



New Plymouth District Council Plan Change Hearing Commissioners

Addendum to Section 42A Officer's Report (Response to Expert Evidence) - Proposed Private Plan Change 49: Johnston Street, Waitara
Rezoning
Prepared for New Plymouth District Council



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1.0 Introduction

Purpose of this Supplementary Officers' Report

- 1.01 This addendum to the Section 42A Report for Proposed Private Plan Change 49 Johnston Street, Waitara Rezoning request has been prepared in response to the expert evidence that has been received and pre-circulated before the hearing.
- 1.02 This addendum also clarifies any errors and omissions in the Section 42A Report.
- 1.03 Expert evidence was received from the following experts on behalf of the Applicant:
 - Matthew Hareb – Applicant
 - Derek Foy – Economic and Urban Form
 - Ivan Bruce - Archaeology
 - Timothy Muller – Preliminary Site Investigation (soil contamination)
 - Michael Matangi - Engineering
 - Cees Bevers – Ecological
 - Richard Bain – Landscape
 - Mark Georgeson - Transport
 - Kathryn Hooper - Planning
- 1.04 Expert evidence was received from the following expert on behalf of Waka Kotahi:
 - Natasha Reid - Planning
- 1.05 Expert evidence was received from the following expert on behalf of Te Kotahitanga o Te Atiawa Trust:
 - Sarah Mako – Cultural Advisor
- 1.06 The following report contains our further evaluation of the Plan Change addressing expert evidence received, specifically providing an evaluation of the following predominant matters raised in expert evidence:
 - Traffic effects and alignment with SH3 upgrades;
 - Stormwater detention design; and
 - Cultural Effects
 - Plan Change Provisions
- 1.07 This report also responds to matters that have now been clarified by the Applicant which were identified as outstanding at the time of preparing the original Section 42A report.
- 1.08 The report also provides our recommended plan provisions in **Appendix 2** and our overall conclusions and recommendations.

2.0 Errors and Omissions

- 1.09 Since publishing our Section 42A report, we have become aware of an error and an omission that we would like to clarify.
- 1.010 There is a formatting error in between paragraphs 11.63 and 11.64 where a subheading for “Electricity and Gas Infrastructure” is not shown as a subheading and remains within the previous paragraph. To clarify, paragraphs 11.64 and 11.65 refer to Electricity and Gas Infrastructure.
- 1.011 One of the technical reviews relied upon within our Section 42A report was omitted from the appendices. The review provided by the Council’s Senior Policy Advisor in relation to housing capacity and demand and referenced in paragraph 11.27 of the Section 42A report as “Appendix 5”. The review was distributed on 17 November 2020 at the same time the submitters expert evidence was provided (reference “Appendix 6A”). The main aspects of this report were captured in paragraphs 11.31-11.41 of our original S42A report.
- 1.012 We also understand that a submitter raised that a map we provided in the Section 42A report does not accurately reflect the location of their property in relation to the site. This map is appended to our original s42A report as Appendix 2. We note that the locations were derived from the address provided in the submission and accept that the locations may not provide an accurate or complete account of all of the submitters property(s). Ms Kathryn Hopper has provided a more accurate map showing full extent of the neighbouring residents in Appendix C of her evidence.

3.0 Proposed Change to Plan Change Request

- 1.013 This section summarises changes proposed to the original plan change request by the Applicant’s experts within their expert evidence. These matters have been proposed following the release of the original Section 42A report.
- 1.014 At the time of preparing the Section 42A report, a number of matters had not been confirmed by the Applicant which we referenced in our conclusions. The Applicant has proposed a number of additional provisions in response to concerns raised either by submitters or that we raised in our S42A report. Following a review of these, we are satisfied that the following matters have now been sufficiently assessed and will be provided for by the proposed provisions¹:
 - a. Landscape effects: The recommendations for provisions with the exception of providing street cross section details of E11 and E12 roadways to show how proposed planting is accommodated within the road corridor. This will be clarified during the subdivision stage through the detailed landscape plan.
 - b. Reverse Sensitivity: The Applicant has proposed an additional provision under Rule OL60H that provides the Council the ability to consider ‘no-complaints’ covenants. While we agree with an additional provision to manage reverse sensitivity, we consider that specific reference to one form of mitigation is not appropriate and restricts the Council’s ability to assess other, potentially more

¹ Which were unable to be verified in our initial s42A report

effective methods. We have recommended changes to the provision to provide for a more general consideration of mitigation options at the time of subdivision consent, which may or may not include 'no complaints' covenants. We consider that effects on reverse sensitivity will be sufficiently considered through the subdivision consenting stage with this additional provision.

- c. Engineering: The evidence of Mr Michael Matangi provides a more comprehensive assessment of the capacity for the three-waters infrastructure. Council's Engineers have reviewed this, and their response is provided in **Appendix 1**. In summary, they consider that sufficient evidence has been provided that the development can be adequately catered for through the existing infrastructure. Discrete matters for clarification will be required and there is a difference of opinion over the required bund height for stormwater detention and the infrastructure requirements for water connection; however, these are matters that are appropriate to be considered at the subdivision consenting stage. It is noted that this assessment in relation to stormwater only relates to the capacity, and effects of the stormwater management approach remain an outstanding matter as outlined below.

- 1.015 Notwithstanding the above, we have recommended discrete changes to the proposed provisions in relation to these matters in **Appendix 2**.
- 1.016 The remaining aspects of the proposal that we remain in a difference of opinion over are:
 - a. Structure and detail of the Plan Change provisions
 - b. Traffic effects;
 - c. Stormwater retention;
 - d. Open Space and Reserves;
 - e. Cultural effects
- 1.017 Waka Kotahi and Te Kotahitanga o Te Atiawa Trust also oppose aspects of the plan change outlined above as illustrated through their expert evidence.
- 1.018 Further discussion of these matters is provided in the section that follows including consideration of matters raised in the submitters evidence.

4.0 Supplementary Evaluation and Recommendations

4.1 Plan Change Provisions

- 1.019 The Applicant has proposed new policies, structure plan and rule provisions in the Plan Change Request (amended in evidence), however no new objective is proposed. Therefore, the existing objectives in the Operative District Plan provided the basis for evaluating the proposed new provisions. As outlined in the original

s42A Report, two objectives in the Operative District Plan are relevant. These objectives are:

Objective 19: *To recognise and provide for the cultural and spiritual values of tangata whenua in all aspects of resource management in the district in a manner which respects and accommodates tikanga Maori.*

Objective 23: *That land identified for future urban use is comprehensively planned to facilitate an integrated approach to land development while addressing site specific issues to provide for accessible, connected, efficient, liveable communities and coherent urban spaces.*

- 1.020 We consider that the proposed new policies address site specific issues that relate to the site which would partially contribute towards achieving the above objectives. However, we query whether the policies as a package recognise and provide for the cultural and spiritual values of tangata whenua or achieve an integrated approach.
- 1.021 Ms Mako also notes in paragraphs 25 and 26 of her evidence that the current provisions are not the most efficient or effective way of implementing the wider objectives of the operative plan.
- 1.022 We consider that an additional overarching and integration policy would be effective to ensure the outcomes proposed are achieved and that there is clear direction through the provisions to ensure matters are implemented.
- 1.023 To enable this, we have recommended the addition of new Policy 23.10A (see **Appendix 2**). This new policy provides direction on the outcomes that are sought and ensure an integrated approach.
- 1.024 We have also identified that the drafting of the plan change provisions will require adjusting to ensure that they are consistent with the Operative District Plan and to ensure that the proposed structure plan is effectively implemented. We note however that these adjustments would not introduce new provisions or concepts that have not already been discussed.
- 1.025 Due to time constraints and seeking further comment on the matters covered in this report, we have not provided a full set of recommended changes to the Plan provisions. However, we will provide these recommended provisions as part of our right of reply or the close of hearing in response to directions from the Commissioners.

4.2 Traffic safety

4.2.1 State Highway 3 Traffic Safety

- 1.026 In order to mitigate and avoid potential effects associated with traffic safety, the Applicant has proposed to change the rule framework and have introduced a stepped activity status moving from controlled to restricted discretionary where the subdivision exceeds 50 lots. It is understood that this approach is to reflect the 'tipping point' in terms of traffic effects and that development of up to 50 lots would not result in additional traffic safety effects at the intersection of Raleigh Street and SH3. As noted in our original S42A report, any additional traffic safety impacts

would be significant due to the existing safety issues at the intersection of Raleigh Street and SH3.

- 1.027 Mr Georgeson, traffic advisor for the Applicant, notes in his evidence in relation to this proposed approach that:

“I consider this is an appropriate mechanism to ensure that an appropriate level of assessment of development traffic is undertaken to quantify effects, to the satisfaction of the Council and the NZ Transport Agency, prior to consent being granted.”

- 1.028 While the above does indicate that effects on traffic safety will be minimised in any initial development, there is no direct reference to the ‘tipping point’.

- 1.029 Waka Kotahi have provided expert planning evidence provided by Natasha Reid. In her evidence, Ms Reid considers that the proposed staged approach does not provide enough certainty for mitigating effects on road safety and noted that the proposed 50 lot tipping point has no evidential basis. As an alternative, Ms Reid has revised the requested provision to as follows:

- a. Enable works such as vegetation clearance and earthworks (subject to the District Plan and the provisions of Construction traffic being provided to, and approved by, the Transport Agency);
- b. Subdivision consent, the legal creation of titles, and the construction of one dwelling per allotment (subject to District Plan);
- c. If the roundabouts and closure of Raleigh Street are not in place, the occupation of any dwelling and/or application for a code compliance certificate, will trigger the requirement to provide an integrated traffic assessment. This must include modelling and assessment of the current capacity of the Raleigh Street intersection and be provided to the Transport Agency for review and written approval.

- 1.030 Council’s Traffic Advisor agrees with Waka Kotahi that there is not an evidential basis for the 50 lot ‘tipping point’.

- 1.031 It therefore becomes a question over whether there is a requirement to have a regulatory backstop (i.e. policy and rule in the District Plan) to manage subdivision and development within the plan change area prior to the SH3 safety upgrades occurring.

- 1.032 Based on the existing safety issues at the intersection of Raleigh Street and SH3, further exasperation of traffic safety risk must be avoided. Therefore, we are of the opinion that a regulatory backstop is required.

- 1.033 We have considered the form of this regulatory backstop in the sections that follow.

4.2.1.1 Waka Kotahi

- 1.034 It is understood that the intent of the proposed provisions of Waka Kotahi is to enable preliminary site development and building construction works to occur, however, that no houses are inhabited until the State Highway intersection upgrades are completed.

- 1.035 Following discussions with Waka Kotahi, it is understood that this approach would be achieved through requiring a condition on the Certificate of Titles for building work to not be completed until the upgrades to SH3 are made or a similar provision. This condition would then be triggered during the building consent process via a consent notice. It is understood that this approach and condition has been applied to other similar situations.
- 1.036 As this approach is reliant on an alternative process, an additional prescriptive provision would be required to ensure this occurs.
- 1.037 While this approach may be effective from a traffic safety perspective and would provide for initial development, we question whether this approach would not be equitable for potential buyers as they would be precluded from occupying their homes. This approach could also limit the ability for different housing typologies (e.g. two dwellings on a site). Based on advice from Council's Senior Planning Lead about the lack of an ability to enforce such a condition, we consider that this approach is not an appropriate method for managing this issue.
- 4.2.1.2 Policy direction and framework
- 1.038 The Applicant has proposed an additional proposed policy (Policy 23.13) that is directly associated with effects on the transportation network. While we agree with the introduction of a specific policy provision, we consider that the policy as proposed requires amendment to ensure clear direction. We also note that the policy as proposed infers a third-party approval.
- 1.039 We have made recommended changes to the policy in the form of track changes in **Appendix 2**. Most notable change is the clear direction of 'avoid' which has been affirmed in the *King Salmon*² case, the word 'avoid' takes its ordinary meaning of 'not allow' or 'prevent the occurrence of'. We consider that this direction is required to ensure a certain outcome.
- 4.2.1.3 Rule Provision Options
- 1.040 There are a number of options that could be taken for managing the traffic concerns through the rule provision. We consider that the main options available are:
- a. "Controlled Activity approach" – this option would be leaving the activity status as proposed being a controlled activity and managing the effects on traffic through matters of control and directive policy outlined above.
 - b. "Restricted Discretionary Activity approach" – this option would remove the 'tipping point' provision and require that any subdivision and development undertaken prior to the SH3 upgrades is a Restricted Discretionary Activity. This option would provide the Council with the ability to either grant or decline the application based on the potential effects on traffic safety.
 - c. "Non-Complying Activity approach" – this option was initially sought by NZTA in their submission whereby the activity status for any subdivision and development prior to the upgrades will be non-complying enabling a more stringent assessment process with the introduction of the Section 104D 'gateway test'.

² *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38 (*King Salmon*).

- d. “Dual Controlled/Restricted Discretionary approach” – this is the option that is currently proposed by the Applicant in evidence which provides for a more enabling framework for subdivision of up to 50 lots being the ‘tipping point’ followed by a more restrictive framework as a restricted discretionary activity and the requirement for additional traffic management measures.
- e. “Dual Restricted Discretionary/Non-Complying approach” – this is similar to option d. however provides for a more stringent consenting pathway for both development of less than 50-lots and the development greater than 50-lots.

Evaluation of options

- 1.041 We agree with the Applicant that the initial proposed rule provision of primarily controlled activity status does not provide enough certainty that traffic effects can be adequately addressed. Controlled activity status would also result in an inability to decline an application made. There is also limited options for avoiding effects on SH3 given the main traffic concerns being associated with SH3 are outside of the control of the consent process; it is therefore unlikely that the consent could adequately manage effects. Option a. is therefore not considered appropriate.
- 1.042 Conversely, we consider that option c. is unduly restrictive for the reasons set out in paragraph 11.94 of our s42A report.
- 1.043 Option b. provides a singular rule framework for any development which would provide certainty to Council in that there is an ability to decline consent should there be an inappropriate level of traffic safety risk at any level of development. This option is less enabling for initial development and may result in a restrictive consenting process.
- 1.044 Option d. is what has currently been proposed by the Applicant. We agree that this approach provides a more effective mechanism of managing traffic effects than the suggested “Non-complying approach”. We would also be supportive of this approach if there was evidence to quantify the ‘tipping point’ and that development could occur without resulting in traffic safety risk to the SH3 interchange. However, as indicated above, we consider that there is currently not sufficient evidence to support this approach which is an opinion shared by Waka Kotahi.
- 1.045 Option e. sets out a similar ‘tipping point’ dual process, however, requires more stringent activity statuses and introduces the ‘gateway test’ for a development more than 50 lots. While we consider that the increased status from controlled to restricted discretionary is a more effective way of managing effects, we consider that the non-complying status remains unduly onerous and question whether the addition of non-complying status is necessary.
- 1.046 It is noted that none of the suggested options include the provision of a discretionary activity status as we consider that the effect is specific to traffic safety therefore this activity status would not provide any further discretion or ability to manage effects than a restricted discretionary activity status.

Recommendation

- 1.047 Based on our evaluation above, we consider that a restricted discretionary activity status (option b.) for any subdivision prior to the SH3 upgrades is the preferred option. This coupled with the amended policy as outlined in **Section 4.2.1.2** will

ensure that effects on traffic safety on SH3 will be effectively avoided. We consider that this achieves a balance between enabling development to occur, while ensuring traffic safety. This approach also ensures a simplistic framework for implementation. It is noted that this approach would still provide for subdivision as a controlled activity should the subdivision occur following the SH3 upgrades.

- 1.048 To enable this, we have recommended that a condition of the controlled activity rule require that subdivision does not occur prior to the planned intersection safety improvements. We have also amended the matters of restricted discretion to reflect this and to provide for an ability for the Council to effectively consider traffic effects.

4.2.2 Raleigh Street Effects

- 1.049 Council's Traffic Advisor has provided an addendum to his initial traffic assessment in response to the expert evidence. In his addendum, he has highlighted the traffic safety risk to Raleigh Street should the speed limit remain at 80 km/hr, however, notes that effects will be adequately managed should the limit be reduced to 50 km/hr.
- 1.050 Based on advice from Council's Network Management Lead, it is understood that a review of speed limits on rural roads, including Raleigh Street, is currently in progress. Based on this, we consider that it is likely that the speed limit will be reduced prior to the development occurring. However, we note that there is still a risk for a delay in changing the limit and potential for development to occur prior.
- 1.051 Due to the potential traffic safety effects and the current inability in the provisions to effectively manage this, we consider that it would be necessary to introduce a regulatory backstop similar to what has been recommended above for SH3 intersection effects. For this backstop, a rule provision requires subdivision consent as a Restricted Discretionary Activity should subdivision occur prior to a change in the speed limit.
- 1.052 This activity status, along with the matters of discretion recommended, will provide the Council with an ability to effectively manage traffic safety on Raleigh Street. Assuming the speed limit were to change, this rule would not be triggered.

4.3 Stormwater design

- 1.053 In our original Section 42A report, we noted that we were satisfied that the proposed stormwater design will have sufficient capacity and will not exacerbate flooding, however, raised concern over the proposed design of the stormwater system being a 'on-line' system based on the advice of Council's Open Space Planner and her experience and advice from Council's Network Planning Engineer. We also noted that the method would also need to align with any future holistic strategies for the Norman Catchment for improving flooding and water quality. Similar concerns were raised in the CIA with the notable adverse effect to the mauri of the stream and in not providing for Te Mana o Te Wai.
- 1.054 The Applicant has responded to this evaluation in their evidence by proposing the following additional provisions to manage effects associated with stormwater:

- a. An additional condition of the controlled activity rule requires that the stormwater disposal is designed so that it discharges to a “low impact design stormwater system”;
- b. An additional matter of control under the controlled activity rule provides the Council the ability to consider whether the stormwater management is consistent with the stormwater management projects within the Norman Catchment; and
- c. An additional specific policy has been proposed (Policy 23.10) that states:

To ensure stormwater management within the Waitara – Area D structure plan area is designed in accordance with best practice to minimise environmental impact, including recognising that the proposed stormwater system is to align with any future stormwater management projects for the Norman Catchment and the objectives of reducing flooding and improving water quality in this catchment.

- 1.055 In relation to the proposed stormwater design and the concerns raised in our Section 42A report and through the CIA, the Applicant considers that the provisions would ensure that unacceptable environmental outcomes are not reached, and that prohibition of instream structures is not required. Mr Michael Matangi, 3 waters advisor for the Applicant discusses the benefits of the current on-line detention option in his evidence but notes that off-line is an option (albeit not the preferred).
- 1.056 We agree that prohibiting instream structures is not necessary, provided there is a sufficient provision to ensure the effects are appropriately managed.
- 1.057 We also agree with the Applicant’s proposed outcomes for the stormwater design being a ‘low impact stormwater’ design, and in accordance with best practice. However, we consider that these terms are ill-defined and risk a sub optimal outcome.
- 1.058 As noted in our Section 42A report, we are satisfied that the stormwater system will provide sufficient capacity to manage stormwater inputs; however, this is only one of many aspects that must be taken into account. As the management of stormwater is a component of the proposed reserve and open space area, it is noted that there are a number of matters to be considered including cultural, ecological, landscape and natural character. To provide for these additional matters, we have recommended that the stormwater policy (Policy 23.10) is amended.
- 1.059 We note that the above would not preclude the proposed stormwater design (on-line).
- 1.060 As noted in our Section 42A report, the District Council has an obligation under the NPS to give effect to Te Mana o Te Wai for its urban streams. Giving effect to the Te Mana o Te Wai means providing for its fundamental concept that the ecological health and values of the wai come before all else, and that by protecting those values will ensure all other values are provided for. We consider that our recommended changes to the policy will ensure Te Mana o Te Wai is given effect to.

4.4 Open Space/Reserves

- 1.061 In our original Section 42A report, we made several recommendations in relation to open space and reserves (paragraphs 11.134-11.141). The Applicant has proposed a number of additional provisions in response to these recommendations.
- 1.062 We and Council's Open Space Reserves Planner (see **Appendix 1**) have reviewed the proposed provisions and consider recommendations (a)-(c) have been sufficiently provided for in the proposed provisions. However, recommendations (d), (e), (g) and (h) remain outstanding and require further consideration.
- 1.063 Council's Open Space Reserves Planner has noted that recommendation (d)³ has not been illustrated in the structure plan and has provided rationale for the wider esplanade reserve in an addendum attached as **Appendix 1**. It is recommended that the structure plan is updated to reflect the wider esplanade reserve in the southern end of the proposed subdivision.
- 1.064 Comments have been made regarding recommendation (e)⁴ in the previous section.
- 1.065 Council's Open Space Reserves Planner notes that Mr Bain in his evidence advises that native species will be 'predominantly' native which indicates that some plantings may be exotic. As outlined in recommendation (g)⁵, Council's Open Space Reserves Planner recommends that only native species are used. It is noted that it is also unclear under the current proposed provisions (Rule OL60P) with reference to "preference for" indigenous species. To ensure recommendation (g) is provided for, we have recommended a discrete change to a matter of control under Rule OL60P.
- 1.066 In relation to recommendation (h)⁶, Council's Open Space Reserves Planner has noted that the street plantings indicated on the structure plan does not respond to the recommendation as it does not provide for surety of the nature or scale of amenity outcomes, in particular it does not provide for larger groupings of plantings. This matter is discussed further by Council's Open Space Reserves Planner in **Appendix 1**. It is recommended that the structure plan is amended to account for this.
- 1.067 Overall, it is considered that further changes are required to the structure plan and provisions to account for the recommendations made by Council's Open Space Reserves Planner. We consider that these changes are required to provide a certainty of the outcomes for the open space and reserves. Subject to these changes to the structure plan, and the recommended changes to the stormwater policy outlined in the previous section, we consider open space and reserves will be provided for.

³ That consideration be given for some additional width of esplanade at the very southern and most narrow end of the proposed esplanade reserve in order to provide for a more sustainable riparian ecosystem and open space amenity outcome.

⁴ That online stormwater detention is reconsidered, to ensure open and flowing stream environment is maintained.

⁵ That only native species appropriate to the local area are used within the esplanade reserve planting.

⁶ That consideration be given to creating improved street frontage outcomes in terms of vegetation along Raleigh Street, with a focus on reducing dominance of the residential lots along the street through possible groupings of larger areas of planting. This may require consideration of lot access and mixing up of lot sizes in order to facilitate such a response or consideration of partial implementation of alternative layout 1.

4.5 Cultural Effects

- 1.068 At the time of preparing the original S42A report, we had recently received the draft CIA which provided a number of recommendations to ensure cultural effects are effectively managed. The Applicant had not indicated their position in relation to these recommendations; however, through their evidence, specifically Ms Kathryn Hooper's, a response to these recommendations has been made (paragraphs 15.1 to 15.9).
- 1.069 The Applicant has noted the following in response to the recommendations:
- a. The proposed structure plan provides for the provision of usable open space
 - b. Cultural narrative is provided through:
 - i. The existing NPDC road naming policy which allow for Tangata Whenua to be consulted with;
 - ii. Asset Management Plans integrate cultural narrative in open space areas;
 - iii. Additional matters of control under rule OL60h and OL60P to provide the ability to consider cultural narrative.
 - c. Additional provisions have been proposed to manage stormwater as outlined in the previous section, however the prohibition of structures within the watercourse will not be proposed given the effects do not require it.
- 1.070 Ms Sarah Mako has provided expert evidence on behalf of Te Kotahitanga o Te Ataiawa Trust. In her evidence, Ms Mako considers that the recommendations of the CIA have not been meaningfully provided through the proposed provisions as outlined above. Ms Mako noted that there are no fundamental changes to the structure plan and it fails to account for recommendations of the CIA.
- 1.071 Ms Mako considers that current provisions do not provide sufficient scope for meaningful consideration of the following matters during the subdivision consenting stage:
- a. Previously un-recorded archaeology;
 - b. Cultural Health Index, and how this informs Te Mana o te Wai, and the type of Stormwater solutions to be implemented;
 - c. Reflection of cultural narrative in the street layout and other features of the subdivision; and
 - d. In-stream structures and the reliance on consent form Taranaki Regional Council to install those as proposed.
- 1.072 In relation to a. and c. we agree that the plan change provisions do not currently provide for un-recorded archaeology and providing for a reflection of cultural narrative. We would be interested to hear from Ms Mako whether or how these matters would be best incorporated and provided for.
- 1.073 We consider that matters b. and d. have been accounted for in our revised policy for stormwater as outlined above. We have provided further recommendations for an

overarching policy in the section that follows that also takes these matters into account.

- 1.074 In addition, Ms Mako also raises a number of issues in relation to the proposed rules in paragraph 28 of her evidence which she indicates require discrete changes to correct. We discuss these and whether a change is required in the next section of this report.
- 1.075 In addition, Ms Mako in paragraph 28 (a) refers to rule parameters referencing the structure plan permitting certain activities that would not enable the recommendations of the CIA to be implemented. We are unclear on this reference, and seek clarification from Ms Mako on this point.
- 1.076 Ms Mako notes that rule OL60N is not clear in its wording “where visible from the rural environment area” and that there could be an interpretation issues related to what ‘visible’ would entail. We agree and consider that visibility should not be a factor in determining if the provision applies. We have recommended that this provision applies to all areas within the structure plan to remove this subjective element.
- 1.077 Ms Mako notes that the provisions relating to natural character refer only to “priority waterbodies” rather than waterbodies generally. The definition for “priority waterbodies” would not include Mangaiti Stream. We have recommended that these references are updated to specifically refer to Mangaiti Stream.
- 1.078 Ms Mako notes that the provisions are silent on whether written approval from mana whenua and post settlement governance entities is required. While not specifically referenced, we consider that the amended matters of control or restricted discretion would enable the Council to adequately consider effects in accordance with Section 95E and if the affects is minor (or more than minor), their written approval would be required. We consider that this is prescriptive and that further specific provisions are not required.
- 1.079 Ms Mako identifies that the provisions make reference to potential Norman Catchment stormwater projects, but omit detail on the scope, scale and how those projects give effect to Te Mana o Te Wai. Given a project for the Norman Catchment is yet to be established and would be initiated via a separate process, we do not consider that further evaluation of this is required under this plan change. The provisions recommended will ensure that there is an alignment with the general principles for any future catchment strategy/project based on advice by Council's Network Planning Lead.
- 1.080 The Applicant has proposed a specific policy in relation to cultural effects (Policy 23.14). This policy requires that cultural effects are avoided, remedied and mitigated and that Manukorihi and Otaraua Hapū are given the opportunity for cultural expression and monitoring.
- 1.081 In relation to the first part of this policy, we consider that requiring that cultural effects are avoided, remedied and mitigated provides no further direction to decision maker than what Section 104(1)(a) would. In relation to the second part, we note that this may not provide sufficient direction or clarify.

- 1.082 We note that while Ms Mako implied in her evidence that the provision (including Policy 23.14) are not appropriate, no direct comment has been made. We would be interested in Ms Mako's comments on the proposed policy.
- 1.083 At this stage we have not recommended any changes to the Policy as proposed, however will consider this further once hearing further evidence from Ms Mako and the Applicant.

5.0 Conclusion and Recommendations

- 1.084 That on the basis of the evidence and information available at this time, the Commissioners make the following recommendations to Council:
- (a) That pursuant to Clause 29(4) of Schedule One of the Resource Management Act 1991, Council approves Private Plan Change 49 in accordance with the reasons set out in the report above and subject to the recommended provisions attached as **Appendix 2**.
 - (b) Accepts, rejects, accepts in part or rejects in part submission points in line with the above recommendation.
- 1.085 The above recommendation is however subject to considering verbal evidence of submitters and the Applicant at the hearing. We intend to confirm our position in our right of reply.

Appendix 1: Technical Review Addendums



ADDENDUM

Stormwater

Further evidence, dated 9 November 2020, was submitted by Civil Infrastructure Consulting (CIC). This evidence responds to matters raised by New Plymouth District Council Three Waters and other submitters.

At paragraph 19 – 21 the evidence describes the proposed stormwater bund and notes that the actual bund height will be significantly less than depicted in the original Engineering report of 5 March 2019. Council Three Waters have conducted a further and more detailed assessment of the stormwater proposal. Our assessment disagrees with the assertion made by CIC.

In our assessment we believe that there are a number of minor discrepancies in the original CIC engineering report. These matters have been discussed directly with CIC. Despite these discrepancies we remain satisfied that there is a feasible engineering solution to attenuate the additional stormwater run-off.

To maintain hydraulic neutrality the detention bund will be required to store a greater volume than calculated by CIC and this will require a bund approximately 3m high which is much closer to that depicted in the original engineering report.

Water

At paragraph 25 – 26 the evidence describes that FW2 can be achieved, FW3 is close to being achieved and FW3 is greater than required for firefighting. This does not address long term resilience in the water supply. The proposed 110 lots are proposed to be fed from a single water main. We would recommend that a double ended feed be provided as proposed in the original CIC engineering report.



Memorandum

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Attention: Hamish Wesley

Company: Boffa Miskell Ltd

Date: 19 November 2020

From: Emma McRae, Senior Landscape Architect

Message Ref: Waitara Private Plan Change

Project No: W18100

I confirm that I have read the Statement of Evidence of Richard Bain and Appendix C of the Application Documents, covering the Proposed Rules to be added to the Overlays section of the New Plymouth District Plan in relation to the Waitara Area Structure Plan.

The Applicant and Mr Bain have addressed the Recommendations of my memo of 20 October 2020 within his evidence and through the proposed provisions in Appendix C of the Application Documents.

The exception is the recommendation to include typical street cross sections details for the proposed E11 and E12 roadways, illustrating how the proposed tree planting is accommodated within the road corridor. This is something I believe can be addressed as part of the resource consent application at subdivision stage. The species list for tree planting could also be provided at this time. This could take the form of a detailed landscape plan for the site indicating the tree species and their location, accompanied by the tree planting details, to be submitted along with the application.

Emma McRae

Senior Landscape Architect
19 November 2020

20 November 2020

Charles Horrell
Boffa Miskell Ltd
Level 4, Huddart Parker Building
1 Post Office Square
Wellington 6011

Dear Charles

**New Plymouth District Council
Plan Change Application for 2 Johnstone Street, Waitara
Technical Review of Transport Matters**

I have reviewed the following statements of evidence related to the proposed Private Plan change for 2 Johnston Street, Waitara:

- Mark Georgeson's evidence on behalf of the Applicant related to traffic matters
- Natasha Reid's statement of evidence on behalf of Waka Kotahi NZ Transport Agency
- Proposed Policy 23.13 in Attachment B (Proposed New Policies) of Kathryn Hooper's statement of evidence

With regard to the separation distances of the proposed new intersections and after reviewing paragraphs 6.21, 7.4, 7.6 and 7.7 of Mark Georgeson's evidence, I agree that the intersection layout(s) can be determined at resource consent stage. This also applies to whether there is a single intersection (for a speed restriction of 80 km/hr or above as recommended in my previous correspondence dated 20 October 2020) or two intersections under a 50 km/hr speed restriction.

With regard to Mark Georgeson's comment in paragraphs 7.10 to 7.13 of his evidence that NZS 4404 is more related to new roads and not changes to existing road infrastructure, I do not agree with this statement. The scope of NZS 4404 (Section 1.1) states that *"This Standard... is applicable to greenfield and infill development, as well as brownfield redevelopment projects. The standard also serves as a basis for technical compliance for the subdivision and development of land where these activities are subject to the Resource Management Act (RMA)"*. Noting that the requested Plan Change is subject to the RMA and the resultant traffic generated as a result of the proposed subdivision directly affects Raleigh and Johnston Streets, then the use of NZS 4404 as a guide for minimum requirements is entirely appropriate.

Mark Georgeson states in paragraph 7.16 of his evidence that the proposed subdivision does not trigger the need for wholesale upgrades to Raleigh Street. The subdivision on its own generates an additional 1,080 vehicles per day (vpd), which aligns to Figure E8 from NZS 4404 in a 80 km/hr rural environment and Figure E12/E13 (dependent on road classification) in a suburban environment requiring a minimum overall sealed road width between 7.5m and 10.4m (assuming that parking was only required on the western side of Raleigh Street adjacent to the proposed subdivision). The current sealed road width is less than 7.5m and therefore an upgrade of Raleigh Street is required as a result of the traffic generated from the proposed subdivision. Noting that 70% of vpd (756 vpd) generated by the proposed Plan Change utilise the SH3/Raleigh Street intersection, the upgrade to Raleigh Street should occur from the existing urban edge of Waitara to the SH3/Raleigh Street intersection. This matter can be determined at resource consent for a subdivision stage.

With regard to access from individual Lots onto Raleigh Street and after considering Mark Georgeson's response in his evidence (paragraph 6.21, 6.22 and 7.9), I still have serious reservations regarding the safety of road users. The premise that facilitating the Plan Change will lead to a change in the speed restriction is not guaranteed, which Mr Georgeson seems to rely upon in his evidence related to traffic safety effects on Raleigh Street. On the basis that the current 80 km/hr speed restriction remains unaltered, then in my opinion safe access to and from individual Lots directly onto Raleigh Street cannot be provided without either a separate service road or utilising one of the alternate arrangements in Appendix H3 of the Application documents. Alternatively, the target operating speed (from Figure 3.2 of NZS 4404) on Raleigh Street should be reduced to 40 km/hr

based on the existing carriageway width or 50 km/hr based on my recommended width in Figure E12 from NZS 4404.

With regard to Proposed Policy 23.13 in Attachment B of Kathryn Hooper's statement of evidence and the proposal to build Stages 1-3 (50 Lots), I agree with Natasha Reid's evidence that this proposal is not supported by any evidence. In relation to that proposed policy and the traffic effects on Raleigh Street, there is no evidence that demonstrates that the number of vehicle movements associated with this number of Lots will have a minor effect on Raleigh Street.

Yours faithfully



Graeme Doherty CPEng, CMENZ, ME (Transp), NZCE (Civil)
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Date: 23rd November 2020

To: **Hamish Wesney**

CC: Juliet Johnson

SUBJECT: **PRIVATE PLAN CHANGE WAITARA
OPEN SPACES TECHNICAL REPORT ADDENDUM**

The following provides a response to the evidence presented by the Applicant specific to open space considerations. In summary a number of the recommendations included in my original technical report have been integrated into the revised landscape and structure plan. There are however, a few areas that do not appear to have been included and these are outlined below in more detail under the appropriate heading from my original technical report.

A: Open Space Provision

The evidence of landscape architect Richard Bain along with the adjusted Landscape Plan have provided for an open space area that would be of sufficient size to provide for neighbourhood park facilities. The location is adjacent to the proposed stream corridor Reserve, has good road frontage and connectivity to the proposed residential subdivision. I consider that the proposed open space meets the requirements outlined in Recommendations 1 to 3 of my original technical report.

B: Esplanade Provisions

There does not appear to be any adjustment in the proposed esplanade reserve width and the very southern end of the proposed subdivision. A portion of this Reserve has been widened with the addition of the proposed open space, however a relatively narrow strip remains from Johnston Street through to the proposed open space area. As such, my recommendations 4, 5 and 7 do not appear to have been addressed within the revised landscape plan.

In terms of ensuring a consistent and sustainable esplanade reserve from open space amenity perspective, as identified in my original technical report, it is recommended that there be a wider strip of esplanade reserve connecting through to Johnston Street. This would require a slight reduction in lot size of one adjacent larger lot to the south of the proposed Esplanade Reserve. I consider that this is a subtle yet important component in providing a cohesive approach to visual amenity for the proposed subdivision and provision of a viable corridor of vegetation.



In terms of recommendation 7, I noted that only native species appropriate to the local area be used within the esplanade reserve planting. I note in the landscape architecture evidence of Richard Bain for the applicant under discussion of Mitigation in paragraph 20, that he states using predominantly native species representative of the local area. I consider that the term predominantly leaves for interpretation and potential dilution of the desired outcome of a native planting palette for the Esplanade Reserve. Later in Mr Bain's

evidence where he responds to submitters he notes that native species are to be used. There is a lack of clarity as to whether the proposal for the proposed esplanade reserve is to use 100% native species for predominantly native species. This needs to be clarified. My preference within the proposed esplanade reserve is for only native species to be used.

I note also that the proposed subdivision maintains a proposal for online stormwater detention, which does not respond to my recommendation 5. I maintain my original view that in this particular location and in consideration of the multiple layers of outcome trying to be provided by the Mangaiti stream corridor that online detention will have a detrimental impact on the non stormwater outcomes. Those non stormwater outcomes that are proposed to be achieved within the stream corridor include visual amenity (through restored natural character), cultural, recreation and ecological.

In terms of further explanation, the stream corridor of the Mangaiti forms the main feature of the proposed subdivision. As such, there are multiple layers of outcomes that are provided by the stream corridor beyond just stormwater. These include both bio-physical (such as geology and soils, ecology, hydrology and topography) and socio-physical (such as cultural and archaeology, recreation/open space and amenity). The facilitation of outcomes for ecology, landscape/amenity (through restored natural character), cultural and recreation require consideration of the interplay between these layers.

For this site, I consider that the inclusion of online detention ponding for stormwater is not consistent with the achievement of outcomes in relation to natural character enhancement proposed for the esplanade reserve, with associated, cultural, ecological and recreation outcomes. There is not a great deal of information provided in the application to indicate that consideration of these multiple layers of outcome were considered alongside the stormwater response and/or alternatives explored that might better facilitate an integrated and optimum solution.

C: Streetscape and Amenity

That consideration be given to creating improved street frontage outcomes in terms of vegetation along Raleigh Street, with a focus on reducing dominance of the residential lots along the street through possible groupings of larger areas of planting. This may require consideration of lot access and mixing up of lot sizes in order to facilitate such a response or consideration of partial implementation of alternative layout 1.



The evidence of Richard Bain in section 14c indicates that provision of planting along the Raleigh Street interface between the footpath and driveways, as well as street trees, will be determined during subdivision design. It is my view that the street tree planting indicated on Raleigh Street does not respond to my recommendation 8 as it does not provide any surety of the scale of amenity outcomes and in particular, does not provide for larger groupings of planting with more impact.

Recognising the need to ensure the majority of lots that access Raleigh Street to ensure appropriate street frontage, I consider there is an ability to consider a stronger vegetative character that includes groupings of planting as opposed to a row of street trees along this main road frontage.

This is a main entry point to the western side of Waitara and as such warrants consideration of a strong planting character with impact that complements and is reflective of the native stream corridor amenity provided within the proposed subdivision. Groupings of tree and shrub plantings would provide an opportunity to reduce the impact of the proposed subdivision lots and be more reflective of a rural vegetative pattern as opposed to a formal (more urban) character as currently proposed. The width of the berm and lack of proposed footpath would facilitate this style of planting opportunity.

A handwritten signature in black ink that reads "Renée Davies".

Renée Davies
Open Spaces Planner

Appendix 2: Recommended Amendments to Provisions

A: Proposed Rules to be added to the OVERLAYS section of the New Plymouth District Plan in relation to the Waitara- Area D Structure Plan (REVISED NOVEMBER 24 2020)

Red - changes to reflect Waka Kotahi submission

Blue - changes to reflect matters raised in CIA

Green - changes to reflect on the officers report and other corrections

Orange – changes made by the NPDC processing officers as recommended through the Addendum to the Section 42A report.

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
OL60H	Development and subdivision within the Waitara – Area D structure plan in Appendix 32	1) Development that is undertaken as part of any subdivision that has already been approved in accord with the Waitara – Area D structure plan in Appendix 32; or 2) Where subdivision has not been undertaken the erection of STRUCTURES and BUILDINGS and associated development work that is in accord with the Waitara – Area D Structure Plan and meets OL60I to OL60N and other applicable overlay and Environment Area rules	Subdivision (including allotment size) shall be in accordance with the Waitara – Area D structure plan in Appendix 32. No more than 50 allotments are subdivided from the parent title existing at 25 June 2019.	Does not meet the conditions for a permitted activity or standards and terms for a controlled activity Subdivision prior to the physical completion of the upgrade of the intersection of Tate Road/State Highway 3 and closure of the Raleigh Street/State Highway 3 intersection.	Matters of control as for rules Res54-64 as they apply to the RESIDENTIAL A ENVIRONMENT AREA; and, a) Procedures to be followed if artefacts are discovered including the provision of an opportunity for on-site monitoring during excavation within the area identified as Open Space B by Tangata Whenua b) Provision for adaptive management in the event of the discovery of previously unrecorded	1) Where the proposed development is not in accordance with the Waitara - Area D Structure Plan, the extent of the non compliance with the Waitara – Area D structure plan and how this effects the ability for comprehensive development and or comprehensive SUBDIVISION of the structure plan area and the environmental outcomes including the following: a) The degree to which comprehensive development and integrated management of all the land within Waitara – Area D is able to be achieved when the structure plan area is held in multiple ownership. b) The degree to which infrastructure provisions are co-ordinated within the Waitara – Area D structure plan area. c) The degree to which site specific characteristics of the Waitara – Area D structure plan have been addressed in the design and layout of the area. d) Whether the INDICATIVE ROAD network has taken into account the

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
				<p>Subdivision where the speed restriction on Raleigh Street between the Waitara and Johnston Street intersection is more than 50 km/hr.</p>	<p>archaeological remains; c) Design of planting and landscaping; d) Methods to mitigate effects of The form of and provision for 'no complaints' covenants over all proposed allotments to address reverse sensitivity with the surrounding rural zone; e) Provision for the development of environmental health indicators for the Mangaiti Stream which benefit from mātauranga Māori; f) Provision for the development of a cultural narrative to inform the development including through cultural expression, integration of te reo Māori (bilingual signage and dual naming) and street furniture.</p>	<p>design/layout of Waitara – Area D structure plan area. e) The effect of modifications to the alignment of the INDICATIVE ROADS on the ROAD TRANSPORTATION NETWORK and the connections and linkages desired for the comprehensive development of Waitara – Area D structure plan area. f) The degree to which the activity achieves public access along the stream. g) The extent to which the design/layout of the INDICATIVE ROADING NETWORK and the Open Space area is integrated. h) Protection of the stream and stream margins is achieved. i) Roading/pedestrian connectivity is provided. j) The extent to which the design of the ROAD TRANSPORTATION NETWORK considers pedestrian safety. k) How the matters over which control under this rule is reserved are given effect to, including full consideration of the activity in relation to these matters.</p> <p>2) Where the proposal will result in more than 50 allotments subdivided from the parent title at 25 June 2019 subdivision will occur prior physical completion of the upgrade of the intersection of Tate Road/State Highway 3 and closure of the Raleigh Street/State Highway 3 intersection, and/or where the speed restriction on</p>

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
						<p>Raleigh Street between the Waitara and Johnston Street intersection is more than 50 km/hr :</p> <p>a) the effect on the safety and efficiency of the intersection of Raleigh Street with State Highway 3;</p> <p>b) the effect on safety and efficiency on Raleigh Street;</p> <p>ca) Findings of a detailed integrated traffic impact assessment relevant to the traffic environment at the time of application; and,</p> <p>db) How feedback from Waka Kotahi has been incorporated into the integrated traffic assessment prepared in (ca) above.;</p> <p>and;</p> <p>e) Written Approval from Waka Kotahi.</p>
OL60I	Maximum Number of HABITABLE BUILDINGS on sites within the Waitara-Area D Johnston Street Structure plan area	1	n/a	More than 1	n/a	<p>1) The adverse effects of the increased number of HABITABLE DWELLINGS on the SITE on:</p> <ul style="list-style-type: none"> - the character and visual amenity of the area; the privacy and outlook of adjoining SITES; - the ability to provide adequate outdoor living space on the SITE or the location of alternate recreation areas; - OUTSTANDING or REGIONALLY SIGNIFICANT LANDSCAPES; and - the natural character of the coastal environment or Mangaiti Stream PRIORITY WATERBODIES. <p>2) The ability to mitigate adverse effects through the use of screening, planting or alternate design.</p>

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
OL60J	Maximum HEIGHT of HABITABLE and NON HABITABLE buildings on sites within the Waitara- Area D Johnston Street Structure plan area	6m	n/a	Greater than 6m	n/a	<p>1) The extent to which the extra HEIGHT of the proposed BUILDING will:</p> <ul style="list-style-type: none"> - adversely affect the character and visual amenity of the surrounding area; - reduce privacy of adjoining SITES; - have an overbearing effect on SITES within the RESIDENTIAL ENVIRONMENT AREA; - adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES; and - adversely affect the natural character of Mangaiti Stream PRIORITY WATERBODIES. <p>2) The extent to which topography, planting or set backs can mitigate the adverse effects of extra HEIGHT.</p> <p>3) The ability to mitigate adverse effects through the use of screening, planting or alternate design.</p>
OL60K	Controls on roofing and exterior cladding on HABITABLE and NON HABITABLE buildings on sites within the Waitara- Area D Structure plan area	1)a light reflectivity value (LRV) of 25% or lesser for all roofs; and 2) a light reflectivity value (LRV) of 40% or less for all exterior cladding materials	n/a	1)a light reflectivity value (LRV) of greater than 25% for any roofs (or part of any roof); and 2) a light reflectivity value (LRV) of greater than 40% or less for any exterior cladding materials.	n/a	<p>1)The extent to which the increased LRV will:</p> <ul style="list-style-type: none"> - adversely affect the character and visual amenity of the surrounding area; and - adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES; <p>2) The extent to which topography, planting or set backs can mitigate the adverse effects of the increased LRV.</p> <p>3) The ability to mitigate adverse effects through the use of screening, planting or alternate design.</p>

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
OL60L	Reduced Front yard Requirements for areas marked as 'Smaller Lots' within the Waitara – Area D Structure Plan.	Minimum 1.5m front yard	n/a	n/a	n/a	
OL60M	Fencing restrictions for sites within Waitara – Area D Structure Plan.	1) Solid fencing 1.2m in height or less Fencing is provided in accordance with the Waitara - Area D structure plan; and 2) no fencing of any sort shall be located on any site between the street and front elevation of its associated HABITABLE DWELLING.	n/a	1) Solid fencing greater than 1.2m in height Fencing is not in accordance with the Waitara - Area D Structure Plan; and/or 2) any fencing located on any site between the street and front elevation of its associated HABITABLE DWELLING.		1) The extent to which the extra HEIGHT of the proposed fence will: <ul style="list-style-type: none"> – adversely affect the character and visual amenity of the surrounding area; – reduce privacy of adjoining SITES; – have an overbearing effect on SITES within the RESIDENTIAL or RURAL ENVIRONMENT AREA; – adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES; and – adversely affect the natural character of Mangaiti Stream PRIORITY WATERBODIES. 2) The extent to which topography, planting or set backs can mitigate the adverse effects of the extra HEIGHT of the fence. 3) The ability to mitigate adverse effects of the proposed fence through the use of screening, planting or alternate design.
OL60N	Controls on Cut and Fill batters within the Waitara Area D Structure Plan. where visible from the RURAL ENVIRONMENT AREA	1) Cut and Fill batters less than 1.5m in height, or 2) Cut and Fill batters greater than 1.5m in height where designed by an appropriately qualified landscape professional to be battered at a gradient	Any other cut and fill batters	n/a	1) The revegetation of the batters. 2) The timing within which works and revegetation shall be completed. 3) Mitigation of effects through the	n/a

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
		to match gently and smoothly into existing contours.			use of screening. Planting or alternate design. 4) Consistency with the natural landform	
OL600	Stormwater disposal from ROADS, right of ways and paved surfaces as part of development and or SUBDIVISION within the Waitara Area D Structure plan area		Stormwater disposal from ROADS, rights of way and paved surfaces as part of SUBDIVISION is designed so that it discharges into low impact design stormwater systems such as (but not limited to) onsite soak holes, detention ponds, wetlands, vegetated swales, rain gardens, rainwater tanks, soakage pits and soakage holes, filter strips, infiltration trenches/basins, permeable paving, green roofs or tree pits to avoid direct discharges into the stream	Does not meet the standards and terms for a controlled activity	1) Matters of control as for rules Res54-64 as they apply to the RESIDENTIAL A ENVIRONMENT AREA 2) The consistency and integration of the design with stormwater management projects within the Norman Catchment.	1) The effects of direct stormwater discharges into the stream on the receiving environment. 2) The effects that the disposal of stormwater into the stream has on the archaeological, waahi tapu, cultural and spiritual values held by TANGATA WHENUA. 4) The ability of an alternative stormwater disposal method to avoid and mitigate minimise the environmental impact of additional stormwater on flood flows. 5) The extent to and reasons why low impact stormwater design cannot be met. 6) The consistency of the design with stormwater management projects within the Norman Catchment. 7) Whether stormwater management is in accordance with best practice to minimise environmental impact.
OL60P	Vesting of Open Space Area within Waitara Area-D		Area is in accordance with the		a) Detailed design of the Open Space Area including:	1) Where the proposed Open Space Area is not in accordance with the Waitara - Area D Structure Plan, the

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
			Waitara Area-D Structure Plan		i) Areas of open space and proposed planting, ii) Details of plant species (noting preference for requiring locally indigenous species and a focus on species that provide habitat for taonga and native species),, trail design and surfacing, furniture and any other features; iii) Details of specific features and design elements that have been incorporated to reflect the cultural narrative of the site, including details of consultation with Otaraua and Manukorihi Hapū in relation to the design, location and form of these features and elements; iv) Detailed plans and sections of the proposed road crossings of the Mangaiti Stream, including culverts and abutments and planting proposed to	extent of the non-compliance with the Waitara – Area D structure plan and how this effects the ability for comprehensive development and or comprehensive SUBDIVISION of the structure plan area and the environmental outcomes including the following: a) The degree to which infrastructure provisions are co-ordinated within the Waitara – Area D structure plan area. b) The degree to which site specific characteristics (including the cultural matters) of the Waitara – Area D structure plan have been addressed in the design and layout of the area. d) Whether the INDICATIVE ROAD network has taken into account the design/layout of Waitara – Area D structure plan area, e) Whether the alternative layout has taken into account the cultural concerns of Manukorihi and Otaraua Hapū, f) The effect of modifications to the alignment of the INDICATIVE ROADS on the ROAD TRANSPORTATION NETWORK and the connections and linkages desired for the comprehensive development of Waitara – Area D structure plan area. g) The degree to which the activity achieves public access along the stream. h) The extent to which the design/layout of the INDICATIVE ROADING NETWORK and the Open Space area is integrated.

Rule Number	Parameter	Conditions Permitted	Standards and terms Controlled	Discretionary	Matters over which control is reserved	Assessment Criteria COUNCIL has restricted the exercise of its discretion to these matters for land use consents
					<p>remediate the stream banks and other features required to ensure an attractive crossing point when viewed from the reserve.</p> <p>v) the location of pipework and sewerage infrastructure within the reserve and provision made to avoid, remedy and mitigate potential spills in the event of pipeline breaches,</p> <p>b) Provision for defects liability.</p>	<p>i) Protection of the stream and stream margins is achieved.</p> <p>j) Roading/pedestrian connectivity is provided.</p> <p>h) Procedures to be followed if artefacts are discovered including the provision of an opportunity for on- site monitoring during excavation at installation by TANGATA WHENUA</p> <p>i)Provision for adaptive management in the event of the discovery of previously unrecorded archaeological remains.</p> <p>j) the degree to which the detailed design matters over which control is reserved under this rule are achieved.</p>

B: Proposed new Policies and Reasons to be added to the New Plymouth District Plan in relation to the Waitara – Area D, Structure Plan.

Policy 23.10A Waitara – Area D Overall

To enable the development of land identified in Waitara – Area D in accordance with the Structure Plan that:

- (a) Avoids or mitigates the adverse effects of flooding and stormwater, including managing the effects of the associated flood hazard avoidance or mitigation measures
- (b) Protects and enhances the natural processes and ecological function of the Mangaiti Stream, with sensitive integration of the stormwater design, open space, cultural and recreational outcomes
- (c) Carries out stormwater management in an integrated manner that incorporates water sensitive design principles and practices in the Norman catchment.
- (d) Provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and other taonga of significance to Māori
- (e) Provides for and creates transport and open space networks which are sustainable, efficient and connected both internally and externally
- (f) Minimises incompatibility with adjoining rural environment
- (g) Provides for an integrated extension of the urban boundary and contributes towards the district's short-term residential growth

Policy 23.10 Stormwater

To ensure stormwater management within the Waitara – Area D structure plan area is designed in accordance with best practice to minimise environmental impact, by requiring a system that:

- (a) achieves hydraulic neutrality;
- (b) protects and enhances natural processes and ecological function of the Mangaiti Stream;
- (c) aligns with any future catchment management strategy by reducing flooding within the Norman Catchment and improving water quality;
- (d) maintains and enhances the coherence of the natural character and amenity values;
- (e) protects the cultural and spiritual values of TANGATA WHENUA; and
- (f) integrates with achieves the outcomes for the transportation and open space/reserve areas.

~~including recognising that the proposed stormwater system is to align with any future stormwater management projects for the Norman Catchment and the objectives of reducing flooding and improving water quality in this catchment.~~

Reasons 23.10

The Mangaiti Stream begins within the Waitara – Area D structure plan area, and runs through the site, entering the NPDC stormwater infrastructure within the Waitara West Industrial Area downstream. This infrastructure discharges at the Waitara Estuary. Because of its undulating topography, soils, climate and relatively small catchment size, Mangaiti Stream can be prone to surface flooding during medium to large scale storm events. Subdivision, and the resulting land uses, can increase the amount of impermeable surfaces within a catchment, increasing levels of stormwater runoff and the potential for flooding. Therefore, when undertaking a subdivision of land, it is important that the stormwater is managed to best practice to as far as practical avoid additional flooding. This is achieved by ensuring that the stormwater system installed achieves hydraulic neutrality.

Direct stormwater discharges to a waterway can cause adverse effects on its natural processes and ecological function. An increase in stormwater discharge could contaminate the waterway or result in the growth of nuisance weeds. Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū have concerns over additional stormwater entering the Mangaiti Stream and polluting and damaging the stream. A solution for this is to have the stormwater discharged into low impact stormwater systems. Low impact design approaches to stormwater management can be simple and effective tools that ensure potential adverse effects on people, property and infrastructure is minimised. If stormwater is discharged into a low impact stormwater system this will ensure that additional stormwater entering the Mangaiti Stream will have a positive effect on the stream health and aims to enhance water quality.

~~Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū have concerns about the effects of additional stormwater entering the Mangaiti Stream including:~~

- ~~— Potential for exacerbated flooding downstream; and~~
- ~~— Contaminants in the stormwater entering the Mangaiti Stream polluting and damaging it.~~

~~The technical stormwater assessments for Waitara – Area D determined that a combination of on-site soakage, disposal to the existing stream (and the NPDC stormwater reticulation network downstream), and stormwater detention (in-stream culvert and bund) is the most appropriate way to manage stormwater for the development, resulting in a hydraulically neutral stormwater system.~~

~~Stormwater disposal from ROADS, right of ways and paved surfaces is (at the time of plan change) proposed to be discharged via kerb and channel with cut-outs into rain gardens, into underground stormwater pipes and onward into the stream. Alternative options could also be considered at the time of stormwater design, reflecting the latest technology. Within the stream will be a culvert pipe and detention bund to buffer downstream flows. The final ground contour and road network will be designed so that secondary overland flow (surface stormwater greater than a 20% AEP storm event) will naturally drain overland into the stream.~~

~~Efficient stormwater design can make the stormwater discharge from Waitara – Area D hydraulically neutral by reducing peak flows before they drain north from the area, via onsite soak holes to address stormwater from dwellings and associated impervious areas within an allotment, rain gardens, and detention within the waterway in times of flooding.~~

~~The Waitara Community Board has expressed concerns about the low impact systems (Swales and rain gardens) and expressed concern that much of Waitara does not have kerb and channel. The Waitara Community Board has indicated that their strong preference is for a conventional kerb and channel stormwater management system, and this must be balanced with cultural effects. Kerb and channel systems can however operate in conjunction with low impact stormwater treatment options.~~

Waitara is the subject of a number of stormwater management projects, and future stormwater management projects for the Norman Catchment are likely to have objectives of reducing flooding and improving water quality in this catchment. This policy ensures that the design of any stormwater system for Waitara - Area D considers the objectives of these projects along with providing for the concept of Te Mana o Te Wai.

Mangaiti Stream contains a number of cultural and spiritual values of Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū. Stormwater discharges and modification of the stream function can adversely affect those values. This policy requires consideration to be given to protecting those cultural and spiritual values.

In designing and implementing the stormwater management system, it is important it integrates with outcomes for the transportation and open space/reserve areas. This integration would ensure the long-term sustainable use and development of the land, including the open space/reserve areas.

~~NZS4404:2010 Land Development and Subdivision will be followed.~~

Method of Implementation

NZS4404:2010 Land Development and Subdivision is to be followed.

Rule O1600 allows for the use of low impact systems as a controlled activity, and if unable to meet the controlled standards, the activity will be restricted discretionary.

Policy 23.11 Buildings and structures within Waitara - Area D

To control the design of buildings and structures within the Waitara – Area D structure plan area by;

- avoiding visual clutter and maintain a sense of appropriate building density with the adjacent rural area
- avoiding a dominance of built form over open space and to maintain visual permeability
- creating a subdivision that blends with its rural context
- allowing for small lot sizes in the area labelled ‘Smaller’ lots, front yard requirements will be reduced
- ensuring an open streetscape and reducing urban clutter.

- Mitigating the effects of reverse sensitivity. ~~Allowing for provision for reverse sensitivity via a ‘no-complaints’ covenant.~~

Methods of Implementation 23.11

- a) Develop a Structure Plan for Lot 3 Deposited Plan 446773 that shows the desired pattern of development by ENVIRONMENT AREAS. This will be titled Structure Plan – Waitara Area D and included as Appendix 33.
- b) Identify the extent of the Waitara - Area D Structure Plan area on the relevant planning maps.
- c) Develop a new set of rules explicit to the Waitara – Area D Structure Plan, including rules requiring development and subdivision to be undertaken in accordance with the Structure Plan in Appendix 33.
- d) Rules specifying standards relating to:
 - I. Maximum HEIGHT of BUILDINGS and STRUCTURES within the Structure Plan Area.
 - II. Number of HABITABLE BUILDINGS per ALLOTMENT.
 - III. Maximum COVERAGE of SITES in the Medium Density Area.
 - IV. Reduced COVERAGE in the FRONT YARDS in the area identified as ‘smaller lots’ on the Structure Plan.
 - V. Light Reflectance Values for roof and other exterior claddings for STRUCTURES and BUILDINGS.
- f) Covenants on Records of Title (CFR) restricting build form in front yards and within landscape buffers, ~~and reflecting reverse sensitivity concerns via no-complaints provisions.~~

Reasons 23.11

The Waitara - Area D Structure Plan area has been developed to avoid effects. The location, size, and orientation of the various character types have been carefully considered and designed to create varied but integrated development. Policy 23.11 covers those matters relating to structures and buildings that are not able to expressed either through the Waitara - Area D Structure Plan layout and which are not covered by existing rules.

Policy 23.10 and associated rules OL60H, I, J K L and M are to ensure that the effects of residential development on the character of the area are able to be considered.

Policy 23.12 Excavated Landforms within Waitara - Area D

To control excavated landforms (cut and fill batters) within the Waitara – Area D structure plan area by placing controls on excavated landforms to minimise visual effects.

Reasons 23.12

In order to ensure that likely changes in topography appear natural over time, cut and fill batters, where visible from rural environment areas, should be battered at a gradient to match gently and smoothly into existing contours. This is most likely to be relevant at the northern end of the site along the north-western boundary, where the landform drops towards the stream.

Policy 23.12 and associated rule OL60N covers those matters associated with excavated landforms that are not able to expressed either through the Structure Plan layout and which are not covered by existing rules.

Policy 23.13 Effects of Waitara - Area D on the transportation network

To avoid any additional traffic generation effects at the intersection of Raleigh Street with State Highway 3 prior to planned safety upgrades as a result of ensure that development of **Waitara -Area D** can be progressed, while also ensuring effects of traffic generation at the intersection of Raleigh Street with State Highway 3 are acceptable to Waka Kotahi.

Reasons 23.13

Waka Kotahi is planning safety upgrades to the stretch of State Highway 3 between Bell Block and Waitara. At the time of this plan change (plan Change 49), Waka Kotahi were unsure on the timing and detail of these upgrades, and what this would mean for the intersection of State Highway 3 and Raleigh Street.

Upgrades to the intersection of State Highway 3 and Raleigh Street are expected, and timing of the upgrades is also expected to co-incide with the later stages of development of **Waitara-Area D**. This policy is included to enable the first stages of the development of **Waitara-Area D** to proceed (stages 1-3 – 50 lots) but to ensure Waka Kotahi are involved in later stages in the event that the works on State Highway 3 are delayed or altered.

Methods of Implementation 23.13

a) Include rules that require assessment of the effects of the development of **Waitara-Area D** on the safety and efficiency of this intersection via an Integrated Traffic Impact Assessment and accordingly., ~~written approval from Waka Kotahi once the number of lots created exceeds 50 from the parent title (at 25 June 2019).~~

Policy 23.14 Cultural Effects within Waitara - Area D

To ensure that the Cultural Effects associated with development of **Waitara -Area D** are avoided, remedied and mitigated and Manukorihi and Otaraua Hapū are given the opportunity for cultural expression and monitoring.

Reasons 23.14

The provisions of the Te Atiawa iwi environmental management plan *Tai Whenua, Tai Tangata, Tai Ao* must be taken into account when developing this land. The design must adequately address sections 6(a), (d), (e) and (f); 7(a), (b), (c), (f); and 8 of the Act.

To allow for the relationship of Manukorihi and Otaraua with their ancestral lands, waters and sites and the ability of the development and use to give particular regard to Manukorihi and Otaraua Hapū and Te Atiawa Iwi exercising kaitiakitanga; and recognising;

- Their relationship with ancestral lands, waters, sites and wāhi tapu;
- The historic and contemporary cultural context/landscape this application is set within including the Pekapeka block; and,
- The connection of urban development and the narratives which link these sites to the broader cultural landscape of Te Atiawa.

Methods of Implementation 23.143

- a) Inclusion of matters of control and discretion within the rules that provide for the development of a cultural narrative to inform the development including through cultural expression, integration of te reo Māori (such as bilingual signage and dual naming), street furniture, open space;
- b) Ensure policy and rule framework addresses the cultural concerns of Manukorihi and Otaraua in relation to both quantity and quality of stormwater and potential effects on the Mangaiti Stream, and appropriately provides for the provision of low impact stormwater design;
- c) Inclusion of provisions within the policy framework that allow for the development of environmental health indicators for the Mangaiti which benefit from mātauranga Māori;
- d) Provision for active modes of transport through and across the development by requiring the development by setting the expectation that development occurs in accordance with the structure plan in Appendix 33, and allowing greater scrutiny of the proposal if deviation from the structure plan in Appendix 33 is proposed;

- e) Provisions to ensure retention of the natural landform and management of earthworks
- f) Provision for appropriate cultural monitoring of subsequent subdivision and development; and,
- g) Provisions for specific consideration of adaptive management within the rule/consenting framework and process, requiring that detail on how amendments to the design of the development will occur in the event there is an unrecorded archaeological find are provided.

C: Proposed Appendix 32

APPENDIX 33 STRUCTURE PLAN (Plan Change 49) Waitara – Area D Structure Plan

The provision for the subdivision and development of the **Waitara – Area D** Structure Plan apply specifically to Lot 3 Deposited Plan 446773, as identified in this Appendix, and as identified as a Structure Plan area on planning map B40.

The Structure Plan guidance notes and associated rule framework ([Existing ONPDP Issue 23, Objective 23, Policy 23.1, Method of Implementation 23.1 and Reasons 23.1 and associated rules, and proposed new Policies and Reasons 23.10-14, Policy 23.11, Reasons 23.11, Policy 23.15 and Rules OL60H to OL60P](#)) are intended to provide for the comprehensive development of the site.

Figure 1. Waitara Area D – Structure Plan



Structure Plan Guidance

Waitara Area D is made up of one parcel of land and has the ~~Mangaiti~~ ~~an unnamed~~ Stream running through the middle of it. Issue 23, Objective 23, Policy 23.1, Method of Implementation 23.1, Reasons 23.1, Policies 23.10-14, Reasons 23.8-13, and Rules OL60H to OL60P, address comprehensive development and structure plans providing a policy framework to ensure development within a structure plan area is in accordance with the structure plan.

A structure plan is a framework to guide the development of an area. It contains maps and concept plans, supported by text explaining the background to the issues and the desired environmental outcomes for an area. Waitara - Area D is being rezoned from RURAL ENVIRONMENT AREA (FUD overlay) to RESIDENTIAL A ENVIRONMENT AREA and OPEN SPACE B ENVIRONMENT AREA . A structure plan has been developed to promote an understanding of the issues specific to the area and to achieve comprehensive development of the area.

The Mangaiti Stream is of cultural and spiritual significance to Otaraua and Manukorihi Hapū. Despite the stream not being listed as WAAHI TAONGA/SITES OF SIGNIFICANCE TO MAORI or ARCHAEOLOGICAL SITE in the District Plan, landowners, developers and contractors need to be aware of the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 and/or any national legislation relating to archaeological sites, should an archaeological find arise during ground disturbance. The stream and the protection of it is therefore recognised and provided for through the Waitara - Area D Structure Plan and also through specific consideration to stormwater disposal.

Any consent for earthworks or subdivision within Waitara - Area D shall include reference to the above legislation, and shall include a condition requiring the consent holder to prepare and adhere to an Accidental Discovery Protocol.

Stormwater

The Mangaiti Stream begins within the Waitara – Area D structure plan area, and runs through the site, entering the NPDC stormwater infrastructure within the Waitara West Industrial Area downstream. This infrastructure discharges at the Waitara Estuary. Because of its undulating topography, soils, climate and relatively small catchment size, Mangaiti Stream can be prone to surface flooding during medium to large scale storm events. Subdivision, and the resulting land uses, can increase the amount of impermeable surfaces within a catchment, increasing levels of stormwater runoff and the potential for flooding. Therefore, when undertaking a subdivision of land, it is important that the stormwater is managed to best practice to as far as practical avoid additional flooding. This is achieved by ensuring that the stormwater system installed achieves hydraulic neutrality.

Direct stormwater discharges to a waterway can cause adverse effects on its natural processes and ecological function. An increase in stormwater discharge could contaminate the waterway or result in the growth of nuisance weeds. Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū have concerns over additional stormwater entering the Mangaiti Stream and polluting and damaging the stream. A solution for this is to have the stormwater discharged into low impact stormwater systems. Low impact design approaches to stormwater management can be simple and effective tools that ensure potential adverse effects on

people, property and infrastructure is minimised. If stormwater is discharged into a low impact stormwater system this will ensure that additional stormwater entering the Mangaiti Stream will have a positive effect on the stream health and aims to enhance water quality.

~~Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū have concerns about the effects of additional stormwater entering the Mangaiti Stream including:~~

- ~~—Potential for exacerbated flooding downstream; and~~
- ~~—Contaminants in the stormwater entering the Mangaiti Stream polluting and damaging it.~~

~~The technical stormwater assessments for Waitara—Area D determined that a combination of on-site soakage, disposal to the existing stream (and the NPDC stormwater reticulation network downstream), and stormwater detention (in-stream culvert and bund) is the most appropriate way to manage stormwater for the development, resulting in a hydraulically neutral stormwater system.~~

~~Stormwater disposal from ROADS, right of ways and paved surfaces is (at the time of plan change) proposed to be discharged via kerb and channel with cut-outs into rain gardens, into underground stormwater pipes and onward into the stream. Alternative options could also be considered at the time of stormwater design, reflecting the latest technology. Within the stream will be a culvert pipe and detention bund to buffer downstream flows. The final ground contour and road network will be designed so that secondary overland flow (surface stormwater greater than a 20% AEP storm event) will naturally drain overland into the stream.~~

~~Efficient stormwater design can make the stormwater discharge from Waitara—Area D hydraulically neutral by reducing peak flows before they drain north from the area, via onsite soak holes to address stormwater from dwellings and associated impervious areas within an allotment, rain gardens, and detention within the waterway in times of flooding.~~

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In designing and implementing the stormwater management system, it is important it integrates with outcomes for the transportation and open space/reserve areas. This integration would ensure the long-term sustainable use and development of the land, including the open space/reserve areas.

All structures in and discharges to the Mangaiti Stream are subject to the Taranaki Regional Freshwater Plan, and may require consent under this plan.

Open Space B

An Open Space B environment area has been placed along the stream margin of the eastern and western boundaries of the ~~Mangaiti Stream~~ ~~unnamed~~ tributary. The reserve will manage and preserve the stream margin as a whole and ensure that the stream remains in one ownership to assist this. Placing the Open Space B Environment Area along the margins of the stream will provide for linkages along the stream, protect and enhance the natural character of the area, protect the waterway and allows the stream edges to be actively managed and maintained.

Mangaiti ~~Unnamed~~ Stream

Section 6 (e) of the Resource Management 1991 requires councils to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

The Mangaiti Stream, a tributary of the Waitara River runs through Waitara Area D. It is entirely within the Open Space B Environment Area which will allow for opportunities to recognise cultural significance of this Stream.