where they are not needed.

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

263. It is my opinion that the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version, in that they provide further direction and will assist in ensuring that esplanade reserves and strips are taken where public access and conservation benefits can be realised, and conversely will provide direction as to the circumstances where such reserves would be of little benefit.

## **Section 12**

### **Rule 24.4.13 Subdivision of Land Containing Mapped Off-road Walkways**

#### **Introduction**

264. Rule 24.4.13 RDI requires that where a walkway is shown on the planning maps, that that walkway is designed to achieve the specified standards relating to width, location, and vesting in Council as part of the subdivision consent process.

#### **Submissions**

265. Only one submission was received on this rule - from Waikato District Council [697.1013]. This submission sought a series of similar amendments to the rule to expand its scope to include bridleways and cycleways, as well as walkways.
266. No further submissions were received on this matter and no submissions were received seeking the rule's retention.
267. The following submission points were made:

Submission point	Submitter	Summary of submission
697.1013	Waikato District Council	<p>Amend Rule 24.4.13 RDI:</p> <p><i>24.4.13 Subdivision of land containing mapped off-road walkways, <u>cycleways</u>, <u>bridleways</u></i></p> <p>(a) <i>Subdivision where walkways shown on the planning maps are to be provided as RDI part of the subdivision must comply with all of the following conditions:</i></p> <p>(i) <i>The walkway, <u>cycleway</u> or <u>bridleway</u> is at least 3 metres wide and is designed and constructed for shared pedestrian, <del>an</del> cycle use <u>or</u> riding, as per Rule 14.12.1 P8 (Transportation);</i></p> <p>(ii) <i>The walkway, <u>cycleway</u> or <u>bridleway</u> is generally in accordance with the walkway, <u>cycleway</u> or <u>bridleway</u> route shown on the planning maps;</i></p> <p>(iii) <i>The walkway, <u>cycleway</u> or <u>bridleway</u> is shown on the plan of subdivision and vested in Council.</i></p> <p>(b) <i>Council's discretion is restricted to the following matters:</i></p> <p>(i) <i>Alignment of the walkway, <u>cycleway</u> or <u>bridleway</u>;</i></p> <p>(ii) <i>Drainage in relation to the walkway, <u>cycleway</u> or <u>bridleway</u>;</i></p> <p>(iii) <i>Standard of design and construction of the walkway, <u>cycleway</u> or <u>bridleway</u>;</i></p> <p>(iv) <i>Land stability;</i></p> <p>(v) <i>Amenity matters including batter slopes;</i></p> <p>(vi) <i>Connection to reserves.</i></p>

### Analysis

268. The submission seeks to amend Rule 24.4.13 for clarity, as the identified routes on the planning maps include functions that are broader than just walkways. The proposed amendment will improve upon the readability of the plan.

### Recommendations

269. I recommend that the submission by Waikato District Council [697.1013] be **accepted**.

### Recommended amendments

270. The following amendments are recommended:

#### **24.4.13 Subdivision of land containing mapped off-road walkways, cycleways, bridleways**

RDI	(a) Subdivision where walkways shown on the planning maps are to be provided as RDI part of the subdivision must comply with all of the following conditions:
-----	---

	<p>(i) The walkway, <u>cycleway or bridleway</u> is at least 3 metres wide and is designed and constructed for shared pedestrian, <del>an</del> cycle use <u>or</u> riding, as per Rule 14.12.1 P8 (Transportation);</p> <p>(ii) The walkway, <u>cycleway or bridleway</u> is generally in accordance with the walkway, <u>cycleway or bridleway</u> route shown on the planning maps;</p> <p>(iii) The walkway, <u>cycleway or bridleway</u> is shown on the plan of subdivision and vested in Council.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Alignment of the walkway, <u>cycleway or bridleway</u>;</p> <p>(ii) Drainage in relation to the walkway, <u>cycleway or bridleway</u>;</p> <p>(iii) Standard of design and construction of the walkway, <u>cycleway or bridleway</u>;</p> <p>(iv) Land stability;</p> <p>(v) Amenity matters including batter slopes;</p> <p>(vi) Connection to reserves.</p>
D1	Subdivision that does not comply with Rule 24.4.13 RD1

### Section 32AA evaluation

271. 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.

## Section 13

### Section 24.4– New Rules

#### 15.1 Submissions

272. Waikato District Council [697.1001] seeks the addition of a new 'Rule 24.4.8A' to provide for assessment of subdivision applications adjacent to the National Grid Corridor. The wider District Plan structure of each zone having its own self-contained set of subdivision rules means that the new rule is sought to ensure that consideration of the National Grid is appropriately undertaken. The submission is opposed in a further submission by Transpower NZ Ltd [FS/350.130], who are instead seeking that the Proposed Plan be structured such that all provisions relating to the National Grid are located in the same section.

Submission point	Submitter	Summary of submission
697.1001	Waikato District Council	<p>Add to Rule 24.4(2) Subdivision a new clause, as follows:</p> <p><u>(vii) Rule 24.4.8A – subdivision within the National Grid Corridor</u></p> <p>AND</p> <p>Undertake consequential renumbering;</p> <p>AND</p> <p>Add new rule after Rule 24.4.8A:</p>

		<p><u>24.4.8A Subdivision of land within the National Grid Corridor RDI</u></p> <p><u>(a) The subdivision of land within the National Grid Corridor must comply with all of the following conditions:</u></p> <p><u>(i) All allotments intended to contain a sensitive land use must provide a building platform for the likely principal building(s) and any building(s) for a sensitive land use located outside of the National Grid Yard, other than where the allotments are for roads, access ways or infrastructure; and</u></p> <p><u>(ii) The layout of allotments and any enabling earthworks must ensure that physical access is maintained to any National Grid support structures located on the allotments, including any balance area.</u></p> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><u>(i) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of the National Grid;</u></p> <p><u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u></p> <p><u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u></p> <p><u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</u></p> <p><u>NCI Any subdivision of land within the National Grid Corridor that does not comply with one or more of the conditions of Rule 24.4.8A RDI.</u></p>
FS1350.130	Transpower NZ Ltd	Oppose submission 697.1001
FS1387.765	Mercury NZ Ltd	Oppose submission 697.1001

### Analysis

273. The submission seeks to add a new rule to the Village Zone subdivision section to enable assessment of applications seeking to subdivide land adjacent to the National Grid. As nationally-strategic infrastructure, it is appropriate that subdivision applications are able to be assessed to ensure that the creation of new lots does not threaten the ongoing maintenance, operation and upgrading of the transmission network. In addition, Policy 10 of the National Policy Statement for Electricity Transmission requires that decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.
274. The structure of the Proposed Plan is such that each zone has its own self-contained set of rules relating to subdivision (among other matters). This approach means that rules on the same topic need to be replicated across the various zones. Transpower NZ Ltd have lodged a further submission opposing Council's submission insofar as it relates to provisions dealing with the National Grid. Transpower seek that all such provisions be located in the one section of the Proposed Plan.



275. The structure of district plans is now directed by the National Planning Standards ('NPS'), which seek a consistent layout and structure across all new district plans across New Zealand. I agree with Transpower's further submission that the NPS directs the consolidation of provisions as a district-wide matter. It is understood that the structure of the Proposed Plan and its alignment with the NPS is a matter that is to be reviewed towards the end of the hearing process to ensure that the Proposed Plan meets NPS requirements. Pending that review, it is recommended that the proposed new rule be added to the Village Zone as a legitimate matter to be assessed as part of the subdivision consent process.
276. However I understand Transpower New Zealand's desire for the rules regarding the National Grid to not be duplicated in each chapter. The rules regarding subdivision within the National Grid Corridor address land use, rather than the infrastructure itself, although they are located within the Infrastructure and Energy chapter of the Plan. I consider there is a risk that a landowner wishing to subdivide within the National Grid Corridor will not even realise that there are rules relating to this matter, and would not think to look in the Infrastructure and Energy chapter of the Plan. If the Hearings Panel were of a mind to avoid duplication across the Plan and collate the rules for the National Grid Yard and National Grid Corridor in one place in the Infrastructure and Energy chapter, then an alternative solution would be to have clear signposting in the subdivision sections of each zone chapter to the National Grid Corridor, and the location of those rules. This of course is one significant advantage of having an e-plan (as is required by the National Planning Standards) where a hyperlink can be provided in the subdivision section of each chapter to the rules for subdivision within the National Grid Corridor.

### Recommendations

277. It is recommended that the submission by Waikato District Council [697.1001] be **accepted**.
278. Further submissions are recommended to be accepted, accepted in part, or rejected as set out in Appendix 2, and in accordance with the above recommendations on the relevant primary submission point.

### Recommended amendments

279. The following amendments are recommended:

#### 24.4.X Subdivision within the National Grid Corridor

Add new clause reference to Rule 24.4(2):	
<a href="#"><u>Rule 24.4.x – subdivision within the National Grid Corridor</u></a>	
<b><u>RDI</u></b>	<p>Add new rule after Rule 24.48:</p> <p><a href="#"><u>24.4.x Subdivision of land within the National Grid Corridor</u></a></p> <p><a href="#"><u>(a) The subdivision of land within the National Grid Corridor must comply with all of the following conditions:</u></a></p> <p><a href="#"><u>(i) All allotments intended to contain a sensitive land use must provide a building platform for the likely principal building(s) and any building(s) for a sensitive land use located outside of the National Grid Yard, other than where the allotments are for roads, access ways or infrastructure; and</u></a></p> <p><a href="#"><u>(ii) The layout of allotments and any enabling earthworks must ensure that physical access is maintained to any National Grid support structures located on the</u></a></p>

	<p><u>allotments, including any balance area.</u></p> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><u>(i) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of the National Grid;</u></p> <p><u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u></p> <p><u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u></p> <p><u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</u></p>
<u>NCI</u>	<u>Subdivision that does not comply with Rule 24.4.8A RD I</u>

### Section 32AA evaluation

280. The role and importance of the National Grid is recognised in the Proposed Plan's objectives and policies and gives effect to the National Policy Statement for Electricity Transmission. The proposed amendments are to provide a consistent approach to the National Grid across the various subdivision sections of the relevant zones and does not constitute a material change to the rule other than its location in the Plan. Accordingly, no s32AA evaluation is required.

## 14 Conclusion

281. The proposed Village Zone is an amalgam of existing Operative Plan zones into a single consistent framework. The primary focus of the Village Zone provisions is on the District's smaller settlements where there are long-established pockets of housing at generally low densities and in locations that are surrounded by extensive rural areas. These smaller settlements are largely unserved or lacking spare capacity in the waters networks, and are in locations where further high levels of growth are not contemplated by the Proposed Plan's strategic approach of managing urban growth through consolidation in and around the larger townships. In response to submissions, I have recommended a number of changes to both the policies and the rules to better articulate the purpose of the zone and the anticipated outcomes.
282. The Village Zone has a different context in Tuakau and Te Kowhai, where large blocks of greenfield land that has a Rural Zoning in the Operative Plan are proposed to have a Village Zone, thereby providing for large lot urban growth. The Village Zone within Te Kowhai is identified as an urban growth area within the Future Proof Strategy set out in the WRPS. Tuakau is outside of the geographic scope of the Future Proof Strategy, but growth around this township is anticipated in the Franklin Growth Strategy, albeit that the proposed Village Zone extends beyond the boundaries anticipated in that strategy. The principle of these townships being suitable locations for further urban growth is not addressed by many submitters, however the integration of that growth with reticulated services and the consequential development potential has been challenged.
283. As neither of these townships has available reticulated infrastructure capacity (particularly wastewater), the Proposed Plan includes a 'transitional' mechanism, whereby these two growth areas provide for very low density housing prior to servicing, with further infill to

higher densities anticipated once that servicing is available. The suitability of this transitional approach has been questioned by submitters, particularly in terms of how it aligns with the density anticipated in the WRPS and integration of growth with services. The success of the proposed approach turns on the likelihood that reticulated services can be made available within the life of the Proposed Plan. Information provided by Watercare Waikato is that wastewater servicing for Te Kowhai is highly unlikely within the 10 year lifespan of the Plan and will be costly. However there is a possibility that funding be made available in the Long Term Plan and this project is brought forward. Tuakau is more likely to have wastewater servicing available as the Village Zone in Tuakau is adjoining the existing urban area. The challenge to development in Tuakau is also the lack of wastewater – but in this case it is the lack of capacity at the nearby treatment plant. Again this issue could be somewhat resolved by the upgrades of the plant being brought forward and funded accordingly in the Long Term Plan and Asset Management Plan.

284. Following on from the assessment of the zone purpose, policy direction, and density rules, I assessed submissions seeking amendments to the individual subdivision provisions. In general, these submissions have sought to refine and add clarity to the rules. I have recommended a number of amendments to improve the efficiency and effectiveness of these provisions.
285. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included throughout this report.





