

# **New Plymouth District Plan**

**Private Plan Change PPC18/00049**

March 2021

## **Johnston Street, Waitara Rezoning**

**Independent Commissioners Report  
and Recommendations to New  
Plymouth District Council**

FOR THE NEW PLYMOUTH DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Private Plan Change 49 to the Operative New Plymouth District Plan requested by Hareb Investments Limited for the rezoning of land at 2 Johnston Street, Waitara from Rural Environment Area to Residential A Environment Area and Open Space B Environment Area.

---

**RECOMMENDATION REPORT OF HEARING COMMISSIONERS**

---

DATES OF HEARING: 25 and 26 November 2020

VENUE: Waitara Library and Service Centre, 15 Queen Street,  
Waitara

HEARING COMMISSIONERS: **Stephen Graeme Daysh** (Chairperson)  
**James Luke Te Whakaheke Whetu**  
Acting under a delegated authority from New Plymouth District Council (“NPDC”) pursuant to Section 34A(1) of the RMA).

PARTIES AND ATTENDANCES: As recorded and available on the NPDC Website

COUNCIL REPORTING OFFICIERS: **Mr H Wesney** and **Mr C Horrell**

APPLICANT REPRESENTATION: **Mr M Hareb** (Applicant)  
**Mr S Grieve** (Counsel)  
**Ms K Hooper** (Planner)

SUBMITTER PRESENTATIONS:

**Ms S Mako** (Te Kotahitanga o Te Atiawa)

**Ms P Bodger** (Manukorihi Hapū)

**Mr G White** (Manukorihi Hapū)

**Ms D Eriwata** (Otaraua Hapū)

**Ms T Wilcox** (Neighbour)

**Ms K Weston** (Neighbour)

## TABLE OF CONTENTS

<b>INTRODUCTION .....</b>	<b>5</b>
Commissioner Appointments .....	5
<b>PRIVATE PLAN CHANGE REQUEST .....</b>	<b>5</b>
Background .....	5
Summary of Proposal .....	5
Public Notification and Submissions.....	9
Submitter Issues .....	9
Pre-Hearing Meetings.....	10
Council Reporting Officer’s Position .....	10
<b>HEARING .....</b>	<b>11</b>
Information and Record .....	11
Site Visit .....	12
Hearing Process .....	12
Legal Issues .....	14
Key Issues.....	15
<b>RESIDUAL MATTERS CONSIDERED BY PLANNERS DURING ADJOURNMENT .....</b>	<b>19</b>
Issues Resolved .....	19
Issues not resolved - Effects to Mana Whenua .....	20
Consideration of Effects to Mana Whenua .....	21
<b>STATUTORY REQUIREMENTS.....</b>	<b>27</b>
Resource Management Act 1991 - Functions.....	27
Key Planning Instruments.....	29
<b>FURTHER EVALUATION UNDER SECTION 32AA.....</b>	<b>30</b>
<b>RECOMMENDATION .....</b>	<b>30</b>
Reasons.....	31
<b>SCHEDULE A – PLAN CHANGE 49 WAITARA – AREA D .....</b>	<b>33</b>

## INTRODUCTION

### **Commissioner Appointments**

1. By resolution of the New Plymouth District Council (“NPDC”) dated 1 December 2020 we, Mr Stephen Daysh as Chairperson and Mr James Whetu were appointed as Independent Commissioners to hear submissions to, and to consider and make a recommendation on Proposed Private Plan Change 49 to the Operative New Plymouth District Plan.
2. Following the appointment, on 8 October 2020 Commissioner Stephen Daysh as Chairperson was delegated casting vote powers in the event we did not reach agreement on our recommendation.

## **PRIVATE PLAN CHANGE REQUEST**

### **Background**

3. On 22 November 2018, the NPDC received a private plan change request from Hareb Investments Limited (“the Applicant”) pursuant to clause 21(1) of Schedule 1 of the Resource Management Act 1991 (“the RMA”).
4. The private plan change request seeks to change rural zoned land at 2 Johnston Street in Waitara to residential to enable residential development for approximately 110 allotments.
5. On 7 May 2019, NPDC resolved to accept the private plan change request in whole as Private Plan Change 49 (“PPC49”) pursuant to clause 25(2)(b) of Schedule 1 of the RMA, and notified PPC49 in accordance with clause 26 of that schedule.

### **Summary of Proposal**

6. The PPC49 proposal is well described in the Applicant’s private plan change request report (“the request”) dated 13 March 2019 and in the Council Reporting Officer’s Section 42A Hearing Report (“s42A Report”) dated 20 October 2020. The full details of the proposal will not be repeated here, however a summary is provided below.
7. The request is to change 11.34ha of land zoned Rural Environmental Area Zone (with Future Urban Development overlay (Waitara Area D)) to Residential Environmental

Area Zone and Open Space B Environment Area Zone under the Operative New Plymouth District Plan (“ODP”).

8. The request outlines that the vision<sup>1</sup> for the development is to create an attractive Greenfield’s development that:
  - offers a variety of dwelling options for people looking for a new home in Waitara and the wider New Plymouth district, and
  - takes advantage of the existing natural features of the site and is integrated into the surrounding land uses
9. The Applicant seeks the plan change for two reasons; these are<sup>2</sup>:
  - (a) The provisions within the Proposed New Plymouth District Plan, draft at the time of the request, retains the property 2 Johnston Street Waitara as rural zone but removes the Future Urban Development overlay, and
  - (b) The Applicant wishes to start developing the property within 12-18 months to fill a potential gap in land supply for Waitara/New Plymouth.
10. The request is seeking to give effect to Objective 23 of the ODP *“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”*<sup>3</sup>.
11. The request outlines that PPC49 also seeks to achieve the following ODP Objectives:
  - Objective 1 – *To ensure activities do not affect the environment and amenity values of areas within the district or adversely affect existing activities*
  - Objective 1A – *To ensure that activities within and adjacent to the Future Urban Development OVERLAY do not adversely affect the ability to rezone and subsequently develop areas identified as FUTURE URBAN GROWTH AREAS.*
  - Objective 4 – *To ensure the subdivision, use and development of land maintains the elements of RURAL CHARACTER.*
  - Objective 5 – *To maintain and enhance the character and coherence of the urban areas of the New Plymouth District.*

---

<sup>1</sup> Private Plan Change Report, Landpro Limited, 13 March 2019 – Page 5

<sup>2</sup> Private Plan Change Report, Landpro Limited, 13 March 2019 – Page 6

<sup>3</sup> Private Plan Change Report, Landpro Limited, 13 March 2019 – Page 15

12. It is proposed that subdivision and development will be managed through a specific suite of rules and standards in the ODP, alongside a proposed Structure Plan. These are<sup>4</sup>:
- Amend Map B40
  - Remove Future Urban Development overlay
  - Introduce as Appendix 32 the Waitara - Area D Structure Plan, with indicative residential development areas, open space area, and indicative roads, and guidelines.
  - Introduce Policy 23.10; Policy 23.11; and Policy 23.12
  - Introduce Reason 23.10; Reason 23.11; and Reason 23.12
  - Introduce Rules OL60H-1 – OL60N
13. There are four residential allotment types proposed by the Applicant and shown in the Structure Plan:
- Road Frontage Lots will have an average lot size of 600m<sup>2</sup>
  - Internal Lots will have lot sizes ranging between 500m<sup>2</sup> - 700m<sup>2</sup>
  - Larger Lots will have an average lot size of 1000m<sup>2</sup>
  - Smaller Lots will have lot sizes ranging between 350m<sup>2</sup> - 550m<sup>2</sup>
14. In addition to the residential development areas, 1.54ha of land is proposed as a local purpose reserve alongside measures that will facilitate a public walkway and enhancement of the Mangaiti Stream and its surrounds.

---

<sup>4</sup> Private Plan Change Request Report, NPDC, June 2019 – Pages 2 - 17

15. A proposed Waitara - Area D Structure Plan<sup>5</sup> ("Structure Plan") is introduced and attached with the request. This is shown as Figure 1 below:



**Figure 1: PPC49 Structure Plan as notified**

<sup>5</sup> Private Plan Change Report, Landpro Limited, 13 March 2019 – Appendix A1



## **Public Notification and Submissions**

16. PPC49 was publicly notified on 25 June 2019, with the submission period closing on 23 July 2019. A total of 18 submissions were received.
17. A summary of submissions was notified on 17 August 2019, with the further submission period closing on 2 September 2019. A total of 21 further submissions were received.
18. No late submissions were received.

## **Submitter Issues**

19. Various issues were raised in submissions, and several submitters requested specific changes to PPC49. The range of issues raised by submitters, as summarised in the s42A Report, are<sup>6</sup>:
  - The Appropriateness for Rezoning
  - Traffic and Rooding
  - Loss of Rural Character and Reverse Sensitivity
  - Service Infrastructure and Stormwater
  - Cultural Impacts
  - Ecological Impacts
  - Environmental Impacts
20. Each of these issues was considered by Council's Reporting Officer in their s42A Report. The Applicant addressed these in legal submissions, and we had the benefit of expert evidence presented by the Applicant and Te Kotahitanga o Te Atiawa at the hearing. Very helpfully, we also heard from Neighbours Ms Theresa Wilcox and Ms Kathleen Weston, who provided us with important local context and knowledge as residents. We have read and considered all the submissions and further submissions in our consideration of the proposal.

---

<sup>6</sup> Section 42A Hearing Report, Boffa Miskell Ltd/NPDC, 30 October 2020 - Page 8.

## **Pre-Hearing Meetings**

21. Provided under clause 8AA of Schedule 1 of the RMA, two pre-hearing meetings were held between the Applicant, NPDC and various submitters to clarify, and facilitate the resolution of, matters raised by the submitters.
22. The first pre-hearing meeting was held on 17 September 2020 and focused on matters raised by the local residents such; as traffic and roading, loss of rural character and reverse sensitivity, service capacity issues; and the format of the proposed structure plan.
23. The second pre-hearing meeting was held on 18 September 2020 via video conferencing. The meeting focused on the matters raised in the submission from Waka Kotahi New Zealand Transport Agency (“Waka Kotahi”) and the status of the proposed changes to State Highway 3.
24. Both pre-hearing meeting reports were distributed to all attendees and were made available to all parties via the NPDC website.

## **Council Reporting Officer’s Position**

25. The Council s42A Report was made available to the parties on 30 October 2020.
26. An addendum to the s42A Report, dated 19 November 2020 was prepared in response to expert evidence presented by the Applicant and submitters, and to correct some errors and omissions in the initial report was tabled on the first day of the hearing.
27. Mr Hamish Wesney and Mr Charles Horrell, planners from consultancy firm Boffa Miskell Limited, co-ordinated the preparation of the s42A Report (including its addendum) on behalf of NPDC.
28. The following experts supported the preparation of s42A Report and provided evidence for our consideration:
  - Mr Pool and Mr Hall, NPDC – Reticulated Services/Three Waters
  - Ms Davies, NPDC – Parks and Open Spaces
  - Ms McRae, Boffa Miskell – Landscape and Visual Impact Effects
  - Mr Doherty, AECOM – Traffic Effects
  - Ms Wai, NPDC – Population and Housing Projections

29. Mr Wesley and Mr Horrell have recommended that PPC49 be approved, subject to amending the plan provisions and appropriately addressing a few matters, including the following considerations:
- (a) Measures for managing reverse sensitivity
  - (b) Measures to manage traffic safety
  - (c) Provisions to manage sequencing and timing of subdivision and to ensure alignment with delivery of State Highway 3 works
  - (d) Measures to accommodate recommendations of the cultural impact assessment report prepared by Te Kotahitanga o Te Atiawa.
30. Attached to their addendum to the s42A Report, the Reporting Officer's furnished a version of the plan provisions sought by the Applicant, tracked with their recommended changes. This version was used by the parties as the reference document when discussing the proposed plan provisions at the hearing and in responding to questions from us.

## HEARING

### Information and Record

31. A record of relevant information associated with the hearing and this decision report can be found on the NPDC website at; <https://www.newplymouthnz.com/Council/Council-Documents/Plans-and-Strategies/District-Plan/Operative-District-Plan/Plan-Changes-and-Private-Plan-Changes>
32. This information was regularly updated as the hearing process proceeded and includes:
- Private Plan Change Request Report and Appendices A - L
  - Section 92 Requests and Responses;
  - Records of Pre-hearing Meetings
  - Council Reporting Officer Report (including Addendum);
  - Hearing Notices and Directions
  - Counsel submissions
  - Applicant's Evidence (includes Supplementary Evidence)
  - Submitters Evidence
  - Right of Reply
  - [Joint Witness Statement](#)

33. We have considered all this information in our decision making. In particular, we have found the recorded transcript to be a valuable record of the legal matters and oral evidence and representations that we heard and tested.
34. It is understood that NPDC will maintain this website as the hearing record through the appeal period and that a record of all information associated with the case will be archived for future reference as might be needed.

### **Site Visit**

35. A site visit was carried out on the morning of 25 November 2020, prior to the commencement of the hearing.
36. Unfortunately, the day of the site visit was very wet, and this constrained walking on the property and down into the gully area to safely inspect Mangaiti Stream. However, we did drive on site and viewed the area from the car as best we could.
37. We drove along Johnson Street, Raleigh Street and Ranfurly Street, as well as to the intersection at State Highway 3, to examine the issues raised by submitters.
38. We also visited an approved and completed subdivision in Waitara to observe/be familiar with the existing concerns shared by tangata whenua in their submission and in the cultural impact assessment report.

### **Hearing Process**

39. The hearing was originally scheduled for three days with commencement on Wednesday 25 November 2020, however, only two days were needed with the hearing adjourned on Thursday 26 November 2020.
40. On the first day, as proponent for PPC49, the Applicant commenced the hearing and presented legal submissions and evidence in the following order:
  - Mr Grieve, Counsel for the Applicant
  - Mr Hareb, the Applicant
  - Mr Foy (Market Economics), Economic and Urban Form
  - Mr Bruce (Archaeological Resource Management), Archaeology
  - Mr Muller (Landpro ), Contaminated Soils
  - Mr Bevers (Landpro), Ecology
  - Mr Matangi (Civil Infrastructure Consulting), Three Waters

- Mr Bain (Bluemarble), Landscape
  - Mr Georgeson (Stantec), Transportation
  - Ms Hooper (Landpro), Planning
41. At the start of the second hearing day, the Chairperson asked if the four Planners, Ms Hooper, Ms Mako, Mr Wesney and Mr Horrell were comfortable joining in an expert 'hot tub' session to help facilitate a structured discussion on the remaining issues which had been identified in the s42A Addendum Report as requiring further discussion and development. The intent of the joint conferencing was to assist the Commissioners, and to facilitate the experts in reaching agreement on issues in the hearing. We asked them to clearly identify the issues on which they could not agree. The Planners all agreed to participate on this basis.
  42. While somewhat unusual from a process perspective, the Chairperson requested Mr Grieve also participate in the discussion, as while he is not an expert per se, the Commissioners were interested in his views on some of the planning issues, and on some legal questions which had been traversed the previous day. All parties present at the hearing were asked if they were comfortable with this approach, and it was agreed by all that this was a sensible step to take at this stage of the hearing.
  43. Upon completion of the expert planning conferencing, mana whenua representatives for Manukōrihi Hapū and Otaraua Hapū, alongside Ms Mako, the planner for Te Kotahitanga o Te Atiawa, represented their submission, outlined their engagement with the Applicant, and presented their concerns regarding PPC49.
  44. The Commissioners heard from Ms Wilcox and Ms Weston as submitters in opposition to PPC49.
  45. The Council's Reporting Officers then represented their statements and reports that supported the s42A Report, including their expert position on the outstanding planning issues and Structure Plan as they saw them, after listening to all of the evidence and submissions presented during the hearing.
  46. At the end of the second hearing day (26 November 2020) we adjourned the hearing and requested that the Planners conference further on the outstanding matters. We asked them to come back to us with a revised set of planning provisions along with an updated Structure Plan, outlining aspects which were agreed, and those that were not,

along with the reasons. We suggested it would be appropriate for Ms Wilcox be invited to attend the conferencing, given the range of practical matters she raised in her submissions, and which based on our questioning of her and the Applicant's experts potentially seemed capable of resolution through updated plan provisions and Structure Plan design. It was agreed that the Applicants right of reply should follow. A minute was issued confirming these arrangements<sup>7</sup>.

47. The report outlining the proposed updated provisions and Structure Plan, along with the position of the Planners on these matters were duly received along with the Applicant's reply, and on 14 January we formally closed the hearing<sup>8</sup>.

### Legal Issues

48. In his opening submissions for the Applicant, Mr Grieve presented the key legal issues with the proposal from his perspective and provided us with a case book with key cases that he cited<sup>9</sup>. We accept these uncontested legal submissions, subject to the clarifications below regarding three legal queries we posed.
49. The first legal query related to clarification of the Resource Management Act 1991 ('RMA') Schedule One consultation obligations for those putting forward Private Plan Changes. This matter arose out of the position taken by Ms Mako in her evidence relating to the applicability of Clause 3B of Schedule One<sup>10</sup> and we were interested to hear more about the case law on whether a private plan change requestor is bound by this consultation obligation. Mr Grieve helpfully set out some further case law in his right of reply<sup>11</sup> and we are satisfied that from a purely legal perspective, the case Briggs v Kapiti Coast District Council<sup>12</sup> applies where it states the relevant clauses of the RMA, *"...do not impose any consultation obligation on promoters of private pan changes nor do they impose a consultation obligation on local authorities processing such plan changes"*.

---

7 Commissioners' Procedural Direction 2, dated 3 December 2020

8 Commissioners' Procedural Direction 3, dated 14 January 2021

9 S. Grieve: Outline of Submissions of Counsel for the Applicant Hareb Investments Limited, dated 24 November 2020

10 S Mako: Statement of Evidence of Sarah Katarina Mako on behalf of Te Kotahitanga o Te Atiawa Trust, dated 17 November 2020, paragraph 17.

11 S Grieve: Right of Reply for the Applicant Hareb Investments Limited, dated 11 December 2020, paragraph 2

12 [2011] NZEnvC 57, at para [11]

50. The second query related to which rules in the Proposed New Plymouth District Plan (“PDP”) which might potentially be applicable had immediate effect. Three rule sections of the PDP are set out in the Applicant’s right of reply and we accept the position of Mr Grieve that these provisions do not apply in this case<sup>13</sup>.
51. The third query of Mr Grieve relates to the National Policy Statement – Freshwater Management, August 2020 and if the wetland provisions apply. Mr Grieve sets out in his submission that “...regardless of whether those areas are strictly defined as “natural wetland” or not – the Applicant proposes to protect, restore, and enhance those areas; thereby giving effect to the NPS-FM in this context.<sup>14</sup>. We accept this position.

### **Key Issues**

52. We had the opportunity to ask questions from a range of subject matter experts and submitters who attended the hearing regarding the key issues raised in submissions and expert evidence, including those identified by the Council Reporting Officers in the s42A Report (as updated by the 17 November 2020 Addendum).
53. By way of the written information provided through; the Applicant’s private plan change request, further information requests, the submissions process, the expert evidence, and the Joint Witness Statement provided by the Planners we are confident that all the relevant matters concerning the actual and potential effects of the request (along with measures to avoid, remedy or mitigate adverse effects) have been well explored.
54. This information was enhanced through the question-and-answer process conducted through the course of the hearing and we are grateful for the engaging and professional manner which all parties exhibited.
55. At the end of the hearing there were limited key issues in contention between those parties in attendance, and we discuss those towards the end of this recommendation report. Those key matters which we find are resolved either by general agreement as to proposed plan provisions and/or by way of uncontested subject-matter expert opinion are:
  - Economic and urban form/development justification for the proposal (with reference to the National Policy Statement for Urban Development 2020, the

---

<sup>13</sup> S Grieve: Right of Reply for the Applicant Hareb Investments Limited, dated 11 December 2020, paragraph 4

<sup>14</sup> Ibid, paragraph 6

predictions from Statistics New Zealand and the Land Supply review prepared by the NPDC);

- No recorded archaeological sites, or unrecorded sites that could reasonably be predicted as a result of historic research will be affected by the development of the application area<sup>15</sup>;
- The proposal will provide ecological benefits and opportunities for the area of the development;
- Transportation effects in relation to the nearby State Highway upgrading proposal and in the immediate vicinity of the site can be appropriately managed;
- The three-water's infrastructure requirements of the proposal can be adequately provided for;
- A Preliminary Site Investigation (PSI) has indicated that there are no soil contamination issues that make the site unsuitable for the proposed residential zoning and future development.

#### Cultural Effects/Impacts on Mana Whenua

56. We acknowledge Manukorihi and Otaraua hapū (hapū of Te Atiawa) as mana whenua over the area of PPC49<sup>16</sup>. The cultural significance of the area is also acknowledged, including it being part of the Pekapeka Block as identified and discussed in the Cultural Impact Assessment ("CIA")<sup>17</sup>.

---

<sup>15</sup> This is based on the expert evidence of Mr Bruce, who was the only archaeologist who gave evidence. This is distinct from the expertise of mana whenua relating to cultural value matters, which we cover later in this decision.

<sup>16</sup> S Mako: Statement of Evidence of Sarah Katarina Mako on behalf of Te Kotahitanga o Te Atiawa Trust, dated 17 November 2020, paragraph 7.

<sup>17</sup> Manukorihi rāua ko Otaraua Hapū: Cultural Impact Assessment PPC18/00049 Johnston Street / Hareb Investments Limited, adopted 17 November 2020.





58. The historical significance of the Mangaiti catchment and associated wetland areas for mana whenua is well described in the CIA in the same section as follows:

*The application repeatedly references the waterbody within the application site as an unnamed tributary; this is incorrect – with hapū records indicating that this catchment is known as the Mangaiti<sup>18</sup>. The Mangaiti makes a significant contribution to the natural character<sup>19</sup> of the existing environment. The Mangaiti is He Wai Māori; it provides for our way of life. The Mangaiti springs from the land opposite the application site across Johnson Street and heads to Te Awaroa / Waitara River. At its source it is very narrow and at times ephemeral but widens as it flows to the sea. The tributary located within the application site has been severely impacted by urban development and rural land uses as articulated in the ecological assessment submitted with the application. Despite this, practises such as kānga piro are still practised in this waterway today<sup>20</sup>.*

*Historically, large wetland areas were located within the Mangaiti catchment. The catchment discharges into the Waitara River Estuary – a mahinga kai area identified as a site and area of significance to Māori under the Proposed New Plymouth District Plan (site ID 2597), a wetland of regional significance and a key native ecosystem<sup>21</sup>. This estuary was also a significant Tauranga Waka with three pā complexes located around the edges of the estuary”.*

59. We heard expert evidence from Ms Mako, Pou Taiao/Environmental Policy Advisor for Te Kotahitanga o Te Atiawa Trust. We also had the opportunity to hear from senior representatives from both Manukorihi and Otaraua hapū; Ms Bodger and Mr White of Manukorihi and Ms Eriwata of Otaraua. As explained during our questioning we consider that the mana whenua representatives are the “experts” in relation to the matters we have to consider under s6(e); *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and*

---

18 J. White, Manukorihi Hapū, personal communication, August 2020

19 Natural Character is not the same as natural features and landscapes or amenity values and may include: a. natural elements, processes and patterns; b. biophysical, ecological, geological and geomorphological aspects; c. natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks; d. the natural movement of water and sediment; e. the natural darkness of the night sky; f. places or areas that are wild or scenic; g. a range of natural character from pristine to modified; and h. experiential attributes, including the sounds and smell of the sea; and their context or setting.

20 D. Eriwata, Otaraua Hapū, personal communication, August 2020

21 Taranaki Regional Council (2006). Key Native Ecosystems: Inventory of sites with indigenous biodiversity values of regional significance (Document no. 2676), Stratford: Taranaki Regional Council (Waitara River Scenic Reserve section, attached as Appendix 5)

s7(a); *kaitiakitanga*, , alongside the other RMA matters under Part 2 of the RMA. The involvement of the mana whenua hapū as submitters, in the preparation of the CIA, and attendance at the hearing to provide us their expertise has greatly enhanced our knowledge of the subject area and is appreciated.

## RESIDUAL MATTERS CONSIDERED BY PLANNERS DURING ADJOURNMENT

### Issues Resolved

60. During the adjournment period a Joint Witness Statement including further updates of the proposed plan provisions (“JWS”) dated 22 December 2020<sup>22</sup> was prepared by the Planners representing the Applicant, NPDC and Te Kotahitanga o Te Atiawa which outlined the areas resolved between the parties, and the areas where there was still disagreement between parties.
61. An updated set of plan provisions were presented to the Commissioners for consideration identifying where matters had been collectively agreed, and those matters that were agreed by NPDC and the Applicant, but not supported by Ms Mako representing Te Kotahitanga o Te Atiawa.
62. We have adopted the updated PPC49 provisions that were collectively agreed as they address:
  - Key Planning Instruments
  - The following issues raised by submitters
    - The Appropriateness for Rezoning
    - Traffic and Roding
    - Loss of Rural Character and Reverse Sensitivity
    - Service Infrastructure and Stormwater
    - Ecological Impacts
    - Environmental Impacts
63. These provisions are:
  - Policy 23.10 Stormwater; Reason 23.10 and Method of Implementation 23.10
  - Policy 23.10B Mangaiti Stream; Reason 23.10B and Method of Implementation 23.10B

---

<sup>22</sup> See documents on NPDC Website at Paragraph 31 of this report.

- Policy 23.12 Excavated Landforms within Waitara - Area D; and Reason 23.12
- Policy 23.13 Effects of Waitara - Area D on the Transportation Network; Reason 23.13 and Method of Implementation 23.13
- Policy 23.14 Recognise that only Manukorihi Hapū and Otaraua Hapū can identify their values and interests in Waitara – Area D; Reasons 23.14 and Method of Implementation 23.14
- Policy 23.14A To ensure Manukorihi Hapū and Otaraua Hapū are able to exercise kaitiakitanga through the ongoing development and land use within Waitara – Area D

64. In addition, we consider the following matters requiring clarification or further considerations outlined in the s42A Report can be appropriately assessed/considered and/or mitigated through land use and subdivision processes:

- Measures for managing reverse sensitivity
- Measures to manage traffic safety
- Measures to ensure coastal views are not impeded, and
- Provisions to manage sequencing and timing of subdivision and to ensure alignment with delivery of State Highway 3 works

#### **Issues not resolved - Effects to Mana Whenua**

65. Where there was disagreement on PPC49 provisions between Planners, this was associated with the concerns expressed by Ms Mako representing Te Kotahitanga o Te Atiawa (and the mana whenua Hapū). These matters are:

- The Structure Plan, where an alternative Structure Plan is suggested
- Policy 23.10A Waitara – Area D Overall
- Policy 23.11 Buildings and structures within Waitara – Area D; Reason 23.11 and Method of Implementation 23.11
- Rules OL60H-1 – OL60Q

66. Within the JWS, it was agreed by all parties that initial development of PPC49 (provisions and Waitara – Area D Structure Plan) was not informed by cultural expertise.

67. We are of the view that the root of the concern is with the early absence of mana whenua (Manukorihi Hapū and Otaraua Hapū) as participants and cultural experts to

inform the Applicant on cultural values and impacts for consideration within the development of PPC49 and the request to NPDC.

### **Consideration of Effects to Mana Whenua**

68. The request for PPC49 states that it seeks to give effect to Objective 23 of the ODP as follows: *“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”*<sup>23</sup>.
69. In addition to Objective 23 of the ODP, the request provided an assessment against Objectives 1, 1A, 4 and 5 of the ODP.
70. We were advised<sup>24</sup> in the s42A Report that Objective 19 of the ODP is also relevant:
- 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 Māori.*
71. The policies in the ODP supporting Objective 19 are:
- Policy 19.1 - *The use of land for traditional Maori activities should be recognised and provided for.*
  - Policy 19.2 - *Subdivision, land use or development should not adversely affect the relationship, culture or traditions that TANGATA WHENUA have with WAAHI TAONGA/ SITES OF SIGNIFICANCE TO MAORI.*
  - Policy 19.3 - *The cultural and spiritual values of TANGATA WHENUA should be recognised and provided for in the resource management of the district.*
  - Policy 19.4 - *The principles of the TREATY OF WAITANGI (TE TIRITI O WAITANGI) will be taken into account in the management of the natural and physical resources of the district.*
72. We are of the view that Objective 23 and Objective 19 are fundamental directions of the ODP in the consideration of the unresolved issue between the Planners regarding effects to mana whenua with:

---

<sup>23</sup> Private Plan Change Report, Landpro Limited, 13 March 2019 – Page 15

<sup>24</sup> Section 42A Hearing Report, Boffa Miskell Ltd/NPDC, 30 October 2020 - Page 22

- (a) Objective 23 specifically referring to land identified for future urban use is “**comprehensively**” planned (emphasis added), and
- (b) Objective 19 requiring the recognition and provisions for the cultural and spiritual values of tangata whenua in “**all**” aspects of resource management (emphasis added).

73. In considering PPC49 against Objective 23:

- The request provided sufficient information with a reasonably robust assessment of the ODP and other statutory matters, and an outline of engagement activities with NPDC and stakeholders, to qualify for acceptance by NPDC and public notification of the PPC49 proposal.
- Further information and assessment were sought and undertaken by the Applicant, including engagement with mana whenua, in response to issues raised by submitters and outlined in the s42A Report.
- All aspects of PPC49 were discussed in the hearing and queried by Commissioners to clearly identify and understand the specific issues of PPC49 and the proposed/suggested measures to address those specific issues.
- During adjournment, as directed by the Commissioners, the Planners representing the following parties (Applicant, NPDC, and mana whenua) sought to resolve issues where possible.
- The outcome of the effort resulted in six PPC49 policies (including reasons and methods for policies) and associated rules being collectively agreed, with disagreement on two PPC49 policies and associated rules.

74. Although it was agreed in the Planners JWS that the initial development of PPC49 was not informed by cultural expertise, over the course of the statutory process and consideration of PPC49 against the ODP, PDP, NPSFM, NPSUD, NES and Taranaki RPS, we are of the view that PPC49 has been comprehensively planned, as highlighted in the points above.

75. The cultural values and the effects to mana whenua have been identified, presented, considered, and where agreed to by the Planners in the JWS, some matters have been addressed to the satisfaction of mana whenua.

76. It is in this manner that PPC49 can facilitate an integrated approach to land development while addressing site specific issues to provide for accessible, connected, efficient, liveable communities and coherent urban spaces within Waitara – Area D.
77. In considering Objective 19, the policy direction sets an all-encompassing recognition and provision of tangata whenua values and practice (tikanga Māori) in the resource management activities of NPDC.
78. Focusing only on the matters where there is disagreement between the Planners, we note that the matters are regarding the:
- Approach in Policy 23.10A(g) to minimise crossing points over/through Mangaiti Stream,
  - inclusion in Policy 23.11 of cultural narratives on private and public property, and incorporation of rainwater collection systems and greywater recycling systems, and
  - setting of activity status, and matters for consideration, within Rules OL60H-1 – OL60Q.

#### Policy 23.10A

79. In reviewing the two Policy 23.10A(g) options in the JWS and the comments from the planners, we align with the comments of the Planners for NPDC and the Applicant that it is appropriate for Policy 23.10A(g) to reflect the design and indicative roading layout of the structure plan, and the technical reporting that supported the design.
80. We have taken into consideration the NPSFM, including Te Mana o Te Wai, and accordingly have amended Policy 23.10A(g) to strengthen the policy in protecting Mangaiti Stream and ensuring impacts are minimised, whilst maintaining consistency with the current Structure Plan:

*(g) Protects the Mangaiti Stream by ensuring ~~the number of~~ only two crossing points for 3-waters infrastructure and vehicular access and 3-waters infrastructure.<sup>25</sup> ~~are~~ minimised.*

#### Policy 23.11

---

<sup>25</sup> New wording shown as underlined and original wording as crossed out.

81. The proposed inclusion of cultural narratives on private and public property within Policy 23.11 proposed by Ms Mako from Te Kotahitanga o Te Atiawa conflicts with the agreement between the Planners for NPDC and the Applicant that the policy should only focus on public property/environment. As is the inclusion of incorporating rainwater collection systems and greywater recycling systems in the policy.
82. In their JWS the Planners outline the reason for each option they prefer and why is it appropriate or not appropriate, and how it can be implemented if adopted.
83. After reviewing both options for Policy 23.11, we agree with NPDC and the Applicant to not include the provision to incorporate rainwater systems and greywater recycling systems.
84. On the matter of the cultural narratives on private and public property/environments as sought by Te Kotahitanga o Te Atiawa, we are of the view that there is a clear direction Objective 19 of the ODP to recognise and provide for tangata whenua values but in a manner that respects and accommodates tikanga Māori.
85. In the absence of an agreed and endorsed cultural narrative for use within the development, and guidance around its use, there is a level of uncertainty on ensuring respect and accommodation of tikanga Māori when cultural narratives are applied over private property.
86. However, in the case of public property/environment within the development, there is a level of certainty that there will be dialogue and appropriate engagement between NPDC and Te Kotahitanga o Te Atiawa, alongside Manukorihi Hapū and Otaraua Hapū, to respect and accommodate tikanga Māori in the implementation of a cultural narrative.
87. The option presented by the NPDC and the Applicant's Planners achieves Objective 19 by providing for mana whenua values through cultural narratives within the development, as well as a level of certainty that tikanga Māori will be respected and accommodated. However, this option does not take into consideration that a relationship may develop and strengthen over time where the Applicant and mana whenua could have in place a cultural narrative for use and application over private property in the later stages of the development.



88. We have adopted Policy 23.11 as preferred by the NPDC and the Applicant's Planners. While we have considered the option of extending this "ensure" control outside the public areas of the development, in our view this would impose undue and potentially ultra vires restrictions over private property. However, we would encourage the developer of the subdivision to also consider opportunities to include cultural narratives within the development area itself, during the detailed design phase of the subdivision, in consultation with the mana whenua Hapū, and have therefore added the following clause to Policy 23.11:

Encouraging the use of cultural narratives in other areas of the development

89. We consider that the relationship between the Applicant and mana whenua requires some further strengthening in the implementation of the Plan Change. In acknowledgement of the matters in contention and the proposed measures to respond to specific issues, clarity was sought from the Applicant and mana whenua representatives during the hearing on the nature and quality of the relationship, and who would own the relationship over the course of the development. For his part, Mr Hareb replied that his Planner, Ms Hooper would co-ordinate the relationship, which while recognised as a practical suggestion, does not in our opinion go far enough. While we cannot direct who holds the relationship, we would strongly encourage that as the landowner and developer, Mr Hareb takes personal responsibility for the future relationship with the mana whenua hapū going forward.

Activity Status for Rule OL60H-1 – OL60P

90. There is disagreement between the Planners for NPDC and the Applicant and Ms Mako regarding the activity status category should any subdivision proposal not comply with standards and terms for controlled activities.
91. Ms Mako for Te Kotahitanga o Te Atiawa seek that any subdivision activities that does not meet controlled activity standards and terms, should advance to full discretionary activity status. Whereas the Applicant and NPDC are of the view that the proposals should advance to restricted discretionary activity status.

92. We have reviewed the comments for both options and prefer the position of Ms Hooper, Mr Wesley and Mr Horrell and adopt their recommendation for Rules OL60H-1-OL60P.

Matters Over Which Control is Reserved/Assessment Criteria for Rules OL60I – OL60P

93. There are a number of comments and suggestions presented in the JWS for Rules OL60I – OL60P, including a clear contention on the measures proposed by Te Kotahitanga o Te Atiawa to ensure that tangata whenua values are recognised and provided for.
94. We have reviewed the tables for Rules OL60I – OL60P, and in most aspects we agree with the position of the Applicant and NPDC Planners, and their proposed wording for, Rules OL60I – OL60P. However, we consider that there needs to be some consideration in those rules towards cultural values where there is construction and building near, adjoining or immediately adjacent to the Mangaiti Stream and the open space corridor.
95. We have adopted the wording for Rules OL60I – OL60P as presented by the Applicant and NPDC Planners but have made some additions to the assessment criteria for Rules OL60I – OL60N to apply, following consideration of the suggestions put forward by Ms Mako. The amendments acknowledge the potential and actual effects on cultural values resulting from development and use on private property adjoining or immediately adjacent to Mangaiti Stream reserve. The additions we have made to the assessment criteria are:

OL60I e) the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

OL60J f) the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

OL60K c) the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

OL60L 3) the extent to which the decreased front yard will adversely affect the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

OL60M f) the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

OL60N 5) the extent to which the batters will adversely affect the cultural values of tangata whenua because the site is adjacent and/or adjoining the Mangaiti Stream reserve

Proposed New Rule OL60Q – Proposed by Te Kotahitanga o Te Atiawa

96. We have reviewed proposed new Rule OL60Q relating to earthworks that alter the existing ground level as set out in the JWS and its supporting comments by Ms Mako for Te Kotahitanga o Te Atiawa, and the comments outlining the disagreement by Ms Hooper, Mr Wesley and Mr Horrell.
97. We prefer the position of the Planners representing the Applicant and NPDC that the framework provided (and associated rules) have adequate specific effects that can be assessed and have not adopted proposed Rule OL60Q.

## STATUTORY REQUIREMENTS

### Resource Management Act 1991 - Functions

98. NPDC accepted PPC49 under Clause 25(2)(b) of Schedule 1 of the RMA. Part 2 of Schedule 1 applies, specifically Clause 29.

#### **Clause 29 Procedure under this Part**

*(1) Except as provided in subclauses (1A) to (9), [Part 1](#), with all necessary modifications, shall apply to any plan or change requested under this Part and accepted under [clause 25\(2\)\(b\)](#).*

*(1A) Any person may make a submission but, if the person is a trade competitor of the person who made the request, the person's right to make a submission is limited by subclause (1B).*

*(1B) A trade competitor of the person who made the request may make a submission only if directly affected by an effect of the plan or change that—*

*(a) adversely affects the environment; and*

*(b) does not relate to trade competition or the effects of trade competition.*

*(2) The local authority shall send copies of all submissions on the plan or change to the person who made the request.*

*(3) The person who made the request has the right to appear before the local authority under [clause 8B](#).*

- (4) After considering a plan or change, undertaking a further evaluation of the plan or change in accordance with [section 32AA](#), and having particular regard to that evaluation, the local authority—
- (a) may decline, approve, or approve with modifications the plan or change; and
  - (b) must give reasons for its decision.
- (5) In addition to those persons covered by [clause 11](#), the local authority shall serve a copy of its decision on the person who made the request under [clause 21](#).
- (6) The person who made the request, and any person who made submissions on the plan or change, may appeal the decision of the local authority to the Environment Court.
- (7) Where a plan or change has been appealed to the Environment Court, [clauses 14](#) and [15](#) shall apply, with all necessary modifications.
- (8) Where a plan or change has been appealed to the Environment Court, the person who made the request under [clause 21](#) has the right to appear before the Environment Court.
- (8A) If the decision to change a plan is subject to the grant of an application to exchange recreation reserve land under [section 15AA](#) of the Reserves Act 1977, the local authority must advise the person who requested the plan change that—
- (a) the plan change is subject to a decision by the administering body on the application to exchange the recreation reserve land; and
  - (b) the decision on the exchange will be made under the [Reserves Act 1977](#) after the time allowed for appeals against the decision on the plan change has expired and any appeals have been completed.
- (9) With the agreement of the person who made the request, the local authority may, at any time before its decision on the plan or change, initiate a variation under [clause 16A](#).
99. Section 74 of the RMA sets out the matters to be considered by a territorial authority, in the preparation and undertaking of changes to a district plan. Such changes are required to be in accordance with its functions under s31, the provisions of Part 2 and its duty under s32 and s32AA, having regard to other documents to the extent that their content has a bearing on resource management issues of the District.

100. Section 75 of the RMA, in addressing the contents of district plans, requires that a district plan must give effect to any regional policy statement and must not be inconsistent with a regional plan.
101. Section 31 addresses the functions of territorial authorities under the Act and includes:
  - (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
  - (b) *the control of any actual or potential effects of the use, development, or protection of land,*
102. Section 32 of the RMA provides for the consideration of alternatives, benefits, and costs and requires that an evaluation must be carried out and that an evaluation must examine:
  - (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
  - (b) *whether having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
103. For the purposes of this examination, an evaluation must take into account the benefits and cost of policies, rules, or other methods.
104. Part 2 of the Act, being the purpose and principles of the statute, is the overarching part of the Act. Regard is to be given to all matters within it. Section 5 defines the purpose of the Act while sections 6, 7, and 8 outline the principles of the Act. Sections 6, 7, and 8 contain principles that are intended to give direction to assist with the achievement of matters.

### **Key Planning Instruments**

105. The s42A Report informed that there were several planning instruments of relevance to PPC49 and these are outlined as follows:
  - National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (“NES CSPHH”)
  - National Policy Statement for Urban Development 2020 (“NPS UD”)
  - National Policy Statement for Freshwater Management 2020 (“NPS FM”)

- Taranaki Regional Policy Statement
- Tai Whenua Tai Tangata Tai Ao – Te Kotahitanga o Te Atiawa Environmental Management Plan
- Operative New Plymouth District Plan
- Proposed New Plymouth District Plan

106. Other planning documents identified by the s42A Report were:

- New Plymouth District Blueprint Key Directions – June 2015
- Land Supply Review 2007 – 2027 ‘Framework for Growth’ – March 2008
- Waitara Community Board Plan
- Long Term Plan 2018 - 2028

### **FURTHER EVALUATION UNDER SECTION 32AA**

107. In considering the PPC49 request we have had particular regard to the evaluation report prepared by the proposer pursuant to s32 of the RMA. We consider that this report adequately covers the matters that are required under s32 (1) to (4) to support the request that was publicly notified.

108. As required by s 32AA, we have also carefully considered the subsequent changes which have been proposed in response to; further information requests, submissions made, questions we have raised during the hearing for consideration, and the Planners JWS. We consider that these changes, alongside the further modifications that we have recommended in Schedule A of this report are appropriate based on the evidence we have received.

### **RECOMMENDATION**

109. Our tasks are to make a recommendation to NPDC whether PPC49 should be declined, approved, or approved with modification and to provide reasons for our recommendation.

110. After reaching its decision, NPDC must publicly notify the decision. Public notice of NPDC’s decision will be given as soon as practicable, following completion of all administrative tasks. We note that any party can lodge an appeal to the Environment Court in relation to this decision.

111. Based on our consideration of all the material before us, and further evaluation of PPC49, our recommendation to NPDC is that PPC49 be approved with modification pursuant to Schedule 1, Clause 29(4) of the RMA.
112. We recommend that PPC49 be included into the Operative New Plymouth District Plan as per Schedule A of this decision, which incorporates amendments to the private plan change provisions arising from notification of the plan change, the hearing, conferencing and from our recommendation.

### **Reasons**

113. We are satisfied that the amended Proposed Private Plan Change meets the Council's obligations under the Act and meets the objectives of the Proposed District Plan and in particular:
  - The Cultural Effects/Impacts on Mana Whenua are provided for in the amended provisions in the plan change, recognising the importance of this area to Manukorihi Hapū and Otaraua Hapū.
  - The rezoning of the land provides for local housing supply and gives effect to the National Policy Statement Urban Development 2020, projected population and housing growth and for Waitara's land supply.
  - Any amenity effects from noise and light and the impact on the surrounding rural character and reverse sensitivity can be appropriately mitigated.
  - The Proposed Private Plan Change supports ecological restoration of areas around the Mangaiti Stream and the National Policy Statement on Freshwater Management 2020.
  - The area can be sufficiently serviced by 3 waters infrastructure, which needs to be sensitively designed to recognise the values of the site.
  - Future State Highway 3 upgrades are planned that will ensure safe and efficient access.
114. The key reasons for the recommendations on the submissions and the acceptance of the Proposed Private Plan Change with modifications are:
  - It assists the Council to carry out its functions in regards to section 31 of the RMA.

- It gives effects to National Policy Statements (ie: the NPS-Urban Development and Freshwater NPS).
- Takes into account Tai Whenua, Tai Tangata, Tai Ao – Te Atiawa Iwi Environmental Management Plan.
- Meets section 32 requirements in that it:
  - Provides for urban growth needs in Waitara.
  - Provides a framework to minimise/mitigate adverse effects on the environment.
  - Contains provisions that recognise the importance of this area to mana whenua.

115. We agree that these are the key matters for us in making our recommendation to the Council. We have deliberated on these matters, and consider that approving PPC49, with the modifications made to the Revised Structure Plan and the plan provisions since notification (as outlined in Schedule A), best meets these requirements.

Signed:



Stephen Graeme Daysh

**Hearings Commissioner - Chairperson**



James Whetu

**Hearings Commissioner**

**23 February 2021**



---

**SCHEDULE A – PLAN CHANGE 49 WAITARA – AREA D**

---

## **PPC18/00049: Private Plan Change 49: Johnston Street, Waitara Rezoning**

### **Key:**

Wording in black = Private Plan Change request as notified

Wording shown as ~~struckout and grey wash~~ = Changes recommended by the Commissioners

Wording shown as underlined and in red = Changes recommended by the Commissioners

Explanatory text in *italics* does not form part of the Plan Change recommendation.

Add to “Areas for Future Urban Development” chapter of the ODP

- Policy 23.10A
- Policy 23.10; Reason 23.10; and Method of Implementation 23.10
- Policy 23.10B; Reason 23.10B and Method of Implementation 23.10B
- Policy 23.11 and Reason 23.11
- Policy 23.12 and Reason 23.12
- Policy 23.13; Reason 23.13 and Method of Implementation 23.13
- Policy 23.14; Reason 23.14 and Method of Implementation 23.14
- Policy 23.14A

## **~~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) Recognises that the SITE is located within the Pekapeka Block which is a cultural landscape of national significance;
- (b) Protects historic heritage;
- (c) Facilitates an active relationship between the community and the Mangaiti Stream through the provision of the OPEN SPACE ENVIRONMENT AREA and pathways;
- (d) Avoids or mitigates the adverse effects of flooding and stormwater, including managing the effects of the associated flood hazard avoidance or mitigation measures;
- (e) 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;
- (f) Carries out stormwater management in an integrated manner that incorporates water sensitive design principles and practices in the Mangaiti Stream/McNaughton catchment;
- (g) Protects the Mangaiti Stream by ensuring only two crossing points for vehicular access and 3-waters INFRASTRUCTURE;
- (h) Provides for the relationship of TANGATA WHENUA with their culture, traditions, ancestral lands, waterbodies, sites, areas and other TAONGA of significance to Māori;
- (i) Provides for and creates transport and open space networks which are sustainable, efficient and connected both internally and externally;
- (j) Minimises incompatibility with adjoining rural environment; and
- (k) 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 discharged into an appropriately sized detention pond to minimise the environmental impact designed in accordance with best practice to minimise environmental impact and contribute to restoration of the Mangaiti Stream, by requiring a system that:

- (a) Ensures the maximum discharge flow rate up to a 1% AEP event does not exceed the predevelopment 10% AEP discharge flow rate;
- (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 Mangaiti Stream/McNaughton Catchment and improving water quality;
- (d) Maintains and enhances the natural character and amenity values;
- (e) Protects the cultural and spiritual values of TANGATA WHENUA; and
- (f) Integrates with and achieves the outcomes for transportation and open space/reserve areas.

### Reasons 23.10A and 23.10

An unnamed tributary runs through the Waitara—Area D structure plan and then runs to the coast through the Waitara West Industrial Area.

Technical assessments for Waitara—Area D determined the most logical and sensible way to manage stormwater disposal is to have the stormwater disposal from ROADS, right of ways and paved surfaces discharging into a detention dam within the stream. 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.

Otaraua and Manukorihi Hapu have concerns over additional stormwater entering the Stream and causing flooding downstream, so the detention dam must be appropriately sized.

Stormwater design is to reflect the need to buffer downstream Stormwater flows. Managing stormwater runoff close to its source through the detention pond will increase aquatic habitat in the area. Efficient stormwater design can make the stormwater discharge from Waitara—Area D hydraulically neutral by reducing peak flows either before they enter the stream (via onsite soak holes to address stormwater from dwellings and associated impervious areas within an allotment) or within the stream channel. There are also opportunities for additional retention which could be investigated and fed into NPDC stormwater management plans for Waitara.

The Waitara Community Board has also expressed concerns about the low impact systems (Swales and rain gardens) implemented on another development in Waitara, 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.

The Mangaiti Stream begins within the Waitara Area D Structure Plan area, and runs through the SITE, entering the COUNCIL stormwater infrastructure within the Waitara West Industrial Area downstream. This infrastructure discharges at the Waitara Estuary, a site and

area of significance to Manukorihi Hapū and Otaraua Hapū. Because of its undulating topography, soils, climate and relatively small catchment size, the 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 to avoid additional flooding. This outcome 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 it. 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 health of the Mangaiti Stream and aims to enhance water quality.

Waitara is the subject of a number of stormwater management projects. Future stormwater management projects for the Mangaiti Stream/McNaughton 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 giving effect to Te Mana o Te Wai.

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

### **Method of Implementation 23.10**

NZS4404:2010 Land Development and Subdivision ~~sets out the standards for conventional kerb and channel and it~~ is to be followed beginning with section 4.3.7.

Rule OL600 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 23.10B Mangaiti Stream**

To restore the health of the Mangaiti Stream by;

- (a) Providing for the active relationship of TANGATA WHENUA through the provision of access and customary activities;
- (b) Engagement of mātauranga Māori; and

- (c) Management and protection of the cultural and spiritual values of the Mangaiti Stream.

### **Reasons 23.10B**

It has been acknowledged that there is an expectation to restore the health of the Mangaiti Stream.

Restoring the Mangaiti Stream will give effect to Te Mana o Te Wai. Engaging TANGATA WHENUA is required to ensure Te Mana o Te Wai, and the ability to exercise KAITIAKITANGA is given effect to.

### **Methods 23.10B**

As per Policies 23.10 & 23.14.

### **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:

- a) Ensuring cultural narratives are reinscribed in the public environment (ROADS and open space/reserves areas) through language, technology, design and public art;
- b) Encouraging the use of cultural narratives in other areas of the development;
- c) Location and design of ROAD layout;
- d) Maximising passive solar design opportunities;
- e) Avoiding visual clutter and maintain a sense of appropriate BUILDING density with the adjacent rural area;
- f) Avoiding a dominance of built form over open space and to maintain visual permeability;
- g) Creating a subdivision that blends with its rural context;
- h) Allowing for small ALLOTMENT sizes in the area labelled 'Smaller lots', FRONT YARD requirements will be reduced;
- i) Ensuring an open streetscape and reducing urban clutter; and
- j) Mitigating the effects of reverse sensitivity.

### **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 OL60I, 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.~~

The Waitara Area D Structure Plan area has been developed to avoid effects though the design has not benefited from cultural expertise. 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 be expressed either through the Waitara Area D Structure Plan layout and which are not covered by existing rules.

Cultural expression is enabled via the cultural narrative plan to reflect the significance of the Pekapeka Block as a cultural landscape of national importance and the significance of the Mangaiti Stream.

Policy 23.11 and associated rules OL60H-1, 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.

### **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 Waitara Area D Structure Plan and included as Appendix 32;
- (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 area, including rules requiring development and subdivision to be undertaken in accordance with the Structure Plan in Appendix 32;
- (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;
- (e) Covenants on Records of Title restricting built form in FRONT YARDS and within landscape buffers, and reflecting reverse sensitivity concerns via no complaints provisions; and
- (f) Development of a cultural narrative plan.

### **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 and cultural effects. ~~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.~~

### **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 additional traffic generation effects at the intersection of Raleigh Street with STATE HIGHWAY 3 prior to the physical completion and operation of safety upgrades as a result of development within the Waitara Area D Structure Plan area.

### **Reasons 23.13**

Waka Kotahi New Zealand Transport Agency 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 New Zealand Transport Agency 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 coincide with the later stages of development of Waitara Area D.

### **Methods of Implementation 23.13**

Include rules that require assessment of the effects of the development of Waitara Area D on the safety and efficiency of the Raleigh Street and STATE HIGHWAY 3 intersection via an Integrated Transport Assessment.

### **Policy 23.14**

Recognise that only Manukorihi Hapū and Otaraua Hapū can identify their values and interests in Waitara Area D.



### **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 address sections 6 (a), (d), (e) and (f); 7 (a), (b), (c), (f) and 8 of the ACT.

To provide for the relationship of Manukorihi Hapū and Otaraua Hapū with their ancestral lands, waters and sites and the ability of Manukorihi Hapū and Otaraua Hapū to exercise KAITIAKITANGA, and recognise:

- Their relationship with their culture and traditions with their ancestral lands, waters, sites and WAAHI TAPU and other TAONGA;
- The historic and contemporary cultural context/landscape this development is set within including the Pekapeka Block; and
- The connection of urban development and the narratives of the cultural landscape.

A Cultural Impact Assessment has been prepared by Manukorihi Hapū and Otaraua Hapū and provides direction and information about the cultural values and significance of this land.

### **Methods of Implementation 23.14**

- Inclusion of matters of control and discretion within the rules that provide for the development of a cultural narrative to inform the development;
- Ensure the policy and rule framework manages the quantity and quality of stormwater and potential effects on the Mangaiti Stream, and requirements for the provision of low impact stormwater design;
- Inclusion of provisions within the policy framework that allow for the development of environmental health indicators for the Mangaiti Stream which benefit from mātauranga Māori;
- Provision for active modes of transport through and across the development;
- Provision to manage earthworks;
- Provision for cultural monitoring of subsequent subdivision and development;
- Provisions for adaptive management within the rule framework, requiring detail on how amendments to the design of the development will occur in the event there is an unrecorded archaeological find.

### **Policy 23.14A**

To ensure Manukorihi Hapū and Otaraua Hapū are able to exercise KAITIAKITANGA through the ongoing development and land use within Waitara Area D.

*To be included as Appendix 32 – Waitara – Area D*

**C: PROPOSED APPENDIX 32**

**APPENDIX 32 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.

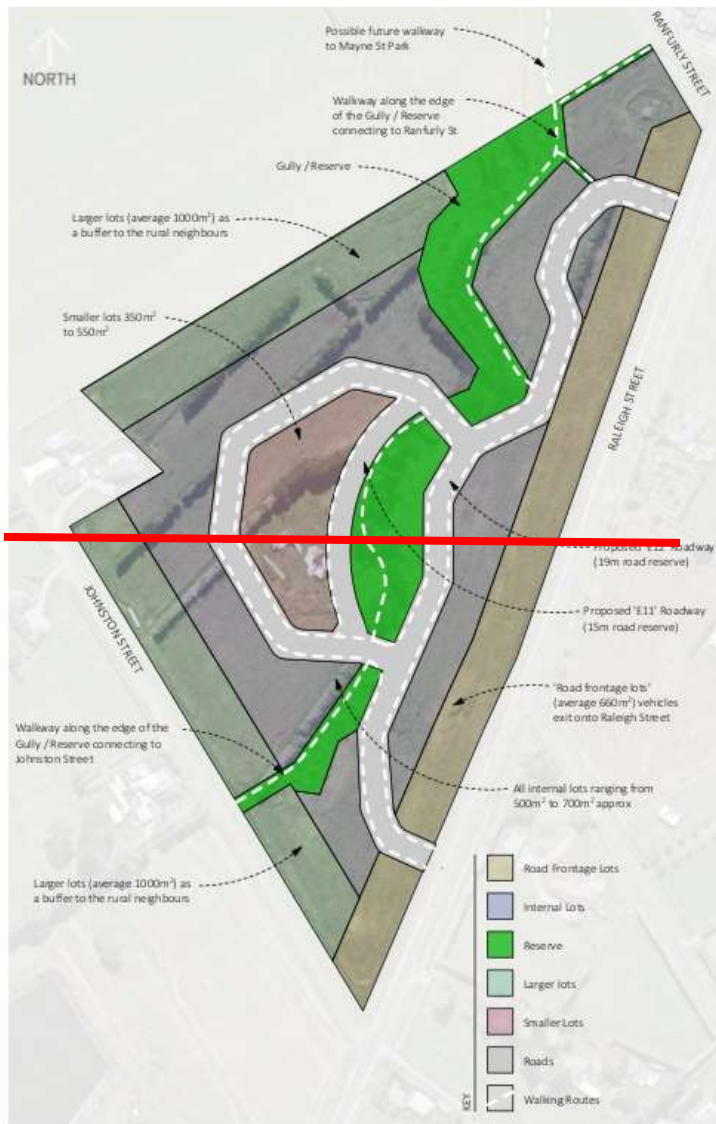
The Structure Plan guidance notes and associated rule framework (~~Issue 23, Objective 23, Policy 23.1, Method of Implementation 23.1, Reasons 23.1, Policy 23.10, Reasons 23.10, Policy 23.11, Reasons 23.11 and Rules OL60H to OL60M, Policy 23.12, Reasons 23.12, Rule OL60N~~) including::

- Existing Issues, Objectives, Policies, Methods and associated Rules;
- Policy 23.10A;
- Policy, Reasons and Methods 23.10;
- Policy, Reasons and Methods 23.10B;
- Policy, Reasons and Methods 23.11;
- Policy and Reasons 23.12;
- Policies 23.14, 23.14A and Reasons and Methods 23.14; and
- Rules OL60H-1 to OL60P

are intended to provide for the comprehensive development of the SITE.

are intended to provide for the comprehensive development of the site.

**Figure 32.1 Waitara Area D – Structure Plan**



## Structure Plan Guidance

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 (Future Urban Development 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.

However, it is likely that the stream The Mangaiti Stream is of cultural, traditional, historical and spiritual significance to Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū. Despite the Mangaiti Stream not being listed as WAAHI TAONGA/SITES OF SIGNIFICANCE TO MAORI or ARCHAEOLOGICAL SITE in the District Plan, it is identified as a Statutory Acknowledgement Area to Te Atiawa Iwi under the Te Atiawa Claims Settlement Act 2016 and 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 Mangaiti Stream and the protection of it is therefore its protection must be recognised and anticipated to be provided for through the Waitara Area D Structure Plan design and also through SITE specific consideration to stormwater disposal policies.

## Stormwater

The technical assessments for Waitara – Area D determined the best way to manage stormwater disposal within allotments via onsite soakage, while noting that if necessary roof water could (if approved by NPDC) also be connected into the piped stormwater reticulation and drained into the stream, providing additional detention volume within the waterway is allowed for. Stormwater from berms, footpaths and roads will be collected by conventional kerb and channel, and drained via concrete pipes to the existing stream. The final ground contour and road network will be designed as such that secondary overland flow (surface stormwater greater than a 20% AEP storm event) will naturally drain overland into the stream. The Mangaiti Stream begins within the Waitara Area D Structure Plan area, and runs through the SITE, entering the COUNCIL stormwater INFRASTRUCTURE within the Waitara West Industrial Area downstream. This INFRASTRUCTURE discharges at the Waitara Estuary, a SITE and area of significance to Manukorihi Hapū and Otaraua Hapū. 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 to 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 it. 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.

Waitara is the subject of a number of stormwater management projects, and future stormwater management projects for the McNaughton 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.

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

All STRUCTURES in and discharges to the Mangaiti Stream are subject to the Taranaki Regional Freshwater Plan and the National Policy Statement for Freshwater Management 2020, and may require consent under the rules in these documents.

## **Open Space B Environment Area**

An OPEN SPACE B ENVIRONMENT AREA has been placed along the margin of the eastern and western boundaries of the Mangaiti Stream. The reserve will manage and preserve the stream margin as a whole and ensure that the Mangaiti Stream remains in one ownership to assist this. Placing the OPEN SPACE B ENVIRONMENT AREA along the margins of the Mangaiti 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 Stream**

Section 6 (a) of the ACT requires councils to recognise and provide for the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.

Section 6 (d) of the ACT requires councils to recognise and provide for the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.

Section 6 (e) of the ACT requires councils to recognise and provide for the relationship of ~~Maori~~ Māori and their culture and traditions with their ancestral lands, water, sites, WAAHI TAPU and other TAONGA.

Section 6 (f) of the ACT requires councils to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development.

Section 7 (a) of the ACT requires councils to have regard to the ability to exercise KAITIAKITANGA.

Section 8 of the ACT requires councils to take into account the principles of the TREATY OF WAITANGI (TE TIRITI O WAITANGI).

Policy 1 of the National Policy Statement for Freshwater Management 2020 requires that freshwater is managed in a way that gives effect to Te Mana o Te Wai.

~~An unnamed tributary~~ The Mangaiti Stream, a tributary of the Waitara River runs through Waitara Area D. The Waitara River and its tributaries are a Statutory Acknowledgement area to Te Atiawa Iwi under the Te Atiawa Claims Settlement Act 2016. It is entirely within the OPEN SPACE B ENVIRONMENT AREA is provided to allow for any cultural significance of this Stream to be



recognised which will allow for opportunities to recognise and provide for the cultural, traditional, historical and spiritual significance of the Mangaiti Stream.

### **Archaeological Discovery Protocol**

The area identified as Waitara Area D is located within the Pekapeka Block, a cultural landscape of national significance, surrounded by known pā, papakāinga and other sites and areas of significance.

The Mangaiti Stream is of cultural, traditional, historical and spiritual significance to Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū. Despite the Mangaiti Stream not being listed as WAAHI TAONGA/SITES OF SIGNIFICANCE TO MAORI or ARCHAEOLOGICAL SITE in the District Plan, it is identified as Statutory Acknowledgement area to Te Atiawa Iwi under the Te Atiawa Claims Settlement Act 2016 and 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. *Tai Whenua, Tai Tangata, Tai Ao*, the Te Atiawa Iwi Environmental Management Plan contains specific provisions in relation to sites and areas of significance to Māori and any disturbance of these.

Any consent for earthworks, subdivision and/or development within Waitara Area D shall include reference to the above legislation, and shall include a condition requiring the consent holder to adhere to the following Archaeological Discovery Protocol:

*In the event that taonga (Māori artefacts), burial sites or kōiwi tangata (human remains), or Māori archaeological sites are discovered, the following procedure must be followed. Prior to commencement of any works, a copy of this Archaeological Discovery Protocol (ADP) must be made available to all contractors working on site:*

- *Work must cease immediately at the site of the discovery and within 200 metres of the discovery site until an appropriate site extent is determined by the relevant Heritage New Zealand Pouhere Taonga Regional Archaeologist and iwi groups or kaitiaki representatives including Te Kotahitanga o Te Atiawa, Manukorihi Hapū and Otaraua Hapū (contact details to be provided and recorded at time of development).*
- *All machinery immediately at the site of the discovery and within 200 metres of the discovery site must be shut down and the area must be secured. The relevant Heritage New Zealand Pouhere Taonga Regional Archaeologist and the Consent Authority must be notified.*
- *If the site is of Māori origin, the Consent Holder must also notify the appropriate iwi groups or kaitiaki representatives (as above) to ensure site access and to enable appropriate cultural procedures and tikanga to be undertaken to ensure the site is safe, whilst ensuring all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act 2014, Protected Objects Act 1975).*
- *If kōiwi (human remains) are uncovered, the Consent Holder must advise the New Zealand Police, the relevant Heritage New Zealand Pouhere Taonga Regional Archaeologist, the Consent Authority and the appropriate iwi groups or kaitiaki representatives (as above). Remains are not to be disturbed or moved until such time as the New Zealand Police, Heritage New Zealand Pouhere Taonga, and iwi groups or kaitiaki representatives have responded.*
- *Works affecting the archaeological site and any kōiwi must not resume until Heritage New Zealand Pouhere Taonga gives written approval for work to continue and/ or the appropriate authority is obtained. Further assessment by an archaeologist may be required.*
- *Where Te Atiawa Iwi, Manukorihi Hapū and Otaraua Hapū so request, any information recorded as the result of the discovery (such as a description of location and content) must be provided for their records.*

*Update the Cross-reference matrix: Policies to Rules at the end of the Management Strategy chapter of the Operative District Plan*

	Rule No's						
TOPIC	Policy No.	Overlays (OL)	Residential (Res)	Rural (Rur)	Business (Bus)	Industrial (Ind)	Open Space (OS)
	<a href="#"><u>23.10A</u></a>	<a href="#"><u>60H-1 – 60P</u></a>					
	<a href="#"><u>23.10</u></a>	<a href="#"><u>60Q</u></a>					
	<a href="#"><u>23.10B</u></a>	<a href="#"><u>60H-1 – 60P</u></a>					
	<a href="#"><u>23.11</u></a>	<a href="#"><u>60H-1 – 60M</u></a>					
	<a href="#"><u>23.12</u></a>	<a href="#"><u>60N</u></a>					
	<a href="#"><u>23.13</u></a>	<a href="#"><u>60H-1</u></a>					
	<a href="#"><u>23.14</u></a>	<a href="#"><u>60H-1 – 60P</u></a>					
	<a href="#"><u>23.14A</u></a>	<a href="#"><u>60H-1 – 60P</u></a>					

Add to Overlay Rules of the ODP

– Rules OL60H-1 – OL60P

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
<b>WAITARA AREA D STRUCTURE PLAN</b>						
OL60H-1	Development and subdivision within the Waitara Area D Structure Plan in Appendix 32	<p>1) Development that is undertaken as part of any subdivision that has already been approved in accordance with the Waitara Area D Structure Plan in Appendix 32;</p> <p>or</p> <p>2) Where subdivision has not been undertaken the erection of STRUCTURES and BUILDINGS and associated development work that is in accordance with the Waitara Area D Structure Plan and meets OL60I</p>	<p>1) Subdivision shall be in accordance with the Waitara Area D Structure Plan in Appendix 32.</p> <p>2) <u>Minimum ALLOTMENT size within the Waitara – Area D Structure Plan in Appendix 32 is:</u></p> <p>a) <u>350m<sup>2</sup> within the area marked ‘smaller lots’; or</u></p> <p>b) <u>500m<sup>2</sup> across the remainder of the Waitara Area D Structure Plan</u></p> <p>3) <u>Minimum average ALLOTMENT size within the Waitara – Area D Structure Plan in Appendix 32 applies to the areas identified</u></p>	<p>1) Does not meet the conditions for a permitted activity or standards and terms for a controlled activity</p> <p>2) <u>Subdivision prior to the physical completion and operation of the upgrade of the intersection of Tate Road/STATE HIGHWAY 3 and closure of the Raleigh Street/STATE HIGHWAY 3 intersection.</u></p> <p>3) <u>Subdivision where the speed restriction on Raleigh Street between the Waitara and Johnston Street intersection is more than 50 km/hr.</u></p>	<p>Matters of control as for rules Res54-64 as they apply to the RESIDENTIAL A ENVIRONMENT AREA <u>and,</u></p> <p>a) <u>Procedures to be followed if artefacts are discovered including the provision of an opportunity for on-SITE monitoring by TANGATA WHENUA during EXCAVATION within the area identified as OPEN SPACE B ENVIRONMENT AREA.</u></p> <p>b) <u>Provision for adaptive management in the event of the discovery of</u></p>	<p>1) <del>The extent of the non compliance with the</del> <u>Where the proposed development is not in accordance with the</u> Waitara Area D Structure Plan, <del>the extent of the non-compliance with the Waitara Area D Structure Plan</del> 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:</p> <p>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.</p> <p>b) The degree to which INFRASTRUCTURE provisions are co-ordinated within the Waitara Area D Structure Plan area.</p> <p>c) The degree to which SITE specific characteristics of the Waitara – Area D Structure Plan have been</p>



Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
		to OL60NP and other applicable overlay and Environment Area rules	<p><u>on the Structure Plan as follows:</u></p> <p>a) <u>Raleigh Street ROAD Frontage Lots: 660m<sup>2</sup>.</u></p> <p>b) <u>Larger Lots Adjoining Johnston Street and the RURAL ENVIRONMENT AREA: 1,000m<sup>2</sup>.</u></p> <p>4) <u>A footpath on the western side of Raleigh Street extending from Johnston Street to Ranfurly Street.</u></p> <p>5) <u>Widening of Johnston Street to 5.5 m sealed width from the intersection with Raleigh Street for the entire ROAD frontage length of Waitara Area D Structure Plan area.</u></p> <p>6) <u>ROAD Frontage Lots on Raleigh Street to have a minimum ROAD frontage width of 20m.</u></p>		<p><u>previously unrecorded archaeological remains.</u></p> <p>c) <u>Design of planting and landscaping.</u></p> <p>d) <u>Methods to mitigate effects of reverse sensitivity with the surrounding RURAL ENVIRONMENT AREA, including the use of no-complaints covenants.</u></p> <p>e) <u>Provision for the development of environmental health indicators for the Mangaiti Stream which benefit from mātauranga Māori and measures to apply adaptive management to respond to the findings of the monitoring.</u></p> <p>f) <u>Provision for the development of a cultural narrative to inform the development</u></p>	<p>addressed in the design and layout of the area.</p> <p>d) Whether the INDICATIVE ROAD network has taken into account the design/layout of Waitara Area D Structure Plan area.</p> <p>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.</p> <p>f) The degree to which the <del>esplanade reserve</del> <u>activity</u> achieves public access along the <u>Mangaiti</u> Stream.</p> <p>g) The extent to which the design/layout of the INDICATIVE ROADS and the <del>Esplanade Reserve</del> <u>OPEN SPACE ENVIRONMENT AREA</u> is integrated.</p> <p>h) Protection of the <u>Mangaiti</u> Stream and <u>its</u> margins is achieved.</p> <p>i) Roading/pedestrian connectivity is provided.</p> <p>j) The extent to which the design of the ROAD TRANSPORTATION</p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
			<p><u>7) ROADS to vest are as shown in the Structure Plan.</u></p>		<p><u>including through cultural expression, integration of te reo Māori (bilingual signage and dual naming) and street furniture.</u></p> <p><u>g) Measures to reduce the impact of glare on occupants of the dwelling at 81 Raleigh Street from headlights from vehicles exiting the new ROAD at the southern end onto Raleigh Street.</u></p>	<p>NETWORK considers pedestrian safety.</p> <p><u>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.</u></p> <p><u>2) Where subdivision will occur prior to physical completion and operation of the upgrade of the intersection of Tate Road/STATE HIGHWAY 3 and closure of the Raleigh Street/STATE HIGHWAY 3 intersection:</u></p> <p><u>a) The effect on the safety and efficiency of the intersection of Raleigh Street with STATE HIGHWAY 3;</u></p> <p><u>b) The findings of a detailed integrated transport assessment relevant to the traffic environment at the time of application; and</u></p> <p><u>c) How feedback from Waka Kotahi New Zealand Transport Agency has been incorporated into the integrated transport assessment prepared in (b) above.</u></p> <p><u>3) Where the speed restriction on Raleigh Street between the Waitara</u></p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
						<p><u>and Johnston Street intersection is more than 50 km/hr:</u></p> <p><u>a) the effect on safety and efficiency on Raleigh Street.</u></p>
OL60I	Maximum number of HABITABLE BUILDINGS on SITES within the Waitara Johnston Street Area D Structure Plan area, <u>excluding PAPA KAINGA HOUSING.</u>	1	n/a	More than 1	n/a	<p>1) <del>The extent to which</del> <del>The adverse effects of</del> the increased number of HABITABLE BUILDINGS on the SITE <u>will have adverse effects on:</u></p> <p><u>a) The character and visual amenity of the area and the privacy and outlook of adjoining SITES;</u></p> <p><u>b) The ability to provide adequate outdoor living space on the SITE or the location of alternate recreation areas;</u></p> <p><u>c) OUTSTANDING or REGIONALLY SIGNIFICANT LANDSCAPES; and</u></p> <p><u>d) The natural character of the coastal environment or <del>PRIORITY WATERBODIES</del> Mangaiti Stream; and</u></p> <p><u>e) The cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.</u></p> <p>2) The ability to mitigate adverse effects through the use of screening, planting or alternate design.</p>
OL60J	Maximum HEIGHT of BUILDINGS on	6m	n/a	Greater than 6m	n/a	<p>1) The extent to which the extra HEIGHT of the proposed BUILDING will:</p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
	SITES within the Waitara Area D Structure Plan area					<p><u>a)</u> Adversely affect the character and visual amenity of the surrounding area;</p> <p><u>b)</u> Reduce privacy of adjoining SITES;</p> <p><u>c)</u> Have an overbearing effect on SITES within the RESIDENTIAL ENVIRONMENT AREA;</p> <p><u>d)</u> Adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES;</p> <p><u>e)</u> Adversely affect the natural character of <u>Mangaiti Stream</u> <del>PRIORITY WATERBODIES</del>; and</p> <p><u>f)</u> Adversely affect the cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.</p> <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 <del>HABITABLE</del> and <del>NON</del>	1) a light reflectivity value (LRV) of 25% or lesser for all roofs; and	n/a	1) a light reflectivity value (LRV) of greater than 25% for	n/a	<p>1) The extent to which the increased LRV will:</p> <p><u>a)</u> Adversely affect the character and visual amenity of the surrounding area;</p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
	<del>HABITABLE buildings</del> <u>BUILDINGS</u> on <u>SITES</u> within the Waitara <del>Johnston Street</del> Area D Structure Plan area	2) a light reflectivity value (LRV) of 40% or less for all exterior cladding materials		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.		<u>b) Adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES; and</u> <u>c) Adversely affect the cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.</u>  2) The extent to which topography, planting or set backs can mitigate the adverse effects of the increased LRV.  3) The ability to mitigate adverse effects through the use of screening, planting or alternate design.
OL60L	Reduced FRONT YARD requirements <u>when calculating COVERAGE of the FRONT YARD</u> for areas marked as 'Smaller lots' within the Waitara Area D Structure Plan	<del>Minimum 1.5m front yard</del> <u>Maximum COVERAGE of the FRONT YARD of 35% when based on a FRONT YARD depth of 1.5m.</u>	n/a	<u>n/a</u> As per Res14	n/a	As per Rule Res14 plus  <u>1) The extent to which the decreased FRONT YARD will adversely affect the cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.</u>
OL60M	Fencing restrictions for SITES within	1) <del>Solid Post and rail</del> fencing 1.2m in HEIGHT or less along the	n/a	- 1) Fencing exceeds 1.2m in HEIGHT, and/or is not a post and rail fence, <u>and/or</u>	n/a	1) The extent to which the extra HEIGHT <u>and/or design</u> of the proposed fence will:

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
	Waitara Area D Structure Plan	<p>boundary shown on the Waitara Area D Structure Plan; and</p> <p>2) No fencing of any sort shall be located on any SITE between the <del>street</del> ROAD and a HABITABLE <del>DWELLING</del> <u>BUILDING</u>.</p>		<p><u>is not in accordance with the Waitara Area D Structure Plan;</u> <u>and/or</u></p> <p>2) any fencing located on any SITE between the ROAD and <u>the HABITABLE <del>DWELLING</del> BUILDING.</u></p>		<p><u>a) Adversely affect the character and visual amenity of the surrounding area;</u> <u>b) Reduce privacy of adjoining SITES;</u> <u>c) Have an overbearing effect on SITES within the RESIDENTIAL or RURAL ENVIRONMENT AREA;</u> <u>d) Adversely affect OUTSTANDING and REGIONALLY SIGNIFICANT LANDSCAPES;</u> <u>e) Adversely affect the natural character of Mangaiti Stream; and</u> <u>f) Adversely affect the cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.</u></p> <p>2) The extent to which topography, planting or set backs can mitigate the adverse effects of the extra HEIGHT and/or design of the fence.</p> <p>3) The ability to mitigate adverse effects of the proposed fence through the use of screening, planting or alternate design.</p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
OL60N	Controls on cut and fill batters where visible from the RURAL ENVIRONMENT AREA within the Waitara Area D Structure Plan	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 to match gently and smoothly into existing contours.	Any other cut and fill batters n/a	n/a <u>Cut and fill batters 1.5m or more in HEIGHT</u>	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 use of screening, Planting or alternate design.	n/a 1) Where batters are taller than 1.5m: a) The extent that the batters will be revegetated; 2) The timing within which works and revegetation shall be completed; 3) The mitigation of effects through the use of screening, planting or alternate design; 4) Consistency with the natural landform; 5) The extent to which the batters will adversely affect the cultural values of TANGATA WHENUA because the SITE is adjacent and/or adjoining the Mangaiti Stream reserve.
<u>OL60O</u>	<u>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</u>	<u>n/a</u>	<u>Stormwater disposal from ROADS, RIGHTS OF WAYS 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) on-site soak holes, detention ponds, wetlands, vegetated swales, rain gardens, rainwater tanks,</u>	<u>Does not meet the standards and terms for a controlled activity</u>	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 the matters set out in Policy 23.10, Policy 23.10A, Policy	1) The effects of direct stormwater discharges into the Mangaiti Stream on the receiving environment. 2) The effects that the disposal of stormwater into the Mangaiti Stream has on the archaeological, WAAHI TAPU, cultural, traditional, historical and spiritual values held by TANGATA WHENUA. 3) The ability of an alternative stormwater disposal method to avoid and mitigate the environmental

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
			<u>soakage pits and soakage holes, filter strips, infiltration trenches/basins, permeable paving, green roofs or TREE pits to avoid direct discharges into the Mangaiti Stream.</u>		<u>23.10B, Policy 23.14 and Policy 23.14A.</u>	<u>impact of additional stormwater on flood flows.</u>  <u>4) The extent to and reasons why low impact stormwater design cannot be met.</u>  <u>5) The consistency of the design with the matters set out in Policy 23.10, Policy 23.10A, Policy 23.10B, Policy 23.14 and Policy 23.14A.</u>
<u>OL60P</u>	<u>Vesting of OPEN SPACE ENVIRONMENT AREA within Waitara Area D Structure Plan</u>	<u>n/a</u>	<u>The area is in accordance with the Waitara Area D Structure Plan</u>	<u>n/a</u>	<u>a) Detailed design of the OPEN SPACE ENVIRONMENT AREA through a co-design process between the APPLICANT, COUNCIL and TANGATA WHENUA which includes:</u>  <u>i) Areas of open space and proposed planting;</u>  <u>ii) Details of plant species (requiring locally indigenous species and a focus on species that provide</u>	<u>1) Where the proposed OPEN SPACE ENVIRONMENT AREA 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:</u> <u>a) The degree to which INFRASTRUCTURE provisions are co-ordinated within the Waitara Area D Structure Plan area.</u> <u>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.</u>



Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
					<p><u>habitat for TAONGA and native species), trail design and surfacing, furniture and any other features;</u></p> <p><u>iii) Details of specific features and design elements that have been incorporated to reflect the cultural narrative of the SITE, location and form of these features and elements;</u></p> <p><u>iv) Detailed plans and sections of any proposed 3-waters and/or roading INFRASTRUCTURE, including any proposed ROADS or pathways crossing the Mangaiti Stream, including culverts and abutments (if any) and planting proposed to remediate the stream banks and other features required to ensure an attractive</u></p>	<p><u>c) Whether the INDICATIVE ROAD network has taken into account the design/layout of Waitara Area D Structure Plan area,</u></p> <p><u>d) Consideration of the outcomes of the co-design process,</u></p> <p><u>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.</u></p> <p><u>f) The degree to which the activity achieves public access along the Mangaiti Stream.</u></p> <p><u>g) The extent to which the design/layout of the INDICATIVE ROAD and the OPEN SPACE ENVIRONMENT AREA is integrated.</u></p> <p><u>h) Protection of the Mangaiti Stream and its margins is achieved.</u></p> <p><u>i) Roding/pedestrian connectivity is provided.</u></p> <p><u>j) Procedures to be followed if physical archaeology is discovered including the provision of an opportunity for on-site monitoring during EXCAVATION by TANGATA WHENUA</u></p> <p><u>k) Provision for adaptive management in the event of the</u></p>

Rule No.	Parameter	Conditions Permitted	Standards and Terms		Matters over which control is reserved	Assessment Criteria Council has restricted the exercise of its discretion to these matters.
			Controlled	Discretionary		
					<u>crossing point when viewed from the reserve.</u> <u>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.</u>  <u>b) Provision for defects liability.</u>	<u>discovery of previously unrecorded archaeological remains.</u> <u>l) the degree to which the detailed design matters over which control is reserved under this rule are achieved.</u>