

Waikato District Council  
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4 July 2023

**Attention: Independent Hearing Panel**

Dear Independent Hearing Panel

**Waikato District Council – Variation 3 to the proposed Waikato District Plan**

Fire and Emergency New Zealand (Fire and Emergency) made a submission on Variation 3 to the Proposed Waikato District Plan Decisions Version (PDP). Fire and Emergency have decided not to attend the hearing scheduled to commence 26 July 2023, and in lieu, request that this letter be tabled at the hearing for the Independent Hearing Panel's (the Panel's) consideration.

Fire and Emergency's submission addressed matters relating to activities required to be undertaken to enable an effective emergency response and to provide for the health and safety of people and communities in Waikato district. Issues of particular interest and relevance to Fire and Emergency broadly included:

- ensuring emergency service appliances and Fire and Emergency personnel can adequately access both built and natural environments across the district in the event of an emergency, and
- ensuring new development, including infill development, is adequately serviced by firefighting water supply.

A number of requested changes were sought to the proposed policy framework (where there was scope to do so) to reinforce Fire and Emergency's concerns and to strengthen the ability for Waikato District Council (WDC) in its regulatory function to consider the impacts that medium density development can have on emergency services when assessing resource consent applications.

The section 42A Hearing Report (42A report) on Variation 3 has been received along with WDC's expert evidence. There is general acceptance of the recommendations within the 42A report. The outstanding matters of which Fire and Emergency would like the Panel to turn their minds to are set out below.

42A recommendations

*MRZ2-S4 Setbacks*

Fire and Emergency acknowledged in its submission that MRZ2-S4 incorporates the density standards required by Part 2 of Schedule 3A of the Resource Management Act 1991 (RMA).

As set out in section 1.2.4 of its submission, Fire and Emergency raised concerns around the increased risk of fire spreading as a result of reduced boundary setbacks. Reduced setbacks can also inhibit Fire and Emergency personnel from getting to the fire source or other emergency. The difficulty of access may also increase the time for fire to burn, thereby increasing the heat radiation in a confined area.

Fire and Emergency acknowledge that firefighting access requirements and building setback controls are managed through the New Zealand Building Code however these requirements are limited in their application (i.e. do not apply in all residential built form scenarios). Fire and Emergency therefore consider it

important that these controls are at minimum, brought to the attention of plan users (i.e. developers) early on in the resource consent process so that they can incorporate the New Zealand Building Code requirements early on in their building design. Fire and Emergency therefore requested that an advice note is included with MRZ2-S4 directing plan users to the requirements of the New Zealand Building Code.

An additional matter of discretion was also sought where minimum setback requirements are not met, in order to address the potential adverse effects on the efficient movement of people in a fire or other emergency. These amendments were as follows:

Advice note:

Building setback requirements are further controlled by the Building Code. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent does not imply that waivers of Building Code requirements will be considered/granted.

Add new matter of discretion:

4. The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs.

The reporting officer has disagreed with Fire and Emergency that an additional matter of discretion and/or an advice note are necessary to manage building setbacks. In relation to the proposed matter of discretion the reporting officer is of the view that it is unclear what information would be required to demonstrate how the day to day needs of residents would be met. In relation to the advice note, the reporting officer notes that all new buildings are required to comply with the Building Code which covers a range of aspects including protection from fire and access. The reporting officer does not consider it necessary to remind plan users of their obligations under the Buildings Act or any other legislation. The district plan should not duplicate other legislative requirements. Therefore, the reporting officer has recommended that the submission points are rejected.

Fire and Emergency acknowledge that the requested wording is unclear however sought to align with the directions of the policy framework of the Medium Density Residential Standards (MDRS). Fire and Emergency requests that the Panel consider alternate wording, such as:

4. The extent to which the non-compliance compromises the ability for emergency services to access the property in an emergency.

Increase in risk profile for emergency services

On notification of Variation 3, Fire and Emergency was generally comfortable with the amendments and application of the MDRS across the district through the application of the urban fringe qualifying matter which limited the geographic application of the MDRS to within the walkable catchments of Pookeno, Tuakau, Huntly and Ngaaruawaahia.

Subsequent to the removal of the urban fringe qualifying matter and the application of the MDRS across all the land zoned Medium density residential and General residential within the four towns, this subsequently increased the risk profile of Variation 3 for Fire and Emergency on the basis that the existing water supply network was unlikely to cope with the intensities enabled by the MDRS in a maximum probable development scenario and specifically, the inability to meet firefighting requirements in parts of the network. Further, this could result in greater demand on emergency services as to what was originally anticipated at notification of Variation 3. As Fire and Emergency's interests were not the basis on a qualifying matter and Fire and Emergency acknowledged that, WDC did not expect significant growth (or growth beyond what has been

projected) within the four towns as a consequence of the MDRS (although acknowledging there will likely be changes to development form), no evidence was provided for the Panel's consideration at that time.

Notwithstanding this, Fire and Emergency was supportive of the additional qualifying matters that were subsequently identified by WDC, specifically the management of significant risks from natural hazards.

#### PDP / Variation 3 rule framework – water supply

Fire and Emergency's submission sought to ensure that new development, including infill development, is adequately serviced by water supply for firefighting. Fire and Emergency requested that all subsequent subdivision and development should be subject to development standards within the district plan requiring all applicants to demonstrate by way of providing evidence (i.e. hydrant flow testing) that their development can be adequately serviced for firefighting water supply in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 to manage the cumulative effects on the water supply network. Fire and Emergency consider that if this does not become part of the consenting regime, there will likely be development with inadequate firefighting water supply with potentially serious consequences for life and property.

Fire and Emergency acknowledged in its submission that water supply servicing for new development or subdivision in the new MDRZ2 would be required to comply with existing rule WWS-R10. WWS-R10 requires new development or subdivision be connected to any available public, reticulated water supply system. No specific rule amendments were sought as it was assumed WWS-R10 would include the requirement to confirm whether a connection could be achieved for any given development or subdivision in the MDRZ2 which would include a capacity check to then be able to determine whether an activity could proceed as a permitted activity under WWS-R10. Where a connection cannot not be achieved, resource consent is required as a restricted discretionary activity with a matter of discretion including the "Sufficiency of supply for firefighting". It was also assumed by Fire and Emergency that Watercare, as the water supply operator and WDC (under the water supply bylaw) will have a role in ensuring new connections are not granted where there is insufficient capacity to service a subdivision or development. Fire and Emergency indicated that this approval process should inform the resource consent process or be required to occur prior to applications being made for resource consent.

In Ms Huls planning evidence (three waters infrastructure and flooding), paragraph 17 and 18 set out the PDP requirements for water infrastructure. These include requirements for water supply via AINF-R16 that requires a water supply service connection at the time of subdivision and WWS-R10 as noted in Fire and Emergency's submission.

Paragraph 18, page 5 of Ms Huls planning evidence indicates that "...only the stormwater rules address pipe capacity considerations". Paragraph 19 continues, "There is generally no requirement within the PDP to consider infrastructure capacity where a developer is building three houses per lot and the developer does not intend to subdivide around those lots as enabled by the MDRS as this does not require a resource consent".

In Mr Telfer's evidence, paragraph 65, page 20 indicates that "While there are no significant existing issues with the three waters infrastructure in the district, this is due to the existing controls where resource consents are required for more than one dwelling and minor unit enabling capacity assessments to be undertaken. Water, wastewater and stormwater connections are assessed during the resource consent process to ensure suitable capacity is in place to maintain existing levels of service and to mitigate the impact on the receiving environments".

These statements (among others) make it somewhat unclear as to what PDP rule/s require water capacity assessments and which do not, how suitable capacity is "ensured" through this process, and what the applicant's obligations are to demonstrate network capacity exists. Based on various statements in the 32AA report, it is assumed that only subdivision consent applications enable an assessment of network capacity

and further assumed that the sole rule requiring this is AINF-R16. It is requested that clarification should be sought from WDC on this matter so that the existing water supply capacity assessment requirements of the PDP rule framework which now apply to MDRZ2 are clear, as to the regulatory gaps of which WDC are seeking to resolve.

#### Waikato District Council Water Supply Bylaw 2014

Fire and Emergency attended expert conferencing for 'water and wastewater' to better understand how WDC were intending to manage the increased risk profile of the MDRS in relation to its water supply infrastructure.

It is my understanding that in order to ensure permitted activities enabled through the MDRS (i.e. up to three residential units) are subject to capacity assessments, WDC propose to revise their internal processes to better manage connections to their networks. It is understood based on the s32AA that under the Waikato District Council Water Supply Bylaw 2014, only larger scale development that entails the development of 10 lots and above are assessed for effects on the capacity of water infrastructure. Other development is assumed to not be assessed for effects on capacity and connection granted due to the lower density development style that was enabled by the Operative District Plan and being more compatible with the sizing of water infrastructure.

The mechanism to provide WDC the ability to prevent permitted development from proceeding as permitted by the MDRS is to be through the Waikato District Council Water Supply Bylaw 2014 which provides WDC the ability to refuse connections as the network operator due to infrastructure issues.

Based on discussions at expert conferencing, the 32AA report and evidence from WDC, the new process will mean that all development and subdivision applications across the district that wish to connect to the water supply network will now be subject to a capacity assessment before any connection is granted under the Waikato District Council Water Supply Bylaw 2014. This subsequently provides WDC the ability to assess a development proposal and refuse connections as the network operator due to capacity constraints.

This approach is supported by Fire and Emergency on the basis that all development, not just those that trigger resource consent, receive capacity checks and that the capacity assessment includes consideration of level of service and compliance with SNZ PAS 4509:2008. Fire and Emergency would welcome the opportunity to engage with WDC in the refinement of their current process.

#### Suggested amendment to MRZ2-S1

At expert conferencing, there was concern that it may be difficult for homeowners who decide to develop their site to know what the requirements are if those requirements are not published outside of the Bylaw itself. WDC has indicated that they intend to publish information, so developers are aware of the need for capacity checks prior to advancing development proposals.

It is suggested that an amendment be made to MRZ2-S1 that indicates to the plan user that up to three residential units per site are a permitted activity, subject to having an approved water and/or stormwater connection (where applicable). This could be an activity specific standard or simply an advice note. A suggestion is provided below:

*Land use – building*

**MRZ2-S1 Residential unit**

(1) *Activity status: PER Where:*

(a) *Up to three residential units per site.*

**Activity-specific standard:**

**(b) a water and/or stormwater connection approval from the network provider.**

Thank you for consideration of these matters.

Yours sincerely



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