District Plan Hearing Proposed Plan Change 1 - Putaruru Urban Growth and Related Matters

South Waikato District Council

Document Information

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1. PURPOSE OF REPORT

This report has been commissioned by the South Waikato District Council (Council). It is one of two hearings reports prepared under Section 42A of the Resource Management Act 1991 (the RMA) to provide recommendations to the Hearings Panel appointed by Council to hear and decide on all submissions and further submissions received on Proposed Plan Changes 1 and 2 to the South Waikato District Plan. This report relates to Proposed Plan Change 1 – Putaruru Urban Growth and Related Matters (PC1).

PC1 was publicly notified on 13 May 2020 along with Proposed Plan Change 2 – Infrastructure (PC2,) and submissions were received until 24 June 2020. A period for further submissions followed from 8 July until 22 July 2020. In total, eight submissions and one further submission were lodged on PC1. Decisions on 90 submission points on PC1 are required from Council.

The following assessment has been prepared by Council's Planning Staff. It reflects our understanding of the issues as at Wednesday, 23 September 2020, and also relies on draft reports prepared by Damian Ellerton, Acoustician, and Judith Makinson, Traffic Engineer. The recommendations in this report should be generally consistent with those presented in the other hearings report dealing with PC2, since they were prepared in collaboration between the authors.

The assessment and recommendations below also record a statement of reasons in relation to the evaluations required by Section 32 of the RMA. Council produced a report titled 'Section 32 Report to Accompany Proposed Change No.1 to the South Waikato District Plan' dated 7 May 2020 that was released when PC1 was publicly notified. This report references a number of Technical Appendices that support Council's evaluations under S.32, including reports by Watershed Engineering Ltd providing infrastructure modelling and assessment of the water supply, wastewater and stormwater networks in Putaruru. (Technical Appendices 4a to 4c). Technical Appendix 5 comprises an Integrated Traffic Assessment on the transportation implications of potential traffic generated by proposed Growth Cell 4 – Business Zone extension. (CKL Consultants, March 2020, written by Ms Makinson.).

Where a submission point has been 'accepted' or 'accepted in part' resulting in a recommendation to alter the wording of an objective, policy, rule or other provision, the reasons for that and a summary statement in relation to the Section 32AA evaluation conducted is provided. A full Section 32AA evaluation in support of the recommended alteration to the provision will be included in a report that will accompany the release of Council decisions on PC1 submissions that will contain the updated Section 32AA evaluations.

Where a submission point is 'rejected', or where it is 'accepted' or 'accepted in part', but where no alteration to the wording of a provision is recommended, then the evaluation recorded in the May 2020 version of the Section 32 report remains Council's evaluation. The summary statement below is also in relation to the submission points evaluated within this report only, although a revised wording may be adopted in response to other submissions dealt with in the other hearing report on PC2.

This report addresses the submissions and further submissions received from the following parties, some of whom indicated that they wished to be heard in support of their submission.

Submission Number	Submitter's Name	Address
1	Nathan Christie	South Waikato
2	Ministry of Education	c/o Beca, Hamilton
3	Fire & Emergency NZ	c/o Beca, Hamilton
4	KiwiRail Holdings Ltd	Wellington
5	DPS Developments Ltd	c/o Veros, Tauranga
6	Nicholson Surveying Ltd	Putaruru
7	Michael Jones	Tokoroa
8	Raukawa Charitable Trust	Tokoroa

Further Submitter's Name	Support/Oppose	Submitter's Name	Submission No.
KiwiRail Holdings Ltd	Oppose	DPS Developments Ltd	5.11, 5.20
KiwiRail Holdings Ltd	Oppose	Nicholson Surveying Ltd	6.1
KiwiRail Holdings Ltd	Support in Part	Nicholson Surveying Ltd	6.4

2. PURPOSE OF PC1

2.1 Recent Population Growth and Demand for Residential and Business Land

The background to, and elements of, PC1 are set out in the explanatory material in the first few pages of the Plan Change document which precedes the actual Plan amendments proposed (Changes A1 to B25 and C1. Since 1989, population decline continued in the South Waikato District particularly within urban Tokoroa. Therefore the Long Term Plan (LTP) 2015-25 reflected the District's status of a declining and aging population. Likewise the South Waikato District Plan, operative since July 2015, does not provide for an outward expansion of residential zoning in any of the townships. The community did not see the need for an expansion of the residential zones at the time during this plan review process. At the time there was also no National Policy Statement (NPS) directing Council to plan for any type of growth. Therefore, District Plan Objective 4.2.7 is "to contain urban development within the existing town boundaries", which applies to all four of the District's towns, and to both residential and commercial/industrial development.

In late 2016, population growth was however forecast for the District. Statistics NZ confirmed accelerated population growth in the South Waikato. The amended Long Term Plan (LTP) 2018-28 and Council's wastewater treatment plant re-consenting and upgrade proposals now reflect this change, by assuming a 1% population increase per annum for Putaruru through to at least 2030. Such population growth, based around in-migration and strengthened employment opportunities in Putaruru, suggests that:

- The town's population growing from an estimated 4,030 in 2016 to about 5,500 in 2048 – an increase of 1500 people;
- The number of dwellings increasing over the same period from about 1700 to 2300 dwellings – an increase of 600; and

- Each year about 50 new residents would settle in Putaruru; and
- Each year about 20 new dwellings would be built on new residential lots.

2.2 Elements of Plan Change 1.

a) New Objectives and Policies

The current Plan objectives and policies for South Waikato's towns do not give effect to the NPS-UD, particularly now that there is evidence of current and likely future growth in Tokoroa, Putaruru and Tirau. In fact, Objective 4.2.7 and Policy 4.3.3 would tend to hinder growth, since any non-complying application for subdivision around the towns' edges would be contrary to the Plan's objectives, and therefore should be refused consent under the RMA.

PC1proposes to revise Objective 4.2.7 and Policy 4.3.3, and to insert a new Objective 4.2.10 and related Policies 4.3.18 to 4.3.20 requiring new growth areas to be efficiently serviced with infrastructure, and integrated into and connected with the existing township. A new Policy 4.3.21 concerning traffic safety for Growth Cell 4 is also proposed, as explained below.

b) Re-zoning of New “Growth Cells”.

Plan Change 1 proposes to re-zone four specific "Growth Cells" around Putaruru's perimeter from Rural, Business and Rural Residential to Putaruru Residential in the case of Growth Cells 1 to 3, and from Rural to Putaruru Business in the case of Growth Cell 4. These Growth Cells are shown on the proposed amendments to the District Planning Maps, and are as follows:

Growth Cell No.	Location	Current Zoning	Proposed Zoning	Section Yield
GC1	Overdale Road	Rural	Residential	328
GC2	Ruru Cres	Rural, Business	Residential	70
GC3	Kennedy Drive	Rural Residential	Residential	105
GC4 (Business)	Princes St south	Rural	Business	200 HUEs

The proposed re-zoning will cater for new sites for dwellings, and industries. In doing so, the Change is implementing a national direction, catering for the District's share of New Zealand's urban growth that must be planned for nationwide under the NPS. The identified Growth Cells aim to be sufficient to provide ample supply and choice of building sites for at least the 10-year timeframe of the District Plan and probably longer.

The Plan Change introduces a number of new matters that Council has reserved its control over when making decisions on subdivisions as a controlled activity in the Growth Cells, and in imposing consent conditions.

c) `Achieving Managed Expansion of Putaruru Township

Council has considered what planning provisions should apply to the growth areas in the period up to when the new subdivisions are constructed, and suitable policies and rules have been included in PC1. These include specific provision for the continuation of farming activities of a similar intensity and scale to the present ones, and requirements for Development Concept Plans to be submitted to ensure that the first stage subdivision or development of each Growth Cell does not compromise the urban future of that area.

Traffic modelling indicates that the development of Growth Cell 4 (Putaruru Business) has the potential to cause traffic safety and efficiency problems at the Princes St/SH1 intersection once the

additional volume of traffic turning into the intersection exceeds about 330 vehicle movements in any particular peak hour. For this reason, activities that would cumulatively increase the amount of traffic from GC4 using the intersection by more than a specified amount would be required to obtain a resource consent . To address concerns about the intersection expressed by the NZ Transport Agency, PC1 proposes to have a more limited range of activities in Growth Cell 4 than applies in other parts of the Putaruru Business zones. Retail and office activities, except for ancillary offices and /or retailing with a GFA limit, will become a discretionary activity.

The funding earmarked in Council's Long Term Plan for the 3Waters (water, wastewater and stormwater) service upgrades to cater for Putaruru growth include service provision for 200 Household Unit Equivalents of demand (200 HUEs) for industrial activities in Growth Cell 4, and for 328 HUEs in residential Growth Cell 1 (Overdale Road). New rules limiting subdivision and development in GC1 to a maximum of 328 HUEs are proposed, so that service demands do not exceed those for which funding provision has been made.

The new discretions for Council when considering Growth Cell subdivisions also require "no-complaints" covenants or a suitable alternative to be created along the "reverse sensitivity mitigation" boundaries identified on the Planning Maps.

d) Longer-Term Possible Growth Areas

Beyond the development of Growth Cells 1 to 4, the Putaruru Growth Strategy 2017 identifies further "Possible Future Growth Areas". These areas represent land that could be re-zoned in the future to cater for the town's growth. They are however unlikely to be needed within the 30-year planning horizon that is used for Council's infrastructure planning, and are not provided for in the LTP nor as part of PC1.

e) Regional Infrastructure Technical Services (RITS)

Councils across the Waikato Region recently completed and agreed to a standard set of performance conditions acceptable for new infrastructure services serving new urban development. As the Council adopted RITS in July 2018, consequential changes are required to the ODP to replace references to Council's previous Code of Practice for Subdivision (2009), with reference to the RITS (2018).

2.3 Designation for Proposed Road

A "public works" designation (D59) is proposed to help Council implement construction of a future road into the enlarged Business zone (Growth Cell 4) from Princes St. It is important to note that, while this proposed designation is being publicly notified at the same time as the Plan Change for re-zoning, it must follow quite a different process under the RMA. The final decision on whether to adopt the designation will be made by Council as requiring authority under Section 168A of the RMA, rather than the usual Plan-making process under Schedule One of the RMA.

The proposed designation is supplemented by proposed new subdivision and Business zone rules. These require access to all subdivisions and developments in Growth Cell 4 to be created via a legal road from Princes St, rather than via rights-of-way, access lots or other means.

3. STATUTORY FRAMEWORK FOR PC1

The Hearings Panel decision-making on PC1 sits within a comprehensive statutory framework established under the RMA. These provisions will be familiar to the Hearings Panel.

In summary, the Panel needs to be satisfied that PC1, and the relief sought by the submitters;

(a) Is in accordance with;

(i) The Council's functions as set out in section 31 of the RMA;
(ii) The purpose and principles of Part 2 of the RMA; and
(iii) The Council's duty under section 32 of the RMA and

(b) Gives effect to:
(i) Any relevant national policy statement;
(ii) Any relevant national environmental standard; and
(iii) The Operative Waikato Regional Policy Statement 2016 (RPS).

Part Two of the RMA

Section 74(1)(b) of the RMA provides that plans (including plan changes) must be prepared "in accordance" with the provisions of Part 2. The role Part 2 plays in decision-making processes for plan changes at the district level is refined by the Supreme Court in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] 1 NZLR 593 ("King Salmon"). The Supreme Court held that when developing plans, there is generally no need to refer back to Part 2 of the RMA if there is no invalidity, incomplete coverage or ambiguity in the higher order planning documents.

This is because the higher order planning document is assumed to already give substance to Part 2. However, if one or more of the three caveats apply, reference to Part 2 may be justified and it may be appropriate to apply the overall balancing exercise.

In the present case, there is generally no ambiguity or incomplete coverage in the relevant planning framework (including the RPS and NPS-UD) such that recourse to Part 2 is not required. Accordingly, an assessment of PC1 against Part 2 is not required, in my view.

4. PLANNING FRAMEWORK FOR PC1

2.1 District Plan Objectives and Policies

The District's urban areas are an important part of the "physical resources" that need to be sustainably managed under Section 5 of the RMA. On Page 13 of the Operative South Waikato District Plan (ODP), one of the key resource management issues for the District (Issue 3) is stated as being:

To enable the district's towns to become more vibrant places, but in a manner that protects and enhances existing amenity and character and within a context of static or modest district-wide growth.

The following extracts from the explanation for Issue 3 are considered relevant in considering the PC1 submissions:

"The towns in the district perform a key role in the functioning of the district. The towns are where most people in the district live, where much of the employment is located, and where most of the community facilities are located such as schools, medical facilities, libraries, parks and shops. These facilities and services support the social well-being of both the residents of the town and also the surrounding rural hinterland. Contributing to the success of the towns by making them more attractive places to live, work and play, and improving the way they function are therefore key issues. The ongoing prosperity of the towns is necessary for them to provide the range of community facilities and services necessary for all residents in the district.

The town centres within each town are important to the identity and functioning of the towns. Improving the attractiveness and character of the town centres is a key element, and all of the town

centres have the capacity to accommodate additional development. The district plan can contribute to this by using zoning to direct commercial growth primarily to the town centres to ensure they thrive, and direct industry and employment to the industrial parts of the town.

Tokoroa, Putaruru and Tirau all have the capacity to support increases in population and employment growth within the existing boundaries of the towns. The towns each have infrastructure networks that contribute to the functioning of the towns in a sustainable manner. These networks are roading, walkways, water supply, stormwater and wastewater, and are adequate, although they are aging and will require ongoing investment. To maximise this investment, the plan seeks to support the consolidation and success of each of the towns within their existing town boundaries, through a flexible regime of provisions that aims to enable growth and good urban design outcomes.

To address Issue 3, the ODP contains a group of objectives and policies set out in Chapter 4 - Objectives and Policies for the District's Towns. These objectives are then implemented through the rules set out in Parts B and C of the Plan. The relevant objectives to the submissions received are:

4.2.1 To have attractive, functional, safe and thriving townships built on the unique qualities of their people, industries, history and natural strengths.

4.2.3 To establish a range of housing styles, cultural facilities and recreational activities that cater for changing lifestyles, an aging population and the diverse ethnicity of the towns' populations.

4.2.5 To allow adequate opportunities for businesses and industries to provide a range of employment opportunities for the District's residents, in a manner consistent with the towns' existing amenity values without any unnecessary barriers to economic advancement.

The following policies are also relevant:

4.3.3 Consolidate new residential development in the existing vacant, zoned and serviced land in order to achieve the efficient use of existing infrastructure.

4.3.13 Promote a high standard of urban design for new development, including reflecting the town's past and the locality's Raukawa heritage, and consideration of community safety and Crime Prevention Through Environmental Design (CPTED) principles.

The Vision and Strategy for the Waikato River – Te Ture Whaimana o Te Awa Waikato
Te Ture Whaimana is given unique weight by the Ngāti Tuwhāretoa, Raukawa and Te Arawa River Iwi Act 2010, (referred to hereafter as the "Upper River Act"), and district plan changes must give effect to it under both that statute and section 75(3) of the RMA, as the Vision and Strategy is embedded into the RPS. The ODP was prepared and made operative with this requirement in mind. For example, Policy 4.3.15 of the ODP is "To achieve the Vision and Strategy for the Waikato River by managing subdivision and land use within the district's towns located within the River catchment in a way that restores and protects the health and wellbeing of the Waikato River, including by:

a) controlling hazardous substances use and storage
b) including standards for earthworks, silt and stormwater control
c) managing activities in towns
d) requiring esplanade reserves or strips".

The issues raised in the submission by the Raukawa Charitable Trust are closely intertwined with the health and wellbeing of the Waikato River and its catchment, as well as the health and wellbeing of the Waihou River. Technical Appendix 1 to the S.32 Report was prepared in discussion with Iwi representatives including RCT staff, and evaluates PC1 against the relevant provisions of Te Ture Whaimana. It concludes that PC1 will give the required effect to the Vision and Strategy for the Waikato River.

The Waikato Regional Policy Statement 2016 (**the RPS)**

Plan changes must also give effect to the RPS under section 75(3)(d) of the RMA. . Policy 6.1 of the RPS requires that development of the built environment, including transport, occurs in a planned and co-ordinated manner which has regard to the principles in Section 6A of the RPS.
The relevant RPS principles state that "new development should:

- b) make use of urban intensification and redevelopment to minimise the need for urban development in greenfield areas
- c) not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport .
- d) connect well with existing development and infrastructure
- f) promote compact urban form, design and location to:
  - i) minimise energy and carbon use
  - ii) minimise the need for private motor vehicle use
  - iii) encourage walking, cycling, use of public transport and multi-modal transport connections, and
  - iv) maximise opportunities for people to live, work and play within their local area".

Technical Appendix 3 to the S.32 Report was prepared in discussion with WRC staff, and evaluates PC1 against all relevant provisions of the RPS. It concludes that PC1 will give the required effect to the Waikato Regional Policy Statement. Te Ture Whaimana is deemed to be part of the RPS, and also must be given effect to for that reason. Significantly, the WRC has not submitted on PC1 which indicates WRC considers PC1 to give effect to the RPS.

National Policy Statements (NPSs) and National Environmental Standards (NESs)

Pursuant to section 75(3)(a), a proposed plan change must also give effect to any relevant national policy statement and any relevant national environmental standard.

The NPSs and NESs that are relevant to Plan Change 1 are:

National Policy Statement on Freshwater Management 2020 (NPSFM) – in force from 3 September 2020**.**

The main concept underpinning the NPSFM is Te Mana o te Wai, which refers to the “fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment and protects the mauri of the water.” (section 1.3).

3.5(4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

National Policy Statement on Urban Development 2020 (NPS-UD) - in force from 20 August 2020**.**

The new NPS-UD replaces the previous NPS on Urban Development Capacity 2016 (the NPS-UDC). The NPS-UDC required all local authorities, through their planning to enable urban environments to grow and change in response to the changing needs of the communities and future generations, and provide enough space for their populations to happily live and work. The new NPS has a similar focus.
The NPS-UD contains a number of objectives and policies that are aimed at ensuring plans make room for growth both “up” and “out”, and that rules are not unnecessarily constraining growth. The NPS applies to all local authorities that have an “urban environment” within their district and to all decisions that affect an urban environment.

Neither NPS applies specifically to the individual towns of Putaruru, Tīrau and Arapuni since it only relates to "urban environments". These were defined as settlements of over 10,000 population under the NPS – UDC, and are now defined under the NPS-UD instead as:

> *"Any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that :*
> *a) is, or is intended to be, predominantly urban in character; and*
> *b) is, or is intended to be, part of a housing and labour market of at least 10,000 people".*

The NPS- UD clearly applies to Tokoroa in its own right, and potentially to all of the towns of the district which together constitute a South Waikato housing and labour market. The reason the NPS-UD is relevant to PC1 is that Putaruru's growth cannot proceed without the proposed amendment of the following ODP objective and policy, which relate to all South Waikato's towns:

Objective 4.2.7 *To contain urban development within the existing town boundaries.*
Policy 4.3.3 *Consolidate new residential development in the existing vacant, zoned and serviced land, in order to achieve the efficient use of existing infrastructure.*

The current wording of the above objectives and policies would constrain growth in all of the District's townships, including Tokoroa. This is because any non-complying application for subdivision around the towns' edges would be directly contrary to Objective 4.2.7, and would therefore fail one of the "gateway tests" for approval under Section 104D of the Act.

The second reason that the NPS-UD is relevant is that it firmly establishes that it is best practice for Councils, including those classified as "low growth" like the SWDC, to anticipate growth and make provision for it. The zoning changes proposed by PC1 would therefore be implementing best practice and helping to implement a national direction, (ie catering for the District's share of New Zealand's urban growth that must be planned for nationwide). In this regard the nation's urban growth would be facilitated in all four towns by a more appropriate growth objective and policy, and the provisions of PC1 aim to help deliver the NPS-UD's objective of "well-functioning urban environments".

PC1 aims to help deliver the NPS-UD's objective of "well-functioning urban environments.

Policy 8 of the NPS-UD is highly relevant to PC1. It requires local authority decisions to be "responsive" to plan changes that add significantly to development capacity, even if out of sequence or is unanticipated by the relevant planning documents. Policy 8 states:

> "Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well functioning urban environments, even if the development capacity is;
>
> (a) unanticipated by RMA planning documents; or
>
> (b) out-of-sequence with planned land release.

Guidance as to the meaning of the term "responsive" is provided in the Implementation section (Part 2) as follows:

> **3.8 Unanticipated or out-of-sequence developments**
>
> (1) This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.
>
> (2) Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:
>
> (a) would contribute to a well-functioning urban environment; and

(b) is well-connected along transport corridors; and

(c) meets the criteria set under (3).

Accordingly, in making its decision on PC1, the Hearing Panel is required to have particular regard to the development capacity provided by PC1. My conclusion here that PC1 gives effect to the NPS-UD 2020, due to the development capacity enabled by the new Growth Cells.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) in effect from 1 January 2012.

The purpose of this NES is to ensure national consistency in the management of contaminated land to make land safe for human use. The NES applies to any piece of land on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) has been, or is more likely than not to have been, undertaken on the land. Five specified activities trigger the NES, including the subdivision of land and the change of use of land. Its methods include a national set of soil contaminant standards for 12 priority contaminants. An inability to meet the requirements of the NES, or the undertaking of particular activities in certain locations, will result in the need for a resource consent.

Part 4.7.3 of the S.32 Report describes how the NES was fully considered for the Putaruru Growth Cells in the preparation of PC1. Accordingly , PC1 gives effect to this NES.

SUBMISSION 1 – NATHAN CHRISTIE

Background

Mr Christie's email has been treated as a formal submission. His **Submission Point 1.1** saying that the **"**Plan seems fine" should be regarded as expressing support for the whole of PC1 as notified.

His **Submission Point 1.2** raises the issue of "why can't the waste water be put into tanks for areas that are drought stricken instead of being put into sewers".

Assessment

Submission Point 1.1 should be allowed, insofar as my recommendation is that PC1 remain essentially unchanged, except for specific amendments required to address specific submissions.

In relation to Submission 1.2, some Councils are encouraging "grey water" from showers, washing machines etc to be stored in urban household tanks for watering gardens or other use during dry spells. Toilet waste needs to be disposed of to town sewers for health reasons. Council staff are not aware of any communities storing grey water at a town or neighbourhood scale for re-use. This may involve installing separate pipe networks in streets for grey water and for toilet waste.

The Regional Infrastructure Technical Specifications (RITS) adopted by Council, (and by the majority of the District Councils in the Waikato), only mentions grey water briefly. Grey water re-use can cause health issues and needs to be carefully managed to ensure it does not cause any health issues. Council would not manage any grey water re-use system. :

"The NZ Building Code should guide all private infrastructure. There is reference in this RITS to the building code in relation to

a) the use of water sensitive techniques including:

i. Grey water re-use

ii. Green roofs
iii. Soakage"

Recommendations

1. That Submission 1.1 from Mr N Christie be accepted insofar as the amendments proposed by PC1 are retained as notified, except where modified by recommended relief for other submitters.
2. That Submission 1.2 from Mr N Christie be accepted insofar as greywater tanks on individual residential sections for garden use etc are already permitted and can be useful in drought situations, but wastewater detention on a town-wide or suburb-wide basis for re-use is less economically or environmentally feasible. No changes to PC1 as notified are required in response to this submission.

SUBMISSION 2 – MINISTRY OF EDUCATION

Background

There are two schools located in the vicinity of the proposed PC1 Growth Cells. Putaruru Primary School (Designation D213 on the Planning Maps) is in Kennedy Drive. Access to it is gained from Arapuni Road via either Totara Street or Barnett St. Growth Cell 3 (Kennedy) would have its principal access via an extension of Kennedy Drive leading westward from the Barnett St intersection. PC1 specifically requires all vehicular access to Business Growth Cell 4 to be from a new road to Princes St, to preclude industrial traffic using Totara St and the other residential streets leading to the school.

Te Wharekura o Te Kaokaoroa o Patetere (Designation D209) is in Buckland St, only 60m in a direct line from the eastern edge of GC1 (Overdale). The school is only separated from CC1 by the railway line and Overdale Road.

Putaruru High School (D211) is some distance from all of the Growth Cells, near the northern corner of the town. Small increases in its school roll and related traffic movements can be expected from any increases in the town's population facilitated by PC1. That population increase is anticipated to be around 1% per annum at most.

Assessment

The relief sought by the Ministry's **Submission point 2.1** is that Council consider pedestrian safety for children using Putaruru Primary School and Te Wharekura o Te Kaokaoroa, and infrastructure to support the schools. The Level Crossing Safety Impact Assessment (LCSIA) commissioned by Council in response to Submission 4.1 from KiwiRail shows that a few minor works are necessary to provide the necessary level of safety for children using the Main Street pedestrian crossings on their way to and from school. Pedestrian gates and flashing lights are likely to be warranted in the longer term.

Safety issues from pupils taking an illegal shortcut across the railway directly to Te Wharekura can be expected to increase as Growth Cell 1 develops. It was not within the scope of the LCSIA to consider the potential for trespass on the railway corridor as a short cut between Overdale Road, GC1 and the Wharekura. Possible responses to this issue are likely to include better barrier fencing, and perhaps a properly designed pedestrian crossing to the end of Buckland Street. The need for the latter will depend on the speed of growth, and will have to be justified at the time under KiwiRail guidelines. Council's Consultant Traffic Engineer, Ms Judith Makinson of CKL, has commented that:

> *"In terms of the existing potential for trespass, the whilst the railway corridor is generally unfenced in this area, the topography along the north section of Buckland Road alongside the railway does not support easy access. Buckland Road drops away in level, leaving the railway on a considerable embankment. There is, however a higher potential for trespass to the south where Buckland Road, Overdale Road and the railway line are all at a similar level. Fencing is a matter that KiwiRail and SWDC may wish to discuss in relation to any existing trespass issues.*
>
> *Putaruru is currently served by two rail crossings, the level crossing on Main Street and the grade-separated road at Princes Street. Rail corridors can be an inherent barrier to walking and cycling as safety principles prevent them being permeable. With or without further growth in Putaruru, it may be beneficial for SWDC to consider another crossing opportunity for pedestrians and cyclists, particularly in the northern part of the township. With new level crossings being unacceptable to KiwiRail, grade-separation would be required".*

Furthermore:

> *"In relation to the upgrade to the level crossing recommended by the LCSIA and the potential future fencing of the railway line to limit trespassing effects by pedestrians, developments within GC1 can reasonably be expected to have an impact on the operation of this crossing and railway line and as such, the upgrades to the pedestrian facilities can be secured by PDAs for individual land use or subdivision consents to enable SWDC to gather a fund to pay of the upgrades without overburdening any one developer with a requirement to install the pedestrian gates up front".*

In reliance on the above, I do not consider overall that any amendments to the Plan Change document are required in response to Submission 2.1.

The Ministry's **Submission point 2.2** is that Council engage with the Ministry regularly as Growth Cells develop, to enable it to keep up to date with staging, in case school network issues arise. This is a valid point which should be formally noted, but no amendments to the Plan Change document are required in response to this submission.

The relief sought by **Submission point 2.3** is that Objective 4.2.7 be retained as notified, i.e

"~~To contain urban development within the existing town boundaries~~. *To provide for outward expansion of existing townships where the new areas can be efficiently serviced with network utilities and infrastructure including provision for cycling and pedestrians, and where funding provision has been made consistent with the projected demand for new building sites for houses and businesses".*

The only submissions requesting changes to Objective 4.2.7 are Submissions 5.1 and 5.2 by DPS Developments, which are recommended to be rejected. Submission 2.3 should therefore be accepted, along with similar submission points from Fire and Emergency NZ (FENZ) and the Raukawa Charitable Trust supporting Objective 4.2.7 as notified.

The relief sought by **Submission point 2.4** is that Objective 4.2.10 be retained as notified, i.e

> *"To ensure that new urban development is efficiently serviced and integrated to mitigate adverse effects on existing network utilities and infrastructure".*

A submission from Fire and Emergency NZ (3.2) requests the addition of extra words to Objective 4.2.10, and this submission is recommended to be accepted. Submission point 2.4 should therefore be accepted in part, to this extent, along with similar submission points from DPS Developments and the Raukawa Charitable Trust supporting Objective 4.2.10 as notified.

The relief sought by **Submission point 2.5** is that new Policy 4.3.18 be retained as notified. This Policy has been opposed by DPS Submission 5.7, which is recommended for rejection. The Ministry's submission should therefore be accepted, as should the FENZ submission supporting Policy 4.3.18.

The relief sought by **Submission point 2.6** is that new Policy 4.3.19 be retained as notified. This Policy has been opposed by DPS Submission 5.8, which is recommended for rejection. The Ministry's submission should therefore be accepted, as should the FENZ and RCT submissions supporting the Policy concerned.

Submission point 2.7 seeks that new Policy 4.3.20 be retained as notified. This Policy has not been opposed by any submissions. The Ministry's submission should therefore be accepted, as should the FENZ, DPS and RCT submissions supporting Policy 4.3.20, which will remain as:

> "*Ensure that new subdivisions within Putaruru Growth Cells do not compromise their efficient servicing, or their integration with the existing urban area as new neighbourhoods".*

Submission 2.8 seeks that proposed Change A11, which would add a new fifth bullet point to 4.4.1 District Plan Methods, be retained as notified. This amendment would read:

- *"Specific rules for Putaruru Growth Cells, including Development Concept Plan requirements, traffic safety thresholds, and water and wastewater limitations, that promote integration of growth areas with the town's existing neighbourhoods and with network utilities and infrastructure"*

As the only other submission on this point (3.7 from FENZ) also supports Change A11, the Ministry's submission should be accepted.

Submission 2.9 seeks that proposed Change B1, which would add a new Rule 8.1.3b) detailing the information to be included in Development Concept Plans for the Growth Cells be retained as notified. This Rule is recommended to be retained subject to a wording change to accommodate one of four identical changes sought by submissions from FENZ (3.8). The Ministry's submission should be accepted to this extent.

Submission 2.10 requests that the proposed new Rule 8.3.1j), (Change B2) control is reserved for Controlled Activity Land Use Applications, be retained as notified. The matters concerned relate to potential traffic impacts of Growth Cell 4 on the SH1/Princes St intersection. This Rule is also recommended to be retained, subject to a wording change to accommodate the second of the four identical changes sought by FENZ (Submission 3.9). Submission 2.10 should also be accepted to this extent.

Likewise the Ministry's **Submission 2.11** should be accepted in part, to the extent that Change B4 introducing a new Rule 8.3.3(t) is to be retained but amended in response to Submission 3.10 from FENZ. Rule 8.3.3(t) contains a new set of matters over which discretion is restricted for Restricted Discretionary Activities, in relation to proposals that do not comply with the water supply and/or wastewater disposal limits for Growth Cell 4 proposed in Rule 22.4.12.

Submission 2.12 requests that the proposed new Rule 8.3.3ae) (Change B5) containing a new set of matters over which discretion is restricted for Restricted Discretionary Activities, be retained as notified. The matters concerned again relate to potential traffic impacts of Growth Cell 4 on the SH1/Princes St intersection. This Rule is supported by Submission 5.14 from DPS, and is recommended to be retained. The Ministry's submission should therefore be accepted.

Submission 2.13 requests that the proposed new Rule 8.3.3(u) (Change B6) also inserting a new set of matters over which discretion is restricted for Restricted Discretionary Activities, be retained as notified. The matters concerned relate to proposals that exceed the maximum number of Household Unit Equivalents (HUEs) permitted in Growth Cell 1 (Overdale) by new Rules 10.4.6 or 23.4.14. This Rule is recommended to be retained subject to a wording change to accommodate the last of the set of four changes sought by FENZ (Submission 3.11). Submission 2.10 should also be accepted to this extent.

The Ministry's **Submission 2.14** requests retention of Change B21 introducing a new Performance Standard 22.4.12 to the Putaruru Business Zone in Chapter 22. The new Rule sets water supply and wastewater disposal limits for Growth Cell 4. The new Rule is opposed by Submission 3.10 from DPS, but is recommended to be retained as notified.

Recommendations

That Submission 2.1 from the Ministry of Education be accepted insofar as the new rules applying to proposed Growth Cell 4 require access direct from Princes St rather than new industries and businesses from gaining access via the residential streets leading to the Putaruru Primary School. Council notes the need for ongoing discussion with the Ministry as the Growth Cells develop, about pedestrian safety around all the town's schools, and particularly across the railway line.

That Submission 2.2 from the Ministry of Education be accepted by Council noting the need to retain liaison with the Ministry to enable it to keep up to date with staging of the Growth Cells, in case school network issues arise.

That Submission 2.3 from the Ministry of Education be accepted by retaining Objective 4.2.7 as notified.

That Submission 2.4 from the Ministry of Education be accepted in part, to the extent that Submission 3.2 from Fire and Emergency NZ requesting the addition of extra words to Objective 4.2.10 is recommended to be accepted.

That Submission 2.5 from the Ministry of Education be accepted by retaining Policy 4.3.18 as notified.

That Submission 2.6 from the Ministry of Education be accepted by retaining Policy 4.3.19 as notified.

That Submission 2.7 from the Ministry of Education be accepted by retaining Policy 4.3.20 as notified.

That Submission 2.8 from the Ministry of Education be accepted by retaining Change A11 to District Plan Methods 4.4.1 as notified.

That Submission 2.9 from the Ministry of Education be accepted in part, to the extent that Change B1 introducing a new Rule 8.1.3b) is to be retained but amended in response to Submission 3.8 from FENZ.

That Submission 2.10 from the Ministry of Education be accepted in part, to the extent that Change B2 introducing a new Rule 8.3.1(i) is to be retained but amended in response to Submission 3.9 from FENZ.

That Submission 2.11 from the Ministry of Education be accepted in part, to the extent that Change B4 introducing a new Rule 8.3.3(t) is to be retained but amended in response to Submission 3.10 from FENZ.

That Submission 2.12 from the Ministry of Education be accepted by retaining proposed new Rule 8.3.3(ae) (Change B5) as publicly notified.

That Submission 2.13 from the Ministry of Education be accepted in part, to the extent that Change B6 introducing a new Rule 8.3.3(u) is to be retained, but amended in response to Submission 3.11 from FENZ.

That Submission 2.14 from the Ministry of Education be accepted, by retaining proposed Rule 22.4.12 to the Putaruru Business Zone (Change B21) as publicly notified.

SUBMISSION 3 – FIRE AND EMERGENCY NZ (FENZ)

Background

FENZ is a unified fire organisation that brings together New Zealand's urban and rural fire services.

As outlined in S.10 of the Fire and Emergency Act 2017 (FaE Act), the principal objectives of Fire and Emergency are to;

- Reduce the incidence of unwanted fire and the associated risk to life and property,
- Protect and preserve life, and prevent or limit injury, damage to property land, and the environment.

The main functions of FENZ, as identified in S.11 of the FaE Act, are to:

- Promote fire safety, including providing guidance on the safe use of fire as a land management tool;
- Provide fire prevention, response, and suppression services;

Assessment

The relief sought by FENZ's **Submission point 3.1** is to retain Objective 4.2.7 as notified. As the only submissions seeking amendment to Objective 4.2.7 (Submissions 5.1 to 5.3 from DPS), are recommended to be rejected, Submission point 3.1 should be accepted.

Submission point 3.2 supports Objective 4.2.10 in part, by seeking that it be amended by adding "the health, safety and wellbeing of people and communities". Accepting this submission would mean that the objective would read:

> *4.2.10 To ensure that new urban development is efficiently serviced and integrated to mitigate adverse effects on existing network utilities and infrastructure,* and the health, safety and wellbeing of people and communities".

This addition aligns with the "sustainable management purpose of the RMA, and emphasises the key role of an adequate water supply in the vital public safety role played by FENZ. As the objective would still remain relatively concise, I recommend that this submission be accepted.

The relief sought by **Submission points 3.3 and 3.4** is that new Policies 4.3.18 and 4.3.19 respectively be retained as notified. These Policies have been opposed by DPS Submissions 5.7 and 5.8, which are both recommended for rejection. The FENZ submissions should therefore be accepted.

Submission 3.5 seeks that new Method 4.4.2 be retained as proposed. PC 1 proposes to add the following to the Plan's list of "Other Methods" for achieving the urban objectives and policies in Chapter 4:

- *The "Putaruru Growth Plan 2017" developed in collaboration with the Putaruru Moving Forward group, and further such Plans yet to be developed for the District's other towns.*

- *Water efficiency requirements in Council's Water Supply and other Bylaws and the Regional Infrastructure Technical Specifications (July 2018) ".*

As no other submissions have been received concerning these proposed new Methods, Submission 3.5 should be accepted.

Submission point 3.6 is that new Policy 4.3.20 be retained as notified. This Policy has also been supported by DPS Submission 5.9, and the FENZ submission should therefore be accepted.

Submission 3.7 seeks that new Method 4.4.1 be retained as notified. PC 1 proposes to add the following to the Plan's list of "District Plan Methods" for achieving the urban objectives and policies in Chapter 4:

- *"Specific rules for Putaruru Growth Cells, including Development Concept Plan requirements, traffic safety thresholds, and water and wastewater limitations, that promote integration of growth areas with the town's existing neighbourhoods and with network utilities and infrastructure"*

As the only other submission received concerning this proposed new Method (Submission 2.8 from the Ministry of Education) also supports the amendment concerned, Submission 3.7 should be accepted.

Submissions 3.8 to 3.11 support in part Changes B1, B2, B4 and B6, which insert new Rules 8.1.3b), 8.3.1j), 8.3.3(t) and 8.3.3(u) respectively. The FENZ submissions seek that each of these rules be amended to refer to the NZ Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008), hereafter referred to as "the FENZ Code of Practice".

The Regional Infrastructure Technical Specifications (RITS) adopted by Council on 12 July 2018, and to be referenced in the District Plan by Change B25 of PC1, require new and upgraded water supplies in the District's towns to provide urban fire-fighting capacity that meets FENZ requirements. Specifically referring to the Code of Practice in the urban subdivision rules does not therefore give its contents any additional status, greater legal enforceability, or alter the vital nature of adequate fire-fighting for our communities. The only thing it would add in terms of better achieving the District Plan's objectives and policies, in my view, is to provide additional relevant information for the Plan reader. The ODP already has a reference to the FENZ Code of Practice, as Subdivision Rule 10.7.5 mandates the use of its rural provisions for use in Rural Residential zones. This requirement was inserted in response to an NZ Fire Service submission on Plan Change 18 when the South Waikato's Rural Residential zone was created in 2008. It reflects a slightly different situation to now, since the Council Code of Practice that preceded RITS did not implement SNZ PAS 4509:2008 in relation to Rural Residential areas. Water supply standards for urban areas, on the other hand have always included provision for fire fighting, and the standards now implemented by RITS represent best practice in this regard.

It is relevant to note that the amended wording suggested by FENZ for the four rules concerned seeks reference to "the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (or any replacement code of practice approved under S.72 of the Fire and Emergency New Zealand Act 2017)". Clause 30 of Schedule 1 to the RMA allows documents including Standards to be incorporated by reference in a plan or proposed plan, and such material has legal effect as part of the plan concerned. Clause 31 however specifies that amendments to, or replacements of the incorporated material, (e.g updates or replacements of SNZ PAS 4509:2008), only have legal effect as part of the Plan if an approved variation or change to the plan states that it has that effect. It is for this reason that the new references to RITS to be inserted by Change B25 of PC 1 are to the version of RITS as at its approval by Council in July 2018.

It is therefore inappropriate in my view for the reference to replacement codes of practice sought by FENZ to be part of any new wording approved by the Hearings Panel in response to Submissions 3.8 to 3.11. It would also be inconsistent with case law. The community has not had an opportunity to submit on replacement codes as required by Part 3 of Schedule 1.

Submission 3.8 relates to Rule 8.1.3b), which sets out new Information Requirements for Development Concept Plans in the Urban Growth Cells. This rule is opposed by Submission 5.11 from DPS and Submission 6.1 from Nicholson Surveying, but those submissions are recommended for rejection. The new rule is supported by submissions from the Ministry of Education (2.9), from KiwiRail (4.12) and from Raukawa (8.6).

In the light of the above, I consider that Submission 3.8 can be accepted, if the Hearings Panel concur that it adds some value as extra information for Plan users. (It could alternatively be inserted as an advice note). If Submissions 5.11 and/or 6.1 from DPS and/or Nicholsons were to be accepted, on the other hand, reference to the FENZ Code of Practice could still be inserted in the new Rules which the Hearings Panel created in response to Submissions 5.11 and/or 6.1..

Submission 3.9 again seeks reference to the FENZ Code of Practice, this time in new Rule 8.3.1j), (Change B2) which sets out additional matters over which Council's control is reserved, for controlled activity land use applications in Growth Cell 4 (Business). Change B2 is supported by Submission 5.12 from DPS. Submission 8.9 from Raukawa relates to Rules 8.2 and 8.3 generally, and is assessed later in this report. My recommendation for Submission 3.9 concerning the FENZ Code of Practice is the same as for Submission 3.8 above.

Submission 3.10 seeks reference to the FENZ Code of Practice in new Rule 8.3.3(t), (Change B4) which sets out additional matters over which Council's discretion is restricted, for restricted discretionary activity land use applications in Growth Cell 4 (Business) that do not comply with new Rule 22.4.12 regarding water supply and/or wastewater disposal limits. Change B4 is supported by Submission 5.15 from DPS. My recommendation concerning the FENZ Code of Practice is the same as for Submission 3.8.

Submission 3.11 requests the final reference to the FENZ Code of Practice, within new Rule 8.3.3(u). This proposed Rule sets out additional matters over which Council's discretion is restricted, for restricted discretionary activity subdivision and land use applications in Growth Cell 1 (Overdale) that do not comply with the HUE limits in Rules 10.4.6 or 23.4.14. No other submissions specifically relate to this new rule. My recommendation concerning Submission 3.11 is again the same as for Submission 3.8.

Submission 3.12 supports new Subdivision Rule 10.4.1c) to the extent that it requires all habitable building sites to be at least 0.5m above the 1% AEP design flood level. This rule is opposed by Submissions 5.16 from DPS and 6.4 from Nicholson Surveying Ltd, but those submissions are recommended for rejection. The FENZ submission should therefore be accepted.

Submission 3.13 seeks that new Rule 8.3.4(u) (Additional Matters of Control and Restricted Discretion) be retained as notified. This rule is opposed by Submission 5.25 from DPS and Submission 6.4 from Nicholson Surveying. As those submissions are recommended for rejection, the FENZ submission should therefore be accepted.

Submission 3.14 requests that Rule 22.3.2A (Change B17) be retained as notified. This is the rule that would make most of the activities that are permitted in the current Business zone controlled activities instead within Growth Cell 4 (Business). This rule is opposed by Submission 5.16 from DPS, but this submission is only recommended for acceptance in part, via an amendment to Clause (b) of the Rule. The FENZ submission should be accepted accordingly.

Submission 3.15 requests that Change B25 be retained as notified. This concerns the set of proposed amendments that would replace all current mention in the ODP to Council's 2009 Code of Practice, with reference to RITS instead. As no submissions or further submissions in opposition have been received, the alterations concerned must already be "treated as operative" under Section 86F of the RMA. The FENZ submission must therefore be allowed.

Recommendations

That Submission 3.1 from Fire and Emergency NZ be accepted by retaining Objective 4.2.7 as notified.

That Submission 3.2 from Fire and Emergency NZ be accepted by amending Objective 4.2.10 to read:

"To ensure that new urban development is efficiently serviced and integrated to mitigate adverse effects on existing network utilities and infrastructure, and the health, safety and wellbeing of people and communities".

That Submission 3.3 from Fire and Emergency NZ be accepted by retaining Policy 4.3.18 as notified.

That Submission 3.4 from Fire and Emergency NZ be accepted by retaining Policy 4.3.19 as notified.

That Submission 3.5 from Fire and Emergency NZ be accepted by retaining the proposed additions to Other Methods 4.4.2 as notified.

That Submission 3.6 from Fire and Emergency NZ be accepted by retaining Policy 4.3.20 as notified.

That Submission 3.7 from Fire and Emergency NZ be accepted by retaining the proposed addition to District Plan Methods 4.4.1 as notified.

That Submission 3.8 from Fire and Emergency NZ be accepted in part by amending the final bullet point of proposed Rule 8.1.2b)iii) (Change B1) to read:

> *"Potable water supply connections, management and treatment for domestic, and/ or commercial purposes, and compliance with the NZ Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008) ~~for fire fighting purposes~~ for the entire growth cell".*

That Submission 3.9 from Fire and Emergency NZ be accepted in part by amending the proposed Rule 8.3.1(j)(vi) (Change B2) to read:

> *"The availability of sufficient water and wastewater infrastructure, including water supply for fire fighting in accordance with the NZ Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008), to service future subdivision and/or development throughout Putaruru, including in the residential Growth Cells identified by this Plan".*

That Submission 3.10 from Fire and Emergency NZ be accepted in part by amending the proposed Rule 8.3.3(t)(i) (Change B4) to read:

> *"The availability of sufficient water and wastewater infrastructure, including water supply for fire fighting in accordance with the NZ Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008), to service future subdivision and/or development throughout Putaruru, including in the residential Growth Cells identified by this Plan".*

That Submission 3.11 from Fire and Emergency NZ be accepted in part by amending the proposed Rule 8.3.3(u)(i) (Change B6) to read:

> *"The availability of sufficient water and wastewater infrastructure, including water supply for fire fighting in accordance with the NZ Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008) to service future subdivision and/or development throughout Putaruru, including in the residential Growth Cells identified by this Plan".*

That Submission 3.12 from Fire and Emergency NZ be accepted by retaining Rule 8.3.4(u) (Change B7) as notified.

That Submission 3.13 from Fire and Emergency NZ be accepted by retaining Rule 10.4.1c) (Change B10) as notified.

That Submission 3.14 from Fire and Emergency NZ be accepted in part by retaining Rule 22.3.2A (Change B17) as notified, except as required to partly accept Submission 5.2.5 from DPS.

That Submission 3.15 from Fire and Emergency NZ be accepted by retaining, as publicly notified, the amendments proposed in Change B25 to the following Rules:

i) Rule 8.4.1g).
ii) Definition of 'Building Platform'.
iii) Subdivision Services Rules 10.4.3a), 10.5.3a) and 10.7.5a).
iv) Subdivision Access Rules 10.4.4b) and e), 10.5.4f), 10.6.6f) and 10.7.6g).
v) Rule Statement 11.1 (sixth paragraph).
vi) Advisory Note to Rule 11.3.4.

SUBMISSION 4 – KIWIRAIL HOLDINGS LTD (KiwiRail)

Background

Kiwirail Holdings Ltd is the State-Owned Enterprise responsible for the management and operation of Aotearoa's railway network, including the Kinleith Branch Line which runs from Waharoa in the north, through the centre of Tīrau, Putaruru and Tokoroa, to Kinleith Mill in the south. The rail corridor is designated as a public work in the ODP (D401), along with the disused branch line from Putaruru to Rotorua (D402). KiwiRail is responsible for both designations, which were made under the name of the NZ Railways Corporation.

The Kinleith Branch Line is close to two of the Growth Cells proposed by PC1. The railway enters Putaruru from the north by running parallel to, and on the eastern side of, Overdale Road. The rail corridor is only about 30m from the road frontage of Growth Cell 1 (Overdale), which is directly across the road, and at a similar elevation. After running through the centre of town across the Main St level crossing, the railway exits Putaruru southward by passing under the Princes Street overbridge and then around a sweeping curve parallel to, and on the western side of State Highway 1. Adjoining that sweeping curve immediately to the west is Growth Cell 4 (Business). One of the reasons for Council selecting Growth Cell 4 as suitable to meet demand for new industries and businesses was that it provided an option for new industries to establish a rail siding to transport goods. KiwiRail staff confirmed last year that establishing a siding was practicable in this location.

KiwiRail's concerns are largely about the potential for "reverse sensitivity" effects on the railway's operation to arise from future occupants of Residential Growth Cell 1 and Business Growth Cell 4. Growth Cells 2 and 3 are not of concern, some distance, being sited 600m to the east and 800m to the west of the rail line respectively.

The potential reverse sensitivity effect is understood and should in my opinion be addressed through appropriate policy, objectives and rules being included within PC1. Such provisions are already included in the ODP in relation to State Highway noise.

The responsibility of a new sensitive receiver to mitigate the potential noise and vibration effects they receive must be balanced with the noise and vibration generator (Kiwirail) fulfilling its obligation under Sections 16 and 17 of the RMA to ensure its own effects are avoided, remedied or mitigated. I agree with Council's Acoustic Consultant, Mr Damian Ellerton of Marshall Day Ltd, that the balance to be found by the District Plan is a two-way proposition rather than being solely the responsibility of one party.

Any rules relating to mitigation of effects by the receiver must be based on fact and be practical, reasonable and enforceable. Additional information from KiwiRail regarding the noise and vibration generated by their activity has been requested, and is needed to quantify the potential vibration effects and determine appropriate mitigation, if any. Information is also needed from KiwiRail on the steps that they have already taken to fulfil their duties under Sections 16 and 17, given that no conditions have been imposed on Designation 401. As an example, material supplied by the submitter's acoustic consultant, Dr Stephen Chiles from another hearing in the Marlborough District states that possible steps to minimise noise and vibration from railway operations include:

> *"installation of noise barriers, installation of ballast mat, rail grinding and tamping, ballast cleaning and replacement, investigation into engine braking noise, repair of road surfaces to address vibration issues, and automated monitoring of rolling stock wheel condition".*

It is unclear which, if any, of these potential mitigations already occur in relation to the Kinleith Branch Railway.

Assessment

KiwiRail's **Submission point 4.1** supports the whole Plan Change in part, and seeks a Level Crossing Safety Impact Assessment (LCSIA) for the Main Street level crossing. In response to this request, Council commissioned Alisdair McGeachie from Stantec Consultants to prepare an LCSIA. His report was completed on 4 September 2020 after discussion and a site visit with KiwiRail staff and Council's roading engineers. As noted in my discussion of Submission 2.1 above, the LCSIA contains a number of recommendations for long-term improvements and minor immediate safety works, to the road carriageway and to the pedestrian crossings over the rail line at either side of the road. These recommendations will be addressed by Council's roading and parks staff in conjunction with KiwiRail in response to increases in vehicular and pedestrian traffic. Nothing in the LCSIA requires any modifications in my opinion to the District Plan provisions in PC1.

Submission 4.2 seeks an amendment to the third paragraph of Reasons 4.5, as amended by proposed Change A8. The amendment sought is:

> *"The Planning Maps also indicate boundaries where additional measures should be taken to mitigate potential 'reverse sensitivity' effects from future occupants ~~residents~~ of the Growth Cells on existing and future Business or Rural activities (including existing network utilities and infrastructure) on adjacent ~~adjoining~~ sites".*

The potential protection for adjoining rural and other land uses against complaints arising inside the new growth cells should I believe be applied to "occupants" as suggested by KiwiRail. This would then cover activities where nobody resides on site, but it is occupied for considerable periods, such as by the day care centres permitted in the Residential zone. It is more appropriate to cover effects from

"occupants" than "residents" in the context of the residential Growth Cells. Submission 4.2 should therefore be accepted in part, to that extent.

As I have recommended rejecting the change to the Planning Maps sought by Submissions 4.6 and 4.7, it would however be misleading to mention "network utilities and infrastructure" in Reasons 4.5. The submitter has not explained why saying "adjacent" sites would be preferable to PC1's "adjoining" sites. The second and third wording changes suggested by Submission 4.2 should therefore not be accepted..

Submission 4.3 requests that Policy 7.3.12 be amended to include adverse effects on "designated rail corridors", as follows:

> *"Protect the safety and efficiency of the land transport ~~roading~~ network from the adverse effects of inappropriate noise-sensitive activities located~~ing~~ close to State Highways and designated rail corridors.*

This is the only submission on Policy 7.3.12, since PC1 does not propose any changes to Chapter 7 – (Objectives and Policies for Infrastructure and Development). The submission should I believe be accepted. If new Internal Design Sound Levels for railway noise are to be introduced, similar to those that already exist for State Highways in Rule 15.3.3, it makes sense for both sets of rules to be supported by the same Policy.

Submission 4.4 requests that proposed new Rule 8.3.4(u)(iv) be amended to refer to "occupants" rather than "residents", and by removing the word "habitable". The notified version of this Rule, which is one of the new Additional Matters of Control and Restricted Discretion for subdivisions that affect land wholly or partly within a Putaruru Growth Cell, reads as follows:

> *iv) The extent to which consent notices and other measures will be effective to minimise future reverse sensitivity concerns on the boundaries identified on the Planning Maps, between future residents and existing adjoining land uses. This will usually consist of no-complaints covenants, but alternatives such as construction of solid fencing at the subdivision stage, or greater setbacks for new habitable buildings than required by Rule 23.4 may be considered by Council.*

As explained in my assessment of Submission 4.2 above, I consider that the potential protection for adjoining rural and other land uses against complaints arising inside the new growth cells should be applied to "occupants" as suggested by KiwiRail. Submission 4.4 could be accepted by amending proposed Rule 8.3.4(u)(iv)to this extent.

I do not however support removing the word "habitable" from proposed Rule 8.3.4(u)(iv), since this would imply that greater setbacks could be required for accessory buildings in Growth Cells 1 to 3, and industrial and storage buildings in Growth Cell 4. It is the caretakers accommodation in the Business zone that poses the only tangible risk of creating reverse sensitivity effects for the railway and the adjoining farmers, not the permitted industrial activities. The workers in GC4 will often be creating noise and fumes such that they will have little concern about activities beyond the zone. Submission 4.4 should therefore only be accepted in part.

Submission 4.5 proposes to insert a new Rule relating to "Noise Sensitive Activities Within 100m of a Rail Network Boundary" in Chapter 15. This new rule would oblige certain receivers to design new and altered buildings to meet noise and vibration standards.

Noise

The new District Plan rules sought by KiwiRail's Submission 4.5 in relation to mitigation of railway noise are as follows:

Noise Sensitive Activities within 100m of a Rail Network Boundary

Indoor railway noise

1. Any new building or alteration to an existing building that contains an activity sensitive to noise where the building or alteration:

(a) Shall be designed, constructed and maintained to achieve indoor design noise levels resulting from the railway not exceeding the maximum values in the following Table; or

Building Type	***Occupancy/activity***	***Maximum railway noise level, dB $L_{Aeq(1h)}$***
Residential	*Sleeping spaces*	*35dB*
	All other habitable spaces	*40dB*
Education	*Lecture rooms/theatres, music studios, assembly halls*	*35dB*
	Teaching areas, conference rooms, drama studios, sleeping areas	*35dB*
	Libraries	*45dB*
Health	*Overnight medical care wards*	*40dB*
	Clinics, consulting rooms, theatres, nurses stations	*45dB*
	Places of worship, marae	*35dB*

(b) is at least 50 metres from any railway network, and is designed so that a noise barrier completely blocks line-of-sight from all parts of doors and windows, to all points 3.8 metres above railway tracks

Mechanical ventilation

2. if windows must be closed to achieve the design noise levels in clause 1(a), the building is designed, constructed and maintained with a mechanical ventilation system that

(a) For habitable rooms for a residential activity, achieves the following requirements:

i. provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and

ii. is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour; and

iii. provides relief for equivalent volumes of spill air;

iv. provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and

v. does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser

(b) For other spaces, is as determined by a suitably qualified and experienced person.

4. A report is submitted to the council demonstrating compliance with clauses (1) to (3) above (as relevant) prior to the construction or alteration of any building containing an activity sensitive to noise. In the design:

(a) Railway noise is assumed to be 70 LAeq(1h) at a distance of 12 metres from the track, and must be deemed to reduce at a rate of 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres;

As noted above, the ODP already contains Internal Design Noise Level requirements for buildings for noise sensitive activities within 80m of an 100km/h State Highway, also to address reverse sensitivity issues. It would be consistent to establish a set of suitable standards for buildings for noise sensitive activities in Growth Cells 1 and 4 near the railway line.

Council's acoustic consultant, Mr Damian Ellerton is still in discussion with KiwiRail's acoustician Dr Stephen Chiles, and his final recommendations will be presented at the Hearing. In the interim he has suggested some technical changes to KiwiRail's draft District Plan Rule. Mr Ellerton's suggestions are set out in the "tracked change" version of Chapter 15 which forms Appendix B to this report. I agree with Mr Ellerton's his conclusion that the draft option in KiwiRail's 1b) above of installing a noise barrier on the receiver's property should be deleted from the rule adopted by the Hearings Panel. Completely blocking line of sight from all parts of doors and windows, to all points 3.8m above railway tracks is impractical and would detract significantly from the level of amenity that Council is hoping to achieve in Growth Cell 1.

Vibration

The second issue dealt with in Kiwirail's draft rule comprises construction standards to reduce the level of railway vibration experienced inside new buildings or alterations to existing buildings. This is:

"Indoor railway vibration

3. Any new buildings or alterations to existing buildings containing an activity sensitive to noise, closer than 60 metres from the boundary of a railway network:

(a) is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vw,95 or

(b) is a single-storey framed residential building with:

i. a constant level floor slab on a full-surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and

ii. vibration isolation separating the sides of the floor slab from the ground; and

iii. no rigid connections between the building and the ground.

4. A report is submitted to the council demonstrating compliance with clauses (1) to (3) above (as relevant) prior to the construction or alteration of any building containing an activity sensitive to noise.

Mr Ellerton comments that "*the prediction of ground borne vibration is more complicated than for sound, and requires a case by case analysis, but it can be done.*

The ground borne vibration received at a dwelling can be predicted once the vibration level of the train, information about the intervening soil type, and the building foundation type is known.

The KiwiRail submission currently requires that any floor slab of a house within 60m of boundary of the railway network be designed to have a natural frequency of less than 10Hz. In addition, vibration isolation separating the sides of the floor slab from the ground is required, without detail about the degree of vibration isolation required.

Furthermore, the Kiwirail submission requires "no rigid connections between the building and ground". We consider these requirements to be unreasonable. The level of vibration at 60 metres from a track will vary widely and may in some cases be acceptable. And we consider that requiring full structural isolation is heavy handed and undermines the vibration prediction process.

The Kiwirail submission cites a vibration limit of 0.3mm/s $v_{w,95}$*, but not the standard it should be measured and assessed by. We assume Kiwirail are referencing Norwegian Standard NS 8176.E 2017. This standard is considered appropriate but must be referenced in any subsequent rule*".

The submission should be accepted in part by introducing a new noise and vibration rule based on the revised one in Mr Ellerton's report. For the Panel's convenience our interim recommendation has been shown in the "marked up" version of Chapter 15 contained in Appendix B of this report.

Submission 4.6 requests an amendment to Planning Maps 18 and 20 to include reverse sensitivity mitigation along the GC1 Overdale Road boundary. This amendment would give Council the opportunity to impose no-complaints covenants or other mitigation measures on the properties fronting the road, under the new Rule 8.3.4(u)iv). It is important to note that no-complaints covenants are only one option. If other measures would better achieve the avoidance, remediation or mitigation of adverse effects, these measures will be used instead. If the houses concerned are insulated to comply with the new standards established in response to Submission 4.5, that may well provide sufficient mitigation of reverse sensitivity complaints as well. I find it hard to see what value would be added by applying Rule 8.3.4(u)iv) in addition to noise insulation requirements. KiwiRail has stated that it is not concerned about reverse sensitivity issues from people outdoors using facilities such as their decks or barbecue areas. On balance I consider that the submission should be rejected.

Likewise **Submission 4.7** is to amend Planning Maps 20, 21 and 22 to include reverse sensitivity mitigation along the GC4 boundary with the rail corridor. This submission should be rejected for similar reasons as Submission 4.6. As noted above, it is the caretakers accommodation in the Business zone that poses the only tangible risk of creating reverse sensitivity effects from GC4 for the railway. This risk should be minimal given that such accommodation will need to be insulated if sited close to the railway. The workers in GC4, on the other hand will often be creating noise and fumes such that they will have little concern about activities beyond the zone.

Submission 4.8 requests adding a new objective to 4.2 – Objectives for the District's Towns:

"To ensure built development is located and designed to address amenity and safety issues arising from the operation of land transport networks (including rail)".

This objective is suggested as necessary for the new 5m boundary setback rule requested by KiwiRail's Submission 4.11. While the new rule concerned seems to me worthwhile, it definitely does not warrant its own separate objective. This is because the proposed rule is instead it is a method to achieve several of the existing objectives in Chapter 7 (Objectives for the District's Infrastructure and Development. Objectives 7.2.3 and 7.2.5 are particularly relevant., and are as follows:

7.2.3 *To provide for the sustainable, secure and efficient use and development of infrastructure within the District, while seeking to avoid, remedy or mitigate adverse effects on the environment recognising the technical, locational and operational requirements and constraints of the infrastructure concerned.*

7.2.5 *To provide for the important industrial sites and infrastructure, including strategic transport networks, in the District and for Tokoroa Airport, and safeguard them from the reverse sensitivity effects of inappropriate subdivision, use and development.*

The submission should be rejected accordingly.

Submission 4.9 is to add new a policy to 4.3 – Policies for the District's Towns:

"*Manage the effects of built development on operational land transport networks (including rail) by requiring sufficient setbacks".*

The purpose of this policy seems to again be to provide the necessary rationale for the new rule suggested by KiwiRail's Submission 4.11. The issue, while valid, and usefully addressed by the new rule concerned, seems to me not to warrant its own separate policy. The new policy sought might also confuse matters by also appearing to apply to the front yard setbacks already required in Rural and Residential zones. I recommend that Submission 4.9 be rejected.

Submission 4.10 seeks to add new matters of discretion to Rule 8.3.3 as follows:

"In assessing applications which have become restricted discretionary activities due to non-compliance with 22.4.1c) the matters which Council has reserved its discretion over are:

a. *The effects on the operation of the railway network*

b. *Whether the reduced setback from the rail corridor will enable buildings to be maintained without requiring access above, over, or on the rail corridor*

It would be appropriate to insert such matters if, as recommended, the new rule suggested by Submission 4.11 is accepted.

KiwiRail's **Submission 4.11** would add a new rule to 22.4.1, applying to GC4 only:

c) Buildings must be setback at least 5 metres from any boundary which adjoins an operational railway line".

As mentioned above in the assessment of Submission 4.8, my recommendation is that Submission 4.11 should be considered favourably. The 5m setback suggested would provide space for future Growth Cell 4 activities to construct buildings and do maintenance, re-painting etc safely, without infringing on train movements and KiwiRail's own maintenance activities.

Submission 4.12 expresses support for new Rule 8.1.3b)(i) and seeks retention as notified. This proposed provision is part of Change B1, which specifies information requirements for the Development Concept Plans required in the new Growth Cells. The Rule is as follows:

> *"A DCP shall show:*
> *i. All existing network utilities and infrastructure connection points to the growth cell and commentary of their level of service conditions;"*

Change B1 has been opposed in its entirety by Submission 5.11 from DPS and by Submission 6.1 from Nicholson Surveying Ltd. As both submissions are recommended for rejection, the KiwiRail submission can readily be accepted.

Submission 4.13 expresses support for the first bullet point of new Rule 8.1.3b)(iii) and seeks retention as notified, i.e:

> *"Stormwater management, connectivity, collection, treatment and disposal, and on-going maintenance requirements for the development area and its management long-term over the entire growth cell including stormwater overland flow paths and/or changed drainage patterns on adjacent land in different ownership;"*

This clause is also part of Change B1, so Submission 4.13 can be accepted for the same reasons as Submission 4.12.

Recommendations

That Submission 4.1 from KiwiRail Holdings Ltd be accepted insofar as:

a) The amendments proposed by PC1 are retained as notified, except where modified by recommended relief for other submitters.

b) Council has now commissioned the LCSIA requested by the submitter, and will consider the recommendations made by the report, in its Annual Plans rather than the District Plan.

That Submission 4.2 from KiwiRail Holdings Ltd be accepted in part by replacing the word "residents" in the proposed third paragraph of Reasons 4.5, (Change A8) with the word "occupants".

That Submission 4.3 from KiwiRail Holdings Ltd be accepted by amending Policy 7.3.12 of the District Plan as follows:

> *"Protect the safety and efficiency of the land transport ~~roading~~ network from the adverse effects of inappropriate noise-sensitive activities locate~~ding~~ close to State Highways and designated rail corridors.*

That Submission 4.4 from KiwiRail Holdings Ltd be accepted in part by replacing the word "residents" in proposed Rule 8.3.4(u)(iv) (Change B7) with the word "occupants".

That Submission 4.5 from KiwiRail Holdings Ltd be accepted in part by inserting a new Rule in Chapter 15 of the ODP as shown in the re-draft of Chapter 15 of the Plan in Appendix B to this report.

That Submission 4.6 from KiwiRail Holdings Ltd. be rejected by retaining the GC1 reverse sensitivity mitigation boundaries on Planning Maps 18 and 20 as notified

That Submission 4.7 from KiwiRail Holdings Ltd be be rejected by retaining the GC4 reverse sensitivity mitigation boundaries on Planning Maps 20, 21 and 20 as notified

That Submission 4.8 from KiwiRail Holdings Ltd be rejected by not adding the suggested new Objective to Part 4.2 of the Plan.

That Submission 4.9 from KiwiRail Holdings Ltd be rejected by not adding the suggested new Policy to Part 4.3 of the Plan.

That Submission 4.10 from KiwiRail Holdings Ltd be accepted by adding a new matter of discretion v) to Rule 8.3.3 as follows:

"v) In assessing applications which have become restricted discretionary activities due to non-compliance with 22.4.1c) the matters which Council has reserved its discretion over are:

a. The effects on the operation of the railway network

b. Whether the reduced setback from the rail corridor will enable buildings to be maintained without requiring access above, over, or on the rail corridor."

That Submission 4.11 from KiwiRail Holdings Ltd be accepted by adding a new Rule 22.4.1c) to the Putaruru Business zone as follows:

"c) Buildings within Putaruru Growth Cell 4 shown on the Planning Maps must be setback at least 5 metres from any boundary which adjoins an operational railway line".

That Submissions 4.12 and 4.13 from KiwiRail Holdings Ltd be accepted by retaining new Rule 8.1.3b) as publicly notified.

SUBMISSION 5 – DPS DEVELOPMENTS LTD (DPS)

Background

DPS (formally known locally as "Buttermilk") purchased the substantial former Carter Holt Harvey timber mill site on the western side of Princes St when the mill closed in 2008. The land concerned has been used for a variety of smaller enterprises since, and has been subdivided into several allotments to make it more marketable, More recently DPS have obtained agreement from the adjoining landowners to seek interest from potential business users for part or all of the land now identified as Growth Cell 4.

The company also applied in April 2020 to subdivide 16ha of the land which forms proposed Growth Cell 3 (Kennedy) into 76 allotments which do not comply with the current Rural Residential zoning. The application (RM200014) was limited notified to the RCT, who made a formal submission on the proposal in July 2020. I understand that a Cultural Impact Assessment is currently being prepared, as requested by Raukawa and as contemplated by Rule 8.1.2b)(f) of the ODP.

DPS as a developer has been closely involved with Council in the gestation of PC1. Its submission states that:

"The Submitter strongly supports the intent of the proposed objectives and policies to rezone land for urban and industrial activity, however submits that the rule framework is overly restrictive, will limit development and is inconsistent with the purpose and principles of the RMA.

The Submitter supports the proposed rezoning of the (currently) *Rural Residential Growth Cell 3 to Residential and the rezoning of the full 40ha of Rural zoned land in Growth Cell 4 for industrial activities".*

Assessment

The company's **Submission point 5.1** concerns proposed Objective 4.2.7, which replaces the current one, which is "to contain urban development within the existing town boundaries". Both versions of the Objective apply to Tokoroa, Tīrau and Arapuni as well as Putaruru, and the current one provides a tangible barrier to new subdivisions for housing around the fringe of all four towns. This is because such subdivisions would not only be non-complying, they would be directly contrary to the Plan's objective of no further outward growth. The new Objective 4.2.7 facilitates the development of Putaruru Growth Cells 1 to 4, and opens the possibility of some limited growth where it is feasible around the other towns, by instead stating:

"To provide for outward expansion of existing townships where the new areas can be efficiently serviced with network utilities and infrastructure including provision for cycling and pedestrians, and where funding provision has been made consistent with the projected demand for new building sites for houses and businesses".

The relief sought by Submission 5.1 is to remove the words "with network utilities and infrastructure" from the above new Objective. The submission does not explain why the company regards the words concerned as inappropriate. "Network utilities and infrastructure" are permitted under Rule 13, and are defined in Chapter 9 of the ODP as:

> "*The provision of a service provided by a network utility operator as defined under Section 166 of the RMA, associated facilities and structures, and electricity generation infrastructure. Network Utilities and Infrastructure includes networks that supply, distribute or transmit water, energy, transportation, sewage disposal, telecommunications, radiocommunication, fibre networks and other electronic communications, broadcasting, street lighting, navigational aids or similar services".*

Plan Change 1 does not propose any changes to this definition, and neither does the submitter. New urban growth areas require all of the services set out above, including "transportation networks" for the cyclists and pedestrians mentioned in Objective 4.2.7. To accept Submission 5.1 would in my view remove an essential point of guidance from the new objective on what constitutes appropriate expansion and what does not. It would also reduce the internal cohesion of the objective, since the "funding provision" mentioned in the second half of the objective relates to funding for network utilities and infrastructure.

The capacity of Putaruru's utility networks to cope with growth was assessed in 2018-19 as a precursor to finalising PC1, and the necessary funding was allowed in Council's budgets by a Long Term Plan Amendment approved in January 2020. Investigations into the 3Waters capacity of the other townships to which Objective 4.2.7 applies have been provided for in the 2020-21 Annual Plan.

To remove the identified wording would be inconsistent in my opinion with Objective 6 of the NPS on Urban Development 2020, which requires local authorities to make decisions on urban development that are integrated with infrastructure planning and funding decisions.

Ms Makinson has pointed out the amendment sought by Submission 5.1 is also inconsistent with the Objective of the 'Government Policy Statement 2018 - Land Transport' (the GPS), and specifically the 'Access' strategic direction. This seeks to ensure that land use and transport planning reduce the need to travel, provide greater resilience in our transport networks and supports mode shift. The GPS is a document that Council must "have regard to" under Section 74(2)(b)i) of the RMA when preparing or changing a District Plan..

I recommend therefore that Submission 5.1 be rejected, as it is not the most appropriate method to meet the objective to achieve the purpose of the Act.

The company's **Submission points 5.2** and 5.3 are also expressed as being in relation to Objective 4.2.7. However, they instead seem to relate to the Council's financial contributions policy. Financial contributions for Reserves under the Resource Management Act (FCs) have been replaced in Putaruru by a new Development Contributions (DC) regime under the Local Government Act 2002 (LGA) implemented by Council in March 2020. The LGA forbids Council from charging DCs and FCs for the same service. As FCs are still payable in the rest of the District outside Putaruru, PC1 does not propose to alter the provisions in Rule 10.9 of the District Plan that authorise their use and provide the calculation formulae.

Amending the financial contribution provisions of the Plan is not therefore within the scope of submissions on PC1. If the submitter is dissatisfied with the new Development Contributions regime for Putaruru, the method for resolving this was via a submission under the Local Government Act, not via the RMA. I understand that neither DPS or its advisers, Veros, made a submission on Council's new Financial and Development Contributions Policy when it was open for public consultation.

Submission point 5.3 specifically seeks that Council "remove any reserve contribution requirements for business activities". The LGA precludes DCs for reserves being charged for non-residential developments, and this is expressly stated in Council's policy for Putaruru. There is however no corresponding preclusion for FCs under the RMA. As amending the financial contribution provisions of the Plan is not within the scope of submissions on PC1, the submission should be rejected.

Submission points 5.4 and 5.5 seek that Objectives 4.2.10 and 4.2.11 respectively be retained. As the former objective is recommended to be amended in response to Submission 3.2 from FENZ, but no submissions opposing the latter have been received, these submissions can respectively be accepted in part, and accepted fully.

Submission point 5.6 seeks that the proposed amendments to Policy 4.3.3 be retained. As the only other submission on this Policy (from the RCT) also seeks that it remain unchanged, the submission should be accepted. The Policy will therefore be:

> *"4.3.3 Consolidate new residential development in the existing vacant, zoned and serviced land, and in the Putaruru Growth Cells identified by this Plan, in order to achieve the efficient use of existing network utilities and infrastructure"*

Submission point 5.7 seeks that proposed Policy 4.3.18 be deleted or amended. This Policy is:

> *"Land within the Putaruru Growth Cells will not be developed for urban use until the provision of network utilities and infrastructure to service the land is secured through private developer agreements or other appropriate legal mechanisms."*

Necessary mitigations of 3 Waters impacts and transport effects would be expected to be identified through the land use and subdivision consent process. Their delivery can be governed by means of appropriate consent conditions, which can be a suitable method to deal with stand-alone effects that are attributable entirely to a single consent application. This would represent an *"appropriate legal mechanism".* However, given the scale of the growth cells, it is also reasonable to anticipate that some effects may be cumulative. The inclusion of Policy 4.3.18 provides a mechanism for Council to apportion the cost of mitigation across the contributing parties, and it should be retained in my opinion.

Submission point 5.8 seeks that proposed Policy 4.3.19 be amended by removing the words "anticipated for the entire growth cell". This would make the Policy:

> *"Each Putaruru Growth Cell shall be developed and serviced to provide sufficient capacity in network utilities and infrastructure for the scale and density of residential and or business development ~~anticipated for the entire Growth Cell~~."*

The submitter is opposed to the reference to 'anticipated for the entire growth cell' in this policy, as they believe it requires additional services to be provided than needed for a staged development. The submission states that "this requires significant upfront investment that is not feasible, nor necessary given the proposed objective to ensure overall integration in services and design for a catchment".

From an infrastructure perspective, the importance of retaining this Policy, and the proposed new Rule 8.3.4 u) as notified, lies in ensuring that early elements of development are delivered in such a way that they do not frustrate/preclude later stages by the same or other parties. This is a very common approach in growth cells and it is not the intention of the Policy that the first developer pays for all infrastructure. The submission should therefore be rejected.

Submission point 5.9 seeks that proposed Policy 4.3.3 be retained. As the only other submissions on this Policy (from the Ministry of Education, FENZ and RCT) also seek that it remain unchanged, the submission should be accepted.

Submission point 5.10 seeks that Policy 4.3.21 be retained as notified. As no other submissions were received on this Policy, the submission should be accepted.

Submission 5.11 opposes Rule 8.1.3(b) (Information Requirements – Subdivision Applications), which relates to the Development Concept Plans required to be submitted with subdivisions of the Growth Cells. This submission is opposed by **Further Submission 'A' from KiwiRail**. The Rule concerned states that:

> *b) In addition to any relevant matters listed in 8.1.3a) above, a Development Concept Plan (DCP) shall be submitted with all subdivisions for a subject site that is wholly or partly within a Putaruru Growth Cell.*
>
> *A DCP shall show:*
>
> *i) to xiii)*

The submitter opposes this clause on the basis of onerous information requirements and lack of flexibility. All of these matters are in my opinion necessary to consider when looking at longer-term development of the Growth Cells, as evidenced by support for them from submissions by the Ministry of Education (2.9), KiwiRail(4.12) and the RCT (8.6). They are not considered to be an additional burden, as most of this information would be required for subsequent (if not concurrent) land use consent applications in any event. The submission should therefore be rejected.

Submission 5.12 supports new Rule 8.3.1(j), and requests that it be retained as notified. The Rule concerned adds new matters over which control is reserved for Controlled Activity Land Use Applications), as follows:

> j) *In assessing applications for controlled activities within Putaruru Growth Cell 4 shown on the Planning Maps, the matters in respect of which Council has reserved its control are:*
>
> *i) The degree to which the activity would contribute to a cumulative increase in vehicle movements to and from GC4 at the Princes St/SH1 Intersection at peak hours, as indicated by an Integrated Traffic Assessment prepared for the activity,*
>
> *iii) Impacts on the safe and efficient functioning of the road network,*
>
> *v) Measures proposed to mitigate any adverse effects on the Princes St/SH1 intersection,*

vi) The availability of sufficient water and wastewater infrastructure to service future subdivision and/or development throughout Putaruru, including in the residential Growth Cells identified by this Plan.

This rule is recommended for amendment in response to Submission 3.9 from FENZ, so Submission 5.12 should be accepted to that extent. The DPS submission challenging the controlled activity status under Rule 22.3.2A which gives rise to the need to use the above criteria (Submission point 5.25) is however recommended for rejection.

Submission 5.13 supports Rule 8.3.2(pa), and requests that it be retained as notified. The provision concerned would add a new matter over which control is reserved for Controlled Activity Subdivision Applications, namely:

pa) In relation to subdivision of land within any Putaruru Growth Cell, the degree of compliance with any Development Concept Plan prepared for the Growth Cell concerned.

As no other submissions have been received on this new Rule, the submission should be accepted.

Submission 5.14 supports Rule 8.3.3(ae), and requests that it be retained as notified. As the only other submission received on this new Rule (2.12 from the Ministry of Education) also supported it, the submission should be accepted.

Submission 5.15 supports Rule 8.3.3(t), and requests that it be retained as notified. This Rule is also supported by the above Submission 2.12 from the Ministry of Education. This rule is recommended for amendment in response to Submission 3.10 from FENZ, so Submission 5.15 should be accepted to that extent.

Submission 5.16 opposes the provision for Council to impose consent notices for GC4 in respect to traffic generation. It requests that Council amend Rule (Change B7) accordingly. The relevant part of the Rule is Clause 8.3.4(u)(viii), which reads as follows:

u) Where the subdivision affects land wholly or partly within a Putaruru Growth Cell shown on the Planning Maps:

viii) Where the subdivision affects land wholly or partly within Putaruru Growth Cells 1 and 4 shown on the Planning Maps, requiring consent notices to be placed on the titles of newly-subdivided allotments to alert prospective purchasers to the requirements of Rules 22.4.11d), 22.4.12, or 23.4.14.

Consent notices are an effective way of ensuring purchasers of new allotments in GC4 are made aware of the limitations which will apply to their future use of the land concerned in terms of traffic generation (Rule 22.4.11d)) and water supply and sewerage (Rule 22.4.12). I therefore recommend that the submission be rejected.

Submission point 5.17 supports Rule 8.4.11A, and seeks that Council retain it as notified. The rule concerned inserts new Assessment Criteria for Discretionary Activities, to read:

"8.4.11A Discretionary Activities in Putaruru Growth Cell 4.

a) Retail activities, Places of Assembly and other activities which are discretionary activities in the Putaruru Business zone within Putaruru Growth Cell 4 shown on the Planning Maps, since they are not controlled activities under Rule 22.3.2A, should:

i) Mitigate any adverse effects on the Princes St/SH1 intersection, as demonstrated by an Integrated Traffic Assessment prepared by a suitably qualified and experienced person, taking into account the level of traffic generated by other land use which has been lawfully established or granted consent to establish in the Growth Cell. This mitigation could include funding physical improvements to the intersection.

ii) Complement rather than detract from the retailing and other activity in the Putaruru Town Centre zone.

ADVISORY NOTE: Due to its legal functions, the NZTA's comments should be taken into account with respect to all consent applications that may affect the state highway network."

As no other submissions have been received on this new Rule, the submission should be accepted.

Submission point 5.18 supports the part of Change B25 that would amend the definition of 'Building Platform' on Page 78 by replacing the words "Council's Code of Practice for Subdivision and Development (November 2009)" with the words "the Regional Infrastructure Technical Specifications adopted by Council in July 2018 (RITS)". As the other submissions on Change B25 are also supportive, the submission should be accepted.

Submission point 5.19 seeks that proposed Subdivision Rule 10.4.1c) be amended to refer to the 2% Annual Exceedance Probability (2%AEP) design flood level (sometimes called the 50year flood), instead of the current proposal, which is:

"All habitable building sites shall be at least 0.5m above the 1% AEP design flood level".

This Rule relates to subdivisions in the Residential and Arapuni Village zones. It is being inserted so that the hazard risk for new building sites in those zones aligns with the subdivision Rules for the Rural Residential zone (Rule 10.7.4b)), and aligns with the requirements for constructing new dwellings in the Residential and Arapuni Village zones (Rules 20.4.9, 23.4.11 and 26.4.11). As the submitter has not provided any reason why the standard of flood protection sought should be lowered, the submission should be rejected. The 1%AEP design is standard practice for most District Plans in the Waikato region. It reflects a tangible risk, since a new dwelling has a 50/50 chance of being subject to such a flood during its 50 year design life.

Submission point 5.20 seeks that proposed Subdivision Rule 10.5.4 for the Putaruru Business zone be removed. The submission concerned is opposed by **Further Submission 'A' from KiwiRail.** The rule concerned states that:

> *a) Any subdivision creating new allotments within Putaruru Growth Cell 4 shown on the Planning Maps shall provide access to those allotments by way of a new legal road from Princes Street, constructed to the standard set out in RITS".*

As the submitter has supported the corresponding land use Rule 22.4.13, via Submission 5.30, it appears that DPS has no difficulty with the concept of a new legal road across its land. Submission 5.20 specifically opposes "the provision of a single access" to GC4. Possible alternative or second access points to the Growth Cell have been considered and discarded as impractical, as recorded in Part 3.6.9 of the Section 32 Report. The other options are:

- Direct access to SH1 via a railway level crossing
- Extension of Totara St, and
- Extension of Nola St

As it is important for the land use and subdivision rules to support each other in the matter of access, I recommend that the submission be rejected.

Submission 5.21 opposes the proposed amendments to the first two paragraphs of Zone Statement 22.1 for the Putaruru Business zone, which are:

"This zone comprises vehicle-oriented retail and commercial activities, and light industrial development, all located around the town centre. It also applies to *Putaruru Growth Cell 4 (GC4) to the south of Princes Street and* three groups of properties on the edge of the town's housing area, at Pit Street, Grey Street and adjacent to the SH1 bridge over the Oraka Stream.

The Putaruru Business Zone provides for a mixture of activities including *which, with the exception of Putaruru Growth Cell 4, include* larger format retail premises, building supply firms and garden centres, car yards, service stations, supermarkets and a range of commercial and light industrial premises. *Retail activities and other traffic-intensive activities are not provided for within Putaruru Growth Cell 4, due to their potential impact on the safety and efficiency of the Princes St/SH1 intersection. Restrictions are placed on the water supplied to, and wastewater disposed from, new industries in Putaruru Growth Cell 4 due to the limitations of Putaruru's bulk services to cater for industrial growth.*

The Submitter requests that Zone Statement 22.1 be amended to remove reference to Putaruru Growth Cell 4. This would be a necessary consequential amendment if Council accepted DPS Submission 5.33 which seeks that GC4 be zoned Industrial instead of Business. As Submission 5.33 is recommended for rejection as set out below, Submission 5.21 should also be rejected.

Submission 5.22 seeks to remove the proposed amendment to the second bullet point of Anticipated Environmental Results 22.2, which is:

- A predominantly vehicle oriented commercial and light industrial environment, *except in Putaruru Growth Cell 4, which will cater predominantly for industrial activities.*

This would also be a necessary consequential amendment if Council accepted DPS Submission 5.33, which is not however my recommendation. As is the case for Submission 5.22 as set out above, Submission 5.22 should also be rejected.

Submission 5.23 requests removal of Change B14, which is the proposed amendment to Rule 22.3.1, (Permitted Activities – Putaruru Business zone). This amendment reads:

> The following are permitted activities in the Putaruru Business Zone *except within Putaruru Growth Cell 4 shown on the Planning Maps,* provided they comply with the Performance Standards set out in Rule 22.4 below:

Change B14 facilitates the creation of a different set of permitted, controlled, discretionary and non-complying activities for GC4 compared to the rest of the Putaruru Business Zone, mostly for traffic management reasons. The submitter states that "there should be provision for permitted industrial activities within the Putaruru Growth Cell 4". It has opposed, via Submission 5.25, the proposal for most such activities to be controlled instead. That submission is not recommended for acceptance. Change B14 would also not be required if GC4 were to be zoned Industrial, but that is not recommended to be the case. Submission 5.23 should therefore be rejected.

Submission 5.24 requests amendment of Rule 22.3.1A to provide for intensification of farming activities. This new Rule provides for only one permitted activity in Growth Cell 4, namely:

> *"a) Farming activities lawfully established on the land concerned as at 13 May 2020".*

The submitter correctly makes the point that lawfully established farming activities in the Growth Cells already have existing use rights under Section 10 of the Act. The permitted activity rule is largely proposed, however, (as recorded in Part 4.4.7 of the Section 32 report), due to legal advice received on the matter in June 2018. This advice is still just as valid. Due to the cyclical nature of farming, it is more certain to have a rule than rely on existing use rights.

DPS states "it is submitted that the rule should provide for intensification of farming activities, subject to any additional infrastructure/buildings not hindering the future or intended longer-term use of the land for industrial activities". While I concur with the sentiment, it is not practical to write a permitted activity standard with the required amount of legal certainty that can implement the second part of this sentence. Instead intensification of farming, except for the establishment of intensive farming activity, has been made a controlled activity in GC4 under proposed Rule 22.3.2A. This allows each intensification proposal to be assessed on its own merits, and conditions to be imposed to deal with environmental effects including impact on future development and use of the railway crossing.

Intensive farming activities, such as poultry sheds, are proposed to be a Non-Complying Activity under new Rule 22.3.5 due to GC4's proximity to residential areas and the potential incompatibility of such operations with future industrial activities in the Growth Cell. This matter is dealt with under my assessment for DPS submission 5.27 below.

I recommend that Submission 5.24 be rejected.

Submission 5.25 requests removal of proposed Rule 22.3.2A. This is the new Rule that sets out the proposed controlled activities in the GC4 portion of the Putaruru Business zone. The list of activities in Rule is similar to that for permitted activities in the remainder of the zone (Rule 22.3.1), but large scale retailing and stand-alone offices become restricted discretionary activities by virtue of proposed amendments to Rule 22.3.3(a) (Change B18). Retention of proposed Rule 22.3.2A is sought by FENZ Submission 3.14.

The new list of controlled activities is:

> *a) Industrial Activities, except those listed in Appendix H – High Impact Industrial Activities,*
>
> *b) Ancillary Offices of, and retailing ancillary to, permitted Industrial Activities, provided that the GFA of this office and retailing space shall together:*
>
> *i) not exceed 10% of the GFA used for industrial purposes on the same site, or*
>
> *ii) not exceed 50 square metres in GFA,*
>
> *whichever is the lesser.*
>
> *c) Modifications, alterations and additions to an existing dwelling on the same site.*
>
> *d) Veterinary services*
>
> *e) Caretakers' accommodation*
>
> *f) Emergency Service Facilities*
>
> *g) Farming activities not lawfully established on the land concerned as at 13 May 2020, except for the establishment of intensive farming activity.*

The submitter states that it "supports a restriction on stand-alone retail and office activity but submits that the size of these areas is dependent of the natural (sic) and overall scale of the industrial activities, particularly associated office space." DPS considers that the existing Industrial Zone rules are "more aligned to enabling business activity while managing effects" and Submission 5.25 appears to be using this as another reason to change the zoning of GC4 from Business to Industrial. While I would not recommend changing the zoning, for the reasons set out in my assessment of Submission 5.33 below, the Hearings Panel could consider amending new Rule

22.3.2A(b) above to make it more consistent with the performance standard, for permitted activities in the Industrial zone namely:

> 27.4.10 Scale of Retail Activity
> The gross floor area for retailing areas ancillary to an industry shall not exceed 150m^2 or 10% of the gross floor area of the industrial activity, whichever is the lesser.

References to maximum office space should be included in any revision. Submission 5.25 should therefore in my opinion be accepted in part by amending Clause (b), but retaining the rest of Rule 22.3.2A.

Submission 5.26 requests that the proposed amendment to Rule 22.3.3(a) be retained as notified. This Rule states that Restricted Discretionary Activities in the Putaruru Business Zone will include:

a) Any activity listed in Rule*s* 22.3.1 *or 22.3.2A* that does not comply with the Performance Standards set out in Rule 22.4 below:

As no other submissions have been received on this Rule, the DPS submission should be accepted.

Submission 5.27 seeks to remove the proposed amendments in Change B19 to Rule 22.3.5 which lists the Non-Complying Activities in the Putaruru Business zone. Change B19 would add new Rules 22.3.5c) and d) to Rule 22.3.5 –, as follows:

"c) *Activities within Putaruru Growth Cell 4 shown on the Planning Maps (GC4) that result in a cumulative increase in vehicle movements to and from GC4 at the Princes St/SH1 Intersection of more than 330 vehicle movements in any given peak hour, taking into account the level of traffic generated by the other land uses that have been lawfully established or granted consent to establish in the Growth Cell.*

d) *Intensive farming activities"*

DPS requests that the above activities be provided for as discretionary rather than non-complying. The Integrated Transportation Assessment prepared by CKL Consultants considered a range of potential traffic generation effects at both the 10-year and 20-year future horizon. The ITA concluded that network capacity would continue to be within generally acceptable standards until such time that more than 330new vehicle movements per hour associated with GC4 would occur at the Princes Street / SH1 intersection. Consideration was also given to road safety effects, which showed that the implications of the potential future GC4 traffic at this intersection was in the Safety Maintenance and Safety Management zone, rather than requiring significant improvements on safety grounds.

As discussed in Section 3.6.5 of the Section 32A report (Page 56), a range of potential future control mechanisms and Rules associated with GC4 were considered, and a considerable amount of discussion was had between CKL staff, NZ Transport Agency staff and Council representatives. The recommendations of an external review undertaken by NZTA in September 2019 included:

- Development of retail activities within the Business Growth Cell be generally discouraged, and
- "Any activity triggering a 330 vmph cap at the SH1 / Princes St intersection shall be assessed as a non-complying activity", (rather than the discretionary status proposed in Council's PC1 draft of the time). The NZTA stated that "this reflects the Transport Agency's level of concern regarding the feasibility of developers undertaking a transformational change at the intersection".

A non-complying activity status obliges the Council to decline the resource consent unless it meets the requirements of Section 104D. Section 104D requires the consenting authority to be satisfied that the effects of development are minor or that the activity will not be contrary to the objectives and policies of the District Plan.

After further discussions with NZTA, Council formally assessed five options under Section 32 of the Act for managing traffic effects of the Business Growth Cell. These were Options A to E as recorded (on Pages 60 to 66 of the S.32 Report. Option C was to apply non-complying status to a new cumulative traffic rule. Evaluation showed that the benefits and costs of this option were preferable to Option B, which involved making activities breaching the 330 vmph cap a restricted discretionary activity instead.

Ms Makinson comments that "from a traffic perspective, without significant mitigation of effects at the Princes Street / SH1 intersection, traffic effects are expected to be more than minor. With mitigation, these can be reduced, however the scale of mitigation required is significant. As such, a non-complying activity status is considered appropriate. It gives sufficient warning to potential developers of the level of assessment and mitigation likely to be required to offset expected traffic effects".

With regard to the intensive farming activities in proposed Rule 22.3.5d), these activities, such as poultry sheds, are appropriately dealt with as a Non-Complying Activity due to GC4's proximity to residential areas and the potential incompatibility of such operations with future industrial activities in the Growth Cell.

DPS Submission 5.27 is therefore recommended to be deleted.

Submission 5.28 opposes the proposed amendments to Rule 22.4.11 (Change B20) and submits that they should be removed. Change B20 would amend the performance standards for permitted and controlled activities in the Putaruru Business zone by amending Rule 22.4.11c) and adding a new d) as follows:

c) Activities accessing a local road, *except for activities within Putaruru Growth Cell 4 shown on the Planning Maps*, shall not result in an increase in traffic that exceeds 200 vehicle movements in any given peak hour.

d) *Activities within Putaruru Growth Cell 4 shown on the Planning Maps (GC4) shall not result in a cumulative increase in vehicle movements to and from GC4 at the Princes St/SH1 Intersection of more than 200 vehicle movements in any given peak hour. Compliance with this rule shall be demonstrated by an Integrated Traffic Assessment (ITA) prepared by a suitably qualified and experienced person, taking into account the level of traffic generated by other land use which has been lawfully established or granted consent to establish in the Growth Cell. The ITA shall include a record of the outcomes from consultation with the NZTA relating to the proposal's potential traffic and safety effects on the State Highway network and the SH1/Princes Street intersection.*

ADVISORY NOTE: Activities within GC4 that result in a cumulative increase in traffic to and from GC4 at the Princes St/SH1 Intersection of more than 330 vehicle movements in any given peak hour are a non-complying activity under Rule 22.3.5c)".

The current performance standards in the District Plan for the Business, Town Centre and Residential zones in Putaruru (Rules 22.4.11, 21.4.9 and 23.4.1) require any development generating more than 200vph on a local road (or 100vph on a state highway) to provide an ITA. The key difference between this Rule and the proposed Clause 22.4.11 d) relate to the fact that within the GC4, it is the

cumulative volume of traffic greater than 200vph that requires detailed assessment, rather than stand-alone development generating this amount of traffic.

Ms Makinson comments that, "at no point within her ITA, is it suggested that all risk should be removed and this is also not mentioned within the proposed Clause 22.4.11 d). It is agreed that there are road safety measures that could be taken by NZTA now, however these must be considered within the wider context of funding availability and the relative degree of seriousness of road safety issue at the Princes Street / SH1 intersection now compared to other locations. Given the assessment undertaken within the ITA and the level of effects identified at the Princes Street / SH1 intersection, retention of this clause as notified is considered appropriate".

Our recommendation is that Submission 5.28 be rejected.

Submission point 5.29 seeks that proposed Rule 22.4.12 for the Putaruru Business zone be removed. This rule states that:

> *"22.4.12 Wastewater and Water Limitations – Putaruru Growth Cell 4*
>
> *Activities within Putaruru Growth Cell 4 shown on the Planning Maps, shall not result in:*
> *a) An increase in wastewater discharged to Council's reticulated network that would cause the total amount of wastewater discharged from the Growth Cell to exceed 108 cubic metres per day. or*
> *b) An increase in demand on Council's reticulated water supply network that would cause the water supply demand from the Growth Cell to exceed 120 cubic metres per day".*

The submitter does not explain why it opposes the Rule. This rule makes it clear that Council's funding provision and infrastructure plans for wastewater and water supply upgrades would only provide 200 Household Unit Equivalents to cope with future new demands from the whole of GC4. (The figures in Rule 22.4.2 are HUEs converted into cubic metres per day, which is the units in which use would be metered). Any proposal to exceed these overall limits would trigger a resource consent application. Without such a rule Council could not ensure that new Business uses did not use up wastewater and water supply capacity that is being provided to cater for Putaruru's residential growth, and for other Business-zoned land. The submission should therefore be rejected.

Submission point 5.30 seeks to retain the proposed new Business Zone Rule 22.4.13 (Change B24) stating that:

> *"Any development of the land within Putaruru Growth Cell 4 shown on the Planning Maps for a permitted activity shall provide access to that activity by way of a new legal road from Princes Street, constructed to the standard set out in RITS*

As no other submissions have been received on this Rule, the submission should be accepted.

Submission point 5.31 seeks that proposed Rule 23.3.1(p) be removed. This Rule would add a new permitted activity to the list for the Putaruru Residential zone, to read:

p) Farming activities lawfully established on the land concerned as at 13 May 2020.

The submitter correctly makes the point that lawfully established farming activities in the Growth Cells already have existing use rights under Section 10 of the Act, which can be assured by obtaining an existing use certificate from Council under Section 139A. Submission 5.24 above also opposes a similar new Rule in the Putaruru Business Zone applying to GC4. As noted in my assessment of that Submission 5.24, the permitted activity status is proposed due to legal advice received on the matter in June 2018. As this advice is still just as valid, I recommend that Submission 5.31 be also rejected.

Submission point 5.32 expresses support for the proposed re-zoning of Growth Cell 3 to Residential. As no submissions opposing this re-zoning have been received, the submission should be accepted.

Submission 5.33 supports re-zoning all 40ha of Growth Cell 4, but states that the zoning should be Industrial instead of the proposed Putaruru Business zoning. As no party has sought amendments to the size of GC4, the first part of Submission 5.33 from DPS Developments Ltd can be accepted.

I do not however consider that an Industrial zoning, as applies in the Domain Rd industrial park to the southeast, is appropriate for Growth Cell 4. The large-scale retail operations that are permitted activities in other parts of the Putaruru Business zone are not proposed to have this status in GC4, due to their potential traffic impacts. This means that the Growth Cell is likely to emerge with much more of an industrial character than the rest of the Business zone. The important difference between the provision for industries in the two zones is that the High Impact Industrial Activities in Appendix H are non-complying in the Business Zone, while all industrial activities are a permitted activity in the Industrial zone. The water supply and wastewater impacts of High Impact Industrial Activities are also very different to those of the activities permitted in the Business zones.

In addition the Putaruru Business Zone does not allow directly for outdoor storage, which is a permitted activity in the Industrial zone. The rules in Appendix G controlling the use or storage of hazardous substances make such operations a permitted activity in Industrial zones without conditions, managed instead by the Hazardous Substances and New Organisms Act. This is appropriate because Industrial zones apply to the regionally-significant set of factories at Kinleith, Fonterra Lichfield, and Fonterra Tīrau. The use or storage of hazardous substances in the Business Zones is limited to certain types of activities and specific maximum quantities of each Hazardous Substance Class.

Growth Cell 4 is in my view too close to the residential area surrounding the Primary School to be considered appropriate for a zoning that allows offensive trades “as of right”. The closest house at 74 Totara St actually adjoins one corner of GC4. Its residents, along with the rest of Putaruru, has never had the opportunity to consider, and submit their opinion on, the possibility of heavy industry being sited right on the town’s edge. The noxious industrial activities permitted under Rule 27.3.1 include the slaughtering of animals, fat rendering, tanning and waste collection and disposal. These are unacceptable activities in the location due to the reverse sensitivity effects.

The second part of Submission 5.33 should therefore be rejected.

Submission point 5.34 requests that Council include an additional Future Growth Area between proposed Growth Cells 3 and 4. The land concerned was assessed by Council for rezoning as part of the Putaruru Moving Forward (PMF) group’s “Growth Area 6” and was included in some early draft zoning maps for what became PC1. The Long Term Plan Assessment in 2019/20 concluded that only the four growth cells now proposed by PC1 were affordable for the community in the foreseeable future. This is why the Lichfield Road area was recently removed from consideration. Furthermore, Growth Area 6 is not required to cater for Putaruru’s development. The four Growth Cells notified under PC1 provide sufficient development capacity to for growth out to the year 2050.

Council has decided not to use Deferred Zones, for the reasons set out in Part 3.4 of the S.32 Report, but the 2017 PMF Growth Strategy has been identified as useful in the very long term by it being included as an “Other Method” in Part 4.4.2 of the Plan by proposed Change A7. In the interim Submission 5.34 should be rejected.

Recommendations

That Submissions 5.1 to 5.3 from DPS Developments Ltd be rejected by retaining proposed Objective 4.2.7 as notified.

That Submission 5.4 from DPS Developments Ltd be accepted in part, to the extent that Submission 3.2 from Fire and Emergency NZ requesting the addition of the words “and the health, safety and wellbeing of people and communities” to Objective 4.2.10 is recommended to be accepted.

That Submission 5.5 from DPS Developments Ltd be accepted by retaining Objective 4.2.11 as notified.

That Submission 5.6 from DPS Developments Ltd be accepted by retaining Policy 4.3.3 as notified.

That Submissions 5.7 and 5.8 from DPS Developments Ltd be rejected by retaining proposed Policies 4.3.18 and 4.3.19 as notified.

That Submissions 5.9 and 5.10 from DPS Developments Ltd be accepted by retaining Policies 4.3.20 and 4.3.20 as notified.

That Submission 5.11 from DPS Developments Ltd be rejected, and the further submission from KiwiRail Holdings Ltd be accepted, by retaining Rule 8.1.3(b) as notified.

That Submission 5.12 from DPS Developments Ltd be accepted in part, to the extent that new Rule 8.3.1j) is to be retained, but amended in response to Submission 3.9 from FENZ.

That Submission 5.13 from DPS Developments Ltd be accepted by retaining new Rule 8.3.2(pa) as notified.

That Submission 5.14 from DPS Developments Ltd be accepted by retaining new Rule 8.3.3(ae) as notified.

That Submission 5.15 from DPS Developments Ltd be accepted in part, to the extent that new Rule 8.3.3(t) is to be retained, but amended in response to Submission 3.10 from FENZ.

That Submission 5.16 from DPS Developments Ltd be rejected by retaining new Rule 8.3.4(u)(viii) as notified.

That Submission 5.17 from DPS Developments Ltd be accepted by retaining new Rule 8.4.11A as notified.

That Submission 5.18 from DPS Developments Ltd be accepted by retaining the proposed definition of “Building Platform” as notified.

That Submission 5.19 from DPS Developments Ltd be rejected, by retaining proposed Rule 10.4.1c) as notified.

That Submission 5.20 from DPS Developments Ltd be rejected, and that the further submission from KiwiRail Holdings Ltd be accepted, by retaining Rule 10.5.4 as notified.

That Submission 5.21 from DPS Developments Ltd be rejected by retaining the proposed definition of “Building Platform” as notified.

That Submission 5.22 from DPS Developments Ltd be rejected by retaining the proposed amendments to Environmental Results 22.2 as notified.

That Submission 5.23 from DPS Developments Ltd be rejected by retaining the proposed amendments to Rule 22.3.1 as notified.

That Submission 5.24 from DPS Developments Ltd be rejected by retaining proposed new Rule 22.3.1A as notified.

That Submission 5.25 from DPS Developments Ltd be accepted in part, by replacing proposed Rule 22.3.2A(b) with the following:

> *b) Ancillary Offices of, and retailing ancillary to, permitted Industrial Activities, provided that the GFA of this office and retailing space shall together:*
> *i) not exceed 10% of the GFA used for industrial purposes on the same site, or*
> *ii) not exceed 150 square metres in GFA,*
> *whichever is the lesser.*

That Submission 5.26 from DPS Developments Ltd be accepted by retaining the proposed amendments to Rule 22.3.3(a) as notified.

That Submission 5.27 from DPS Developments Ltd be rejected by retaining the proposed amendments to Rule 22.3.5 as notified.

That Submission 5.28 from DPS Developments Ltd be rejected by retaining the proposed amendments to Rule 22.4.11c) as notified.

That Submission 5.29 from DPS Developments Ltd be rejected by retaining the proposed new Rule 22.4.12 as notified.

That Submission 5.30 from DPS Developments Ltd be accepted by retaining Rule 22.4.13 as notified.

That Submission 5.31 from DPS Developments Ltd be rejected by retaining proposed Rule 23.3.1(p) as notified.

That Submission 5.32 from DPS Developments Ltd be accepted by retaining the proposed re-zoning of Growth Cell 3 as notified, and not making any changes to the Planning Maps accordingly in that regard.

That Submission 5.33 from DPS Developments Ltd be accepted in part by re-zoning all 40ha of Growth Cell 4 as publicly notified, but retaining the proposed Putaruru Business zoning of the land, instead of Industrial as sought by the submitter.

That Submission 5.34 from DPS Developments Ltd be rejected by retaining the current Rural and Rural Residential zoning of the land between Growth Cells 3 and 4, and not making any changes to the Planning Maps accordingly.

PROPOSED DESIGNATION D.59 FOR A PROPOSED ROAD, AND SUBMISSION FROM DPS

Background

In conjunction with PC1, Council has proposed that a new Designation D.59 for a Proposed Road from Princes St to the northern edge of Growth Cell 4 (Business) be shown on Planning Maps 20 and 22, and included in Appendix A of the District Plan (Schedule of Designations) with the other SWDC designations. It is intended to be constructed as the sole road access into GC4 for the new businesses that establish there, although the current farming activities and farm dwelling will continue to use the existing railway level crossing direct from the State Highway. One submission has been received concerning the proposed designation, from DPS Developments Ltd, numbered as

Submission point 5.35. DPS owns the land that would be subject to the new designation, which forms part of its industrial estate in Princes St.

The designation proposal was publicly notified with PC1 due to its relevance for development of Growth Cell 4, but as a public works designation, submissions, recommendations and decisions in respect of it need to be dealt with under, and comply with, Sections 168A to 173 of the Act.

The requiring authority for D.59 is the South Waikato District Council. Section 168A provides for Council "to issue a notice of requirement for a public work within its district and for which it has financial responsibility". As is the case for designation proposals from other requiring authorities, Council as territorial authority must consider the requirement and any submissions, and then recommend under Section 171 to the requiring authority (Council in this instance) that it:

(a) confirm the requirement:
(b) modify the requirement:
(c) impose conditions:
(d) withdraw the requirement.

Council, as represented by the Hearings Panel in this instance, must of course give reasons for making this recommendation. Council as requiring authority then considers the Panel's recommendation, and makes a decision on the designation. Advice of the decision is sent to submitters, who have a right of appeal to the Environment Court.

Assessment

The matters that the Hearings Panel must take into account in formulating its recommendation to Council on proposed Designation D59 and the submission lodged by DPS are set out in Section 171 of the Act. These are:

"(1A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

(1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—

(a) any relevant provisions of—

(i) a national policy statement:

(ii) a New Zealand coastal policy statement:

(iii) a regional policy statement or proposed regional policy statement:

(iv) a plan or proposed plan; and

(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or

(ii) it is likely that the work will have a significant adverse effect on the environment; and

(c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.

(1B) The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority".

These matters were duly considered by Council in the period leading up to public notification, as recorded in Part 3.6.9 (Pages 80-85) of the Section 32 Report that was published to accompany Plan Change 1. Construction of the proposed road would not have a significant adverse effect on the environment, given that the land over which it would pass is already zoned Putaruru Business, and the character of 40ha of the adjoining farmland to the south will be permanently changed by development for business purposes. I note that the re-zoning of the farmland comprising Growth Cell 4 to Business has not been opposed by any person, except for DPS submission 5.3.3 which seeks that the ODP's industrial zoning be applied to the land instead.

I do not consider that any of the matters in Part 2 of the Act are pertinent to the proposed designation. Likewise the designation and PC1 itself are not contrary to any national or regional planning instrument, as demonstrated by Technical Appendices 1 to 3 of the S.32 Report, which relate to Te Ture Whaimana, the Raukawa Environmental Management Plan and the RPS respectively.

As the requiring authority (Council) does not own the land for the proposed road or have an interest in the land sufficient for undertaking the work, it must consider "whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work". The S.32 Report assesses the proposal against three other routes / methods, being:

- Direct access to SH1
- Extension of Totara St, and
- Extension of Nola St

The benefits and costs of a route from Princes St via a new road in the proposed location are demonstrably better than the other options. DPS submission 5.30 seems to concur, as it seeks to retain the provision in Business Zone Rule 22.4.13 stating that:

> *"Any development of the land within Putaruru Growth Cell 4 shown on the Planning Maps for a permitted activity shall provide access to that activity by way of a new legal road from Princes Street, constructed to the standard set out in RITS*

Even while opposing designation as a method, the submitter states in Submission 5.35 that "the subject properties of the proposed designation already utilise the general designation area for access. It is an established access and driveway that's location has been determined in part due to existing topography".

In terms of the statutory considerations, the submission seems to be saying that the work and designation are <u>not</u> reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought. The advantages and disadvantages of a formal designation have been assessed on Pages 83 and 84 of the S.32 report, compared to the alternative of relying on the intervening land owner (Buttermilk Putaruru Ltd) to keep the route clear of buildings and agree to the formation of a road. The latter option is favoured by DPS via Submission 5.35. A designation is however necessary in my view and was also regarded as a necessary pre-requisite for the NZTA and for Ms Makinson's ITA report. Council's decisions need to be made on the basis that the route of the new proposed road could quite quickly be owned by a party that has no vested interest in access to GC4 being created.

Recommendation

That the Hearings Panel, representing Council in its capacity as territorial authority, recommends to the South Waikato District Council (as requiring authority) under Section 171(2) of the Resource Management Act that it confirm the requirement to designate Proposed Road D59 in the District Plan, without imposing conditions. This recommendation is made for the following reasons (more detailed reasoning is set out in the Section 32 report):

Reasons

1. None of the matters in Part 2 of the Act are pertinent to the proposed designation. Likewise it is not contrary to any national or regional planning instrument, or iwi planning document.
2. The work will not have a significant adverse effect on the environment.
3. Adequate consideration has been given to alternative sites, routes, or methods of undertaking the work.
4. The work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.
5. There were no other matters the territorial authority considered reasonably necessary to consider in order to make the above a recommendation on the requirement.

SUBMISSION 6 – NICHOLSON SURVEYING LTD

Background
Nicholson Surveying Ltd is the only firm of land surveyors with an office in the South Waikato District. They prepared the subdivision application for Growth Cell 3 referred to above, on behalf of DPS.

Assessment

The relief sought by Nicholson's **Submission point 6.1** is to replace PC1's new Rule 8.1.3 b), which details the information required with DCPs in the Growth Cells, with a clause with the same wording as operative Rule 10.7.3. The latter sets out the necessary contents of the DCPs that are already required in the Plan's Rural Residential zone.

This submission is opposed by **Further Submission 'A' from KiwiRail.**

The new Rule 8.1.3 b) is proposed by Change B1 of PC1. It would add a new clause to Rule 8.1.3, which sets out Information Requirements for Subdivision Consent Applications, to read:

> ***"Putaruru Growth Cells***
>
> *b) In addition to any relevant matters listed in 8.1.3a) above, a Development Concept Plan (DCP) shall be submitted with all subdivisions for a subject site that is wholly or partly within a Putaruru Growth Cell.*
>
> *A DCP shall show:*
>
> *i. All existing network utilities and infrastructure connection points to the growth cell and commentary of their level of service conditions;*
>
> *ii. Proposed ground levels and associated earthworks (cut, fill and waste for disposal) to establish the future development area of the growth cell;*

iii. *Location, size and key elements of the proposed 3 waters infrastructure and the efficiency performance measures for their operation, and specific commentary on:*
   - *Stormwater management, connectivity, collection, treatment and disposal, and on-going maintenance requirements for the development area and its management long-term over the entire growth cell including stormwater overland flow paths and/or changed drainage patterns on adjacent land in different ownership;*
   - *Wastewater reticulation connectivity and treatment for the entire growth cell and any future areas;*
   - *Potable water supply connections, management and treatment for domestic, and/ or commercial purposes, and for fire fighting purposes for the entire growth cell.*

iv. *Technical assessments including all referenced baseline data sources, assumptions, calculations and outputs for 3 Waters modelling to support the above development of the growth cell;*

v. *Landscape and natural and heritage features, and sites of significance to Raukawa, including:*
   - *Means to integrate any such features or sites into the subdivision*
   - *Means to mitigate effects of the development upon the relationship of Raukawa and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga*

vi. *natural hazards or physical constraints including means to mitigate such hazards or constraints as part of the overall development of the growth cell;*

vii. *Open space areas sufficient to provide neighbourhood reserves for formal and informal recreation activities, ecological enhancement and or gully restoration for the entire growth cell, and the multi-purpose uses for these areas;*

viii. *Proposals for power and telecommunications services to the subdivision and for the probable future development of the entire growth cell. These proposals shall include correspondence from the service provider confirming the circumstances under which future power and telecommunications are available.*

ix. *Proposals to minimise reverse sensitivity issues on the boundaries identified as requiring mitigation on the Planning Maps*

x. *Proposals to manage the cumulative impact of network utility and infrastructure services provision on the total development of the growth cell and neighbouring areas;*

xi. *Commentary on transportation links intending to serve the proposed subdivision and probable future development and connectivity to the local or State Highway network, and how subdivision design and lot layout will achieve the safe and efficient operation of the road network including providing for pedestrian and cycleway opportunities. This is to include anticipated traffic generation effects associated with full development of the growth cell and any intersection design upgrades required.*

xii. *Commentary on the costs, timing and funding arrangements proposed and possible public-private apportionment;*

xiii. *That subdivision and development can comply with RITS or present an acceptable alternative solution.*

The idea of a DCP is a key way of ensuring that new Growth Cells are integrated with the services of the adjoining town, and that any staged subdivision does not compromise achievement of a "master plan" for the whole Growth Cell.

Nicholson's Submission point 6.1 instead seeks a replacement clause with the same wording as Rule 10.7.3, which sets out the requirements for the "DCPs" that Council has required in the Rural Residential zone since it was created in 2008. This would not be appropriate in my view. DCPs for Growth Cell subdivisions of an urban nature need to be considerably more complex than for Rural Residential subdivisions, where new lots are required to provide on-site sanitary disposal and water supply. The requirements of Rule 8.1.3b) consist largely of information that is simply irrelevant to the Rural Residential zone, but are essential in an urban growth cell. Examples are:

> *iv. All existing network utilities and infrastructure connection points to the growth cell and commentary of their level of service conditions;*
> *v. Proposed ground levels and associated earthworks (cut, fill and waste for disposal) to establish the future development area of the growth cell;*
> *vi. Location, size and key elements of the proposed 3 waters infrastructure and the efficiency performance measures for their operation, and specific commentary on:*
> - *Stormwater management, connectivity, collection, treatment and disposal, and on-going maintenance requirements for the development area and its management long-term over the entire growth cell including stormwater overland flow paths and/or changed drainage patterns on adjacent land in different ownership;*
> - *Wastewater reticulation connectivity and treatment for the entire growth cell and any future areas;*
> - *Potable water supply connections, management and treatment for domestic, and/ or commercial purposes, and for fire fighting purposes for the entire growth cell.*
>
> *iv. Technical assessments including all referenced baseline data sources, assumptions, calculations and outputs for 3 Waters modelling to support the above development of the growth cell;*

Information requirement v) was inserted after discussion with RCT under the Joint Management Agreement between Council and the Trust, namely

> *v. Landscape and natural and heritage features, and sites of significance to Raukawa, including:*
> - *Means to integrate any such features or sites into the subdivision*
> - *Means to mitigate effects of the development upon the relationship of Raukawa and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga*

This consideration would be largely lost if the wording from Rule 10.7.3 was substituted. The same applies to Information Requirements ix) to xiii) which are:

> *ix. Proposals to minimise reverse sensitivity issues on the boundaries identified as requiring mitigation on the Planning Maps*
>
> *x. Proposals to manage the cumulative impact of network utility and infrastructure services provision on the total development of the growth cell and neighbouring areas;*
>
> *xi. Commentary on transportation links intending to serve the proposed subdivision and probable future development and connectivity to the local or State Highway network, and how subdivision design and lot layout will achieve the safe and efficient operation of the road network including*

providing for pedestrian and cycleway opportunities. This is to include anticipated traffic generation effects associated with full development of the growth cell and any intersection design upgrades required.

xii. Commentary on the costs, timing and funding arrangements proposed and possible public-private apportionment;

xiii. That subdivision and development can comply with RITS or present an acceptable alternative solution.

All of the matters set out in Rule 8.1.3b) as notified are essential to guide decisions on complex urban subdivisions and to ensure that averse environmental effects of the subdivision are adequatelt avoided, remedied and mitigated. The submission should therefore in my opinion be rejected.

Submission Point 6.2 seeks that Council amend Planning Map 20 to re-zone 6 Scotia Glen St from Putaruru Business to Putaruru Residential.

Apparently Nicholson Surveying are currently preparing a land use consent application for the land to be used for residential purposes, and they consider that it is better suited to have a Residential zoning. This property has never been mentioned as a potential candidate for re-zoning during any of the extensive consultation conducted on PC1, and the other landowners in the area have never had the opportunity to make a submission on re-zoning 6 Scotia Glen St. While those landowners may have been generally aware of PC1, none of Council's proposals were ever to re-zone any land within 900m of the eastern end of Scotia Glen St.

The only connection the property at 6 Scotia Glen St has with PC1 is that it and the southern edge of GC1 (Overdale) happen to both be shown on Planning Map 20. The Hearings Panel should reject the submission as outside the scope of PC1.

Submission Point 6.3 seeks that Council amend Planning Map 21 to amend the shape of GC 2 (Ruru Cres), and increase its size, as shown in a map attached to the submission. The submitter states that "the amended boundaries would better reflect the surrounding topography. The altered zone "would include a ridgeline which is ideal for development, allowing for good views of the surrounding area which are an important feature of the town. It would also include gullies on either side which could be used for stormwater management purposes". The map included shows a "Total Area" of 8.2ha, but 2.75ha of this land is already zoned Residential. Nicholsons are therefore seeking a Growth Cell of around 5.45ha. While I can appreciate, and agree with the submitter's point about topography, re-zoning such a large portion of land would, in conjunction with Growth Cells 1 and 3, provide than the servicing capability can meet, and more potential sections than can be justified by the required development capacity in Putaruru over the next 30 years. I recommend therefore that the submission be accepted in part, and that Growth Cell 2 be subject to a similar type of HUE limit as GC1, to ensure that 3Waters service capability is not overstretched.

Council's Development Engineer, Mr Andrew Pascoe, comments that Council supports the inclusion of the proposed drainage reserve area, with the knowledge that this area cannot be developed for housing. He can also see the merit of developing along the ridgeline as proposed by Nicholson Surveying. Mr Pascoe agrees that there should be a limit on the number of HUE's on this development, as Council has proposed for the Overdale site.

Submission 6.4 concerns proposed Rule 8.3.4(u)iv) (Change B7). The submitter states that instead of consent notices, they would like to see a District Plan Rule protecting against reverse sensitivities and prohibiting complaints in the area instead. This submission is supported in part by **Further Submission 'A' from KiwiRail.**

Alternative methods of mitigation were assessed by Council for PC1, as recorded in Part 3.6.6 of the S.32 report (Page 70). The alternatives assessed were:

- Planted strips, hedges or shelter belts.
- Solid fences on boundaries.
- Extra-wide setbacks for new buildings, e.g 10m not the usual Putaruru Residential 1.5m setback, for dwellings in Growth Cells 1 to 3.
- "No complaints" covenants or consent notices on subdivisions.

The latter were chosen as the most efficient and effective method of resolving reverse sensitivity issues. A District Plan rule as proposed by the submitter prohibiting complaints in the area would be ineffective, and legal advice is that it would be unenforceable. People will still complain despite the existence of such a rule. The submission should be rejected for these reasons.

Recommendations

That Submission 6.1 by Nicholson Surveying Ltd be rejected, and the further submission by KiwiRail Holdings Ltd be accepted accordingly, by retaining new Rule 8.1.3 b) (Change B1) as publicly notified.

That Submission 6.2 by Nicholson Surveying Ltd be rejected, as it is out of scope for valid submissions on PC1`

That Submission 6.3 by Nicholson Surveying Ltd be accepted in part, by:

a) Amending the boundaries of Proposed Putaruru Growth Cell 2 (Ruru) on Planning Map 21 to align with the area shown in dark pink on the final page of Submission 6, except for the 2.75ha of land at the southern end of Ruru Street that is already zoned Putaruru Residential.

b) Adding a new Rule 10.4.7 to the Subdivision Standards for Residential Zones and the Arapuni Village Zone, as follows:

"10.4.6 Limitations of Putaruru Growth Cell 2 (Ruru Street)

a) No subdivision within Putaruru Growth Cell 2 shown on the Planning Maps shall result in the cumulative number of dwelling sites within that Growth Cell exceeding 67 Household Unit Equivalents (HUEs). This calculation shall include any multi-unit developments already approved by Council".

c) Adding a new Rule 23.4.15 to the Performance Standards for the Putaruru Residential Zone, as follows:

"23.4.15 Limitations of Putaruru Growth Cell 2 (Ruru Street)

a) No permitted activity within Putaruru Growth Cell 2 shown on the Planning Maps shall cause the cumulative number of dwelling sites within that Growth Cell to exceed 67 Household Unit Equivalents. This calculation shall include any multi-unit developments already approved by Council".

That Submission 6.4 by Nicholson Surveying Ltd be rejected,

SUBMISSION 7 – MICHAEL JONES

Assessment

Mr Jones' **Submission point 7.1** seeks correction/clarification of certain parts of the Section 32 Report notified with Proposed Plan Change 1. As noted in connection with Submission 6.2 above, submissions on District Plan Changes need to be on the Change. The S.32 Report is a separate document, and though it justifies the provisions of the Change and is made available at the same time as the Change is first publicly notified, it is not open to submissions. The circumstances when a S.32 analysis may be challenged are tightly circumscribed by Section 32A(1) of the Act, which states:

> *"A challenge to an objective, policy, rule, or other method on the ground that an evaluation report required under this Act has not been prepared or regarded, a further evaluation required under this Act has not been undertaken or regarded, or section 32 or 32AA has not been complied with may be made only in a submission under section 49, 149E, 149F, or 149O or under Schedule 1".*

Although Mr Jones' submission was made under Schedule 1 of the Act, he has not challenged any objective, policy, rule, or other method on the ground that the required Section 32 evaluation was inadequate or disregarded ny Council. Rather, he has queried the detailed contents of the Section 32 report instead. The Hearings Panel is therefore obliged to reject Submission 7.1.

Having said that, Council staff will be updating the S.32 Report to reflect the Hearings Panel's decisions, and will undertake corrections where necessary to reflect any relevant issues which Mr Jones views as errors. An initial observation is that some of Mr Jones' comments are due to the narrative content of the Report, chronicling the progress of Council's decision-making progress over some three years. For example he comments that on Page 88 of the S.32 Report, Growth Cell 2 is named as Lichfield not Ruru Cr. This part of the report is dealing with the situation in 2017, before the Lichfield area was discounted as a Growth Cell. When Council decided to only proceed with four Cells, the Ruru area (previously GC5) was assigned the Growth Cell 2 label that formerly belonged to the Lichfield Road area.

Submission point 7.2 supports Part 3.3.2 of the Section 32 Report in part, and requests that Council clarify the requirements for secondary flow paths on any urban development. Part 3.3 of the Report records the work that was done in 2018 to evaluate the suitability of the original PMF Growth Areas 1 to 9 for urban purposes. The stormwater modelling completed by Watershed Engineering Ltd, and which was presented in their May 2019 final report, forms Technical Appendix 4c to the S.32 Report. The issue of secondary flow paths on any urban development was properly considered at that time.

Submission point 7.3 seeks that Council "protects developments on Growth Cells 2, and 4? by appropriate designations for Proposed Road". Any new designation for a road leading into GC2 could only be initiated by Council issuing a new notice of requirement under Section 168 of the Act. That portion of the submitters request is beyond the relief that can be granted in response to a submission on PC1. Submission 7.3 should however be accepted in part, as the Proposed Road designation for GC4 is recommended to be retained as notified.

Recommendations

That Submission 7.1 from Mr Michael Jones rejected, as it is out of scope for valid submissions on PC1.

That Submission 7.2 from Mr Michael Jones be accepted insofar as secondary flow paths on any urban development were fully considered in preparing PC1.

That Submission 7.3 from Mr Michael Jones be rejected as it relates to GC2 (Ruru), but be accepted in part insofar as Proposed Designation 59 for future access to GC4 (Business) is to be retained as notified.

SUBMISSION 8 – RAUKAWA CHARITABLE TRUST (RCT)

Background

As noted in their submission, the RCT is the Iwi Authority that has delegated authority from the Raukawa Settlement Trust to represent Raukawa in environmental matters. The South Waikato District Council enjoys a Joint Management Agreement (JMA) with Raukawa (and the Te Arawa River Iwi Trust - TARIT), to, in part, give effect of the requirements of the Ngāti Tuwhāretoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010. RCT is also responsible for the administration of Te Rautaki Taiao A Raukawa – the Raukawa Environmental Management Plan 2015 (REMP).

The consultation that occurred with the RCT, TARIT and representatives of other Iwi during the preparation of PC1 is set out in Parts 3.1.2, 3.6.2 and 3.12 of the S.32 Report (Pages 17, 53 and 108). The conclusions Council reached after these discussions included:

- The size and location of the PC1 re-zoning is not inconsistent with Te Ture Whaimana. (A report on this matter forms Technical Appendix 1 to the S.32 Report.
- The size and location of the proposed re-zoning is not inconsistent with the REMP. (A report concluding this forms Technical Appendix 2)
- There are no known sites of cultural significance within Growth Cells 1 to 4, though a Cultural Impact Assessment has been requested for the DPS subdivision proposal in GC3 (Kennedy). Application)

A central theme of the submissions lodged by the RCT concerns how the values, interests and concerns of nga marae and nga whanau will be reflected in the resource management decisions that will be made in the subdivision and later development of the Growth Cells. The types of new decisions that Council will have to make, and which are points of potential engagement with iwi, once PC1 becomes operative include:

- Controlled activity subdivision applications for new sites in Growth Cells.
- Restricted Discretionary activity subdivision applications for new sites in Growth Cells. (if they don't meet one or more performance standards).
- Land Use consents related to traffic management at the Princes St/SH1 intersection. This includes retailing and office proposals.
- Land Use consents to exceed PC1's new HUE restrictions for GC1 and GC4. (Recommended to also apply to GC2 (Ruru)).

Iwi involvement in decision-making is currently expected under Rule 8.1- Information Requirements for Resource Consents and Rule 8.5 - Accidental Discovery Protocol, of the Operative Plan, and this situation would continue once PC1 is in place. Rule 8.1.2 b) states:

"iii) An Assessment of Environmental Effects (AEE) should include the following, as appropriate:
d) An assessment of the actual or potential effects on the environment of the activity, including adverse effects, benefits and cumulative effects, particularly:

- *Any physical effect on the locality, including landscape and visual effects, noise, and any effects on natural hazards*
- *Any effect on ecosystems, including effects on animals or plants and disturbance of habitats*

- *Any effect on heritage places and areas, outstanding or significant amenity landscapes or significant natural areas identified by the plan or other places of special value to present and future generations*
- *Any effect on nearby people and the wider community, including any socio-economic and cultural effects and impacts upon amenity values*
- *The effect of any discharge into the environment, (subject to any Regional Plan)*

e) A Cultural Impact Assessment detailing the impact of the development upon the relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga"

Rule 8.5 of the operative Plan consists of an Accidental Discovery Protocol that was developed in conjunction with Raukawa and Heritage NZ Pouhere Taonga in 2014. Its requirements are included by Council in consent conditions where substantial excavations are proposed (e.g sand quarrying), and are summarised in an Advice Note attached to all South Waikato land use and subdivision consents. This is consistent with Method M29 of the Raukawa Environmental Management Plan 2015, which states:

M29 (Page 100) "Government agencies and local authorities should include Accidental Discovery protocols, developed in collaboration with RCT, as consent conditions with resource consents involving land disturbance".

Assessment

The relief sought by the RCT's **Submission points 8.1 and 8.2** is to retain Objectives 4.2.7 and 4.2.10 respectively, as notified. The former objective is recommended to be retained as notified, with the latter being amended to accept Submission 3.2 from FENZ. The Trust's submissions can therefore be accepted, and accepted in part, respectively.

Submission point 8.3 seeks that the proposed amendments to Policy 4.3.3 be retained. As the only other submission on this Policy (from DPS) also seeks that it remain unchanged, the submission should be accepted.

Submission point 8.4 seeks that the proposed new Policy 4.3.19 be retained. As the only submission opposing this Policy (from DPS) is recommended for rejection, the submission should be accepted.

Submission point 8.5 seeks that the proposed new Policy 4.3.20 be retained. As no submissions opposing this Policy have been received, the submission should be accepted.

The Trust's **Submission point 8.6** seeks that Rule 8.1.3(b) (Information Requirements for Subdivision Applications) be retained as notified. As the only submission opposing this Policy (Submission 5.11 from DPS) is recommended for rejection, the submission should be accepted. The particular part of the Rule that the RCT supports is Clause (v), which states that one of the matters to be included in Development Concept Plans required for subdivisions in the new Growth Cells is:

"v). Landscape and natural and heritage features, and sites of significance to Raukawa, including:

- *Means to integrate any such features or sites into the subdivision*
- *Means to mitigate effects of the development upon the relationship of Raukawa and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga."*

Submission point 8.7 seeks amendment of Rule 8.3.4(u) (Additional Matters of Control and Restricted Discretion) "to ensure the interest of Raukawa as captured in Rule 8.1.3(b)(v) are addressed at the point of subdivision as matters of control and restricted discretion". Rule 8.3.4(u)

sets out matters which will be considered in assessing subdivision and land use applications to exceed the HUE limits in GC1 (Overdale). It states:

u) In assessing applications for subdivision and land use activities within Putaruru Growth Cell 1 that do not comply with Rules 10.4.6 or 23.4.14 relating to the maximum number of HUEs to be provided for in this Growth Cell, the matters in respect of which the Council has restricted its discretion are:

- *i) The availability of sufficient water and wastewater infrastructure to service future subdivision and/or development throughout Putaruru, including in the residential Growth Cells identified by this Plan.*
- *ii) The feasibility of alternative measures to achieve required public wastewater and or water supply capacity,*
- *iii) Whether the staging and design of development will align with the provision of infrastructure so that the overall capacity of the infrastructure is not exceeded.*
- *iv) Whether temporary wastewater or water supply capacity can be provided which does not undermine the long-term solution.*
- *v) Whether funding or other such measures have been agreed between the Council as service provider and the applicant to achieve the required public wastewater and or water supply capacity.*

The first bullet point of the "interests of Raukawa as captured in Rule 8.1.3(b)(v)" relates to "means to integrate…natural and heritage features, and sites of significance to Raukawa" into the subdivision. In terms of Putaruru water supply issues, the importance of the Puna at Te Waihou to Raukawa and the District cannot be underestimated, but it is difficult to see how this significance could be "integrated into the subdivision".

The second bullet point of Rule 8.1.3(b)(v) offers more promise as a potential addition to Rule 8.3.4(u). I consider it would be appropriate to add a new Rule 8.3.4(u)(vi) along the lines of:

vi) Means to mitigate effects of the additional demand for water supply and/or wastewater disposal capacity upon the relationship of Raukawa and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga."

This wording reflects the matters set out in Section 6e) of the Act.

I have also considered adding a reference to the objectives of Te Ture Whaimana into the rule concerned, but do not believe it is necessary. Te Ture Whaimana has a status greater than National Policy Statements or the RPS of which it is deemed to be a part. It needs to be considered in any resource consent decisions affecting the Waikato catchment. It is already specifically cited as relevant in respect of biodiversity under Rule 8.3.4l), and is mentioned as a matter of control for subdivisions under Rule 8.3.2w). In addition the Plan's objectives and policies were developed to be intertwined with Te Ture Whaimana.

Submission point 8.8 seeks that the proposed new Rule 10.4.6 be retained. As no submissions opposing this Rule have been received, the submission should be accepted. Rule 10.4.6 states that:

10.4.6 Limitations of Putaruru Growth Cell 1 (Overdale Road).

a) No subdivision within Putaruru Growth Cell 1 shown on the Planning Maps shall result in the cumulative number of dwelling sites within that Growth Cell exceeding 328 Household Unit Equivalents (HUEs). This calculation shall include any multi-unit developments already approved by Council.

Submission Point 8.9 seeks that Council amend matters of control and discretion associated with Rule 10.4.6 to ensure iwi and hapu are not precluded from being considered affected. The preclusions referred to are found in Rule 8.2, which states as follows.

8.2a) Notification Considerations

a) The Council is precluded from giving public notification of any application for a resource consent for a controlled activity or a restricted discretionary activity, except where Rule 8.2g) applies.

I do not consider that any change is necessary to this "full" public notification rule in relation to the new Rule 10.4.6. If an applicant requested a dispensation from the 328 HUE limit, Council's first action would be to assess whether the application would affect levels of service for existing neighbourhoods or future development of the whole of Putaruru. If it did, special circumstances would apply, and Council could publicly notify the proposal. This is covered by the current Rule 8.2g), which states:

g) Despite the above, the Council must, under Section 95A of the Act, publicly notify any application if an applicant requests, and may publicly notify any application if it decides that special circumstances exist in relation to the application.

Rule 8.2g) has been overtaken by the 2018 amendments to the RMA. Instead of Council having the discretion that it "may" notify the application if special circumstances exist, it now must notify the application in such circumstances. Section 95A(9) of the Act now requires Council to:

"(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

(a) if the answer is yes, publicly notify the application"

I propose that the Hearings Panel take the opportunity to correct this situation as part of the recommended changes to Rule 8.2 in response to Submission 8.8.

If "full" public notification is not warranted under the Act, Council then needs to consider whether an application will be "limited notified" to specific persons. The District Plan also contains a preclusion in respect of Limited Notification, which is set out in Rule 8.2b), as follows:

b) The Council is precluded from giving limited notification of any application for resource consent, except where Rules 8.2c) to 8.2f) apply, where:

i) The application is for a controlled activity land use or subdivision consent, or

ii) The application is for a restricted discretionary activity subdivision consent, except where the subdivision has become restricted discretionary due to its proximity to high voltage transmission lines, or sub-transmission lines, in which case the electrical line owner and/or operator will be the affected parties, or

iii) The application is for a restricted discretionary activity land use consent except where the activity involves building setbacks from, or earthworks near, electricity transmission lines in which case the electrical line owner and/or operator will be the affected parties, or

iv) The application is for a restricted discretionary activity land use consent which concerns non-compliance with any of the following rules:

- *Outdoor living space*
- *Site Coverage*
- *Density of dwellings*
- *Verandah provision*
- *Natural hazards*
- *Scale of retail activity in Industrial zone*
- *Building setbacks from rivers (except the Waikato River), lakes or wetlands*
- *Earthworks or structures under Rules 14.3.1 or 14.3.2*

- *Clearance of indigenous vegetation, land disturbance or drainage under Rule 14.4.1*
- *Building materials and reflectivity under Rule 29.4.5.*

One of the exceptions to this preclusion is:

> *f) The Raukawa Charitable Trust will be notified as an affected party and receive limited notification of resource consent applications for the conversion of commercial forestry land for farming under Rule 8.3.1g), in relation to the location of identified recorded and unrecorded cultural landscapes and cultural sites; and archaeological sites of Maori origin.*

It seems to me to be a very blunt instrument that Council is currently precluded from even considering Raukawa is affected by an application for a controlled or restricted discretionary application, except for using the "special circumstances" provisions of Section 95B(10) that mirror Section 95A(9) quoted above.

On the other hand it would be going too far to repeat the wording of Rule 8.2b)f) for controlled and RDA applications in the Growth Cells, i.e; "The Raukawa Charitable Trust will be notified as an affected party and receive limited notification of resource consent applications." This mandates Raukawa involvement in all applications, unless the RCT has provided consent.

The recommended option is to add a new exclusion to Rule 8.2.b) which removes the current preclusion of Raukawa being considered for limited notification of controlled and restricted discretionary activities. The new clause is as follows:

> *"fb) The Raukawa Charitable Trust and/or related iwi and hapu will not be precluded from receiving limited notification of resource consent applications for subdivision and/or development in the Putaruru Urban Growth Cells shown on the Planning Maps".*

It has been assigned the numbering "fb", to follow a new "fa" being recommended in response to the RCT's submission on Plan Change 2. Clause fb) would then precede the operative Clause (g), as quoted above, which explains the situation when Council determines that "special circumstances" exist.

Submission points 8.10 and 8.11 seek that proposed new Rules 22.4.12 and 23.4.14 in Residential zones be retained. As the only submission opposing Rule 22.4.12 for the Putaruru Business zone (Submission 5.29 from DPS is recommended for rejection, and no submissions opposing Rule 23.4.14 for the Putaruru Residential zone have been received, the submission should be accepted. Proposed Rule 23.4.14 provides that:

> ***23.4.14 Limitations of Putaruru Growth Cell 1 (Overdale Road).***
>
> *a) No permitted activity within Putaruru Growth Cell 1 shown on the Planning Maps shall cause the cumulative number of dwelling sites within that Growth Cell to exceed 328 Household Unit Equivalents. This calculation shall include any multi-unit developments already approved by Council.*

Submission point 8.12 seeks that the proposed amendments that incorporate RITS be retained (Change B25). As no submissions opposing this set of amendments have been received, the submission should be accepted.

Submission point 8.13 relates to the whole of PC1. It seeks "that the plan change provisions be amended to consider the values, interests, and concerns of nga marae and nga whanau, including those relating to:

- Urban growth and associated issues and pressures on the takiwa.
- The location and extent of growth proposed at Putaruru,'
- The context of the proposals in regards to broader water take and discharges in the takiwa and their pressure on council infrastructure and the water resource".

Managing water takes and discharges to the environment is of course a Regional Council function under Sections 30e) and 30(f) of the Act. The District Council's relevant function is "to achieve integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district (Section 31(a)). Within the scope of PC1, and functions under the RMA, and the requirements set out in Part 2 of the RMA, there are policy approaches that can advance the submission generally. In particular, the values and interests of nga marae and nga whanau can be advanced through enabling engagement with new consent processes associated with the implementation of PC1, and also providing for integration of Maori values in the assessment of proposals. This has been addressed through the amendments recommended in response to Submissions 8.7 and 8.9, and by retaining the parts of PC1 that were supported by RCT via Submissions 8.1 to 8.6, 8.8 and 8.10 to 8.12. I therefore recommend that Submission 8.13 be accepted in part, insofar as the relief sought for those other points is recommended to be granted.

Recommendations

That Submission 8.1 from the Raukawa Charitable Trust be accepted by retaining Objective 4.2.7 as notified.

That Submission 8.2 from the Raukawa Charitable Trust be accepted in part, to the extent that Submission 3.2 from Fire and Emergency NZ is recommended to be accepted by adding the words "and the health, safety and wellbeing of people and communities" to Objective 4.2.10

That Submission 8.3 from the Raukawa Charitable Trust be accepted by retaining the proposed amendments to Policy 4.3.3 as notified.

That Submission 8.4 from the Raukawa Charitable Trust be accepted by retaining proposed Policy 4.3.19 as notified.

That Submission 8.5 from the Raukawa Charitable Trust be accepted by retaining proposed Policy 4.3.20 as notified.

That Submission 8.6 from the Raukawa Charitable Trust be accepted by retaining proposed Rule 8.1.3(b) as notified.

That Submission 8.7 from the Raukawa Charitable Trust be accepted by adding a new Rule 8.3.4(u)(vi) to Rule 8.3.4 - Additional Matters of Control and Restricted Discretion, as follows:

> *"vi) Means to mitigate effects of the additional demand for water supply and/or wastewater disposal capacity upon the relationship of Raukawa and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga."*

That Submission 8.8 from the Raukawa Charitable Trust be accepted by retaining proposed Rule 10.4.6 as notified.

That Submission 8.9 from the Raukawa Charitable Trust be accepted by amending Clause b), by adding a new Clause fb) and by eplacing Clause g) in Rule 8.2(b) (Notification Considerations) as follows:

"b) The Council is precluded from giving limited notification of any application for resource consent, except where Rules 8.2c) to 8.2fb) apply, where:

....

"fb) The Raukawa Charitable Trust and/or related iwi and hapu will not be precluded from receiving limited notification of resource consent applications for subdivision and/or development in the Putaruru Urban Growth Cells shown on the Planning Maps".

g) Despite the above, the Council must under Sections 95A and 95B of the Act:

- *publicly notify any application if an applicant requests, and*
- *must determine whether special circumstances exist in relation to the application that warrant the application being publicly notified under Section 95A(9) or limited notified under Section 95B(10). If the answer is yes, the application must be respectively publicly notified or limited notified."*

That Submission 8.10 from the RCT be accepted by retaining proposed Rule 22.4.12 as notified.

That Submission 8.11 from the RCT be accepted by retaining proposed Rule 23.4.14 as notified.

That Submission 8.12 from the RCT be accepted by retaining the proposed amendments to incorporate RITS (Change B25) as notified.

That Submission 8.13 from the RCT be accepted in part, insofar as the proposed relief recommended for Submissions 8.1 to 8.12 above provides for the consideration of the values, interests and concerns of nga marae, and nga whanau within the scope of PC1.

APPENDIX A - S32AA ASSESSMENT - PC1 – PUTARURU GROWTH

(To be completed and tabled at hearing)

Provision to be amended	**Effectiveness and Efficiency** **Relevant objectives**	
	Benefits	**Costs**
8.2 Notification Considerations	Environmental:	Environmental:
	Economic:	Economic:
	Social:	Social:
	Cultural:	Cultural
Opportunities for economic growth and employment		
Options less or not as appropriate		
Risk of acting or not acting		
Effectiveness and Efficiency		

Provision to be amended	**Effectiveness and Efficiency** **Relevant objectives**	
	Benefits	**Costs**
8.3.3 Where Discretion is Restricted – Restricted Discretionary Activities	Environmental:	Environmental:
	Economic:	Economic:
	Social:	Social:
	Cultural:	Cultural
Opportunities for economic growth and employment		

Options less or not as appropriate
Risk of acting or not acting
Effectiveness and Efficiency

Provision to be amended	**Effectiveness and Efficiency**	
	Relevant objectives	
	Benefits	**Costs**
Performance Standards 22.4.12 and 23.4.13	Environmental:	Environmental:
	Economic:	Economic:
	Social:	Social:
	Cultural:	Cultural
Opportunities for economic growth and employment		
Options less or not as appropriate		
Risk of acting or not acting		
Effectiveness and Efficiency		

APPENDIX B - RECOMMENDED CHANGES AS A RESULT OF SUBMISSIONS – PC1 – PUTARURU GROWTH AND RELATED MATTERS

Provisions to be deleted by PC1 shown as ~~strikethrough~~

Text to be added by PC1 shown as italics, *underlined*

Consequential amendments for text to be added or deleted recommended by staff are shown as italics *red and underlined or ~~strikethrough~~*

(Chapter 15 – Noise, Vibration and Glare)

Other Chapters yet to be added, which are also recommended for amendment in response to submissions. They are:

- *Chapter 4 – Objectives and Policies for the District's Towns*
- *Chapter 7 – Objectives and Policies for the District's Infrastructure and Development*
- *Chapter 8 – Administration*
- *Chapter 10 – Subdivision, Financial Contributions and Esplanade Reserves and Strips*
- *Chapter 22 – Putaruru Business Zone*
- *Chapter 23 – Putaruru Residential Zone*

15 Noise, Vibration and Glare

15.1 Rule Statement

District plan noise rules must recognise that virtually all activities produce some noise, and there is a need to provide a balance between the noise producer and the noise receiver. Noise and vibration are directly linked, and vibration standards are also found in this Chapter.

Historically, noise rules and New Zealand's environmental noise standards have often been based upon existing noise levels in an area. This approach is now disappearing, as it is recognised that if there is to be development in an area, noise rules must provide an appropriate level of amenity for the developed area, whilst at the same time allowing noise generating activities to generate reasonable levels of noise. The assumption that new dwellings and/or business can be introduced into an area and somehow still maintain a noise level consistent with an undeveloped area is generally impractical. The purpose of the district plan's noise limits is to allow development while controlling noise to an appropriate level.

The plan uses the "Leq" descriptor for the assessment and measurement of environmental noise levels and for the specification of noise limits in district plans. Leq is used in the most recent versions of all relevant environmental acoustic standards. It is the energy average of noise during a specified period, and is commonly known as the average noise level. "Lmax" controls are also used during night-time hours, to limit the short duration "peak" noise levels that are correlated with sleep disturbance.

The plan's rules for Town Centre, Business and Industrial zones contain requirements for residential units in these zones to be acoustically insulated against intrusive noise from external sources. This is to help avoid complaints from future residents about business activities inhibiting otherwise legitimate activity in such zones.

Noise control boundaries have been calculated around the District's hydro electric power generating facilities on the Waikato River and the key industrial sites at Kinleith, Lichfield and Tirau. This approach gives certainty to the surrounding residents about future noise levels, and flexibility to the industrial operator in planning future development and alterations. Acoustic insulation will also be required for residential buildings inside these control boundaries, to recognise the higher than usual noise levels and give the residents concerned an adequate standard of amenity.

A number of activities have been identified as requiring exemption from the standard noise limits, often because they vary widely throughout the year and are temporary and transient. Strict compliance with standard noise rules may not be practicable, reasonable or enforceable. Such activities are required to comply with alternative noise limits specified in Table A2.

Poorly designed and directed lighting can cause a nuisance for neighbours, including sleep disturbance, and affect traffic safety. Glare sources such as security lighting and illuminated signage in all zones will therefore be required to meet specified glare standards.

15.2 Anticipated Environmental Results

The noise rules are intended to achieve the following anticipated environmental results:

- Commercial and industrial zone noise rules which allow intended activities to take place
- Safeguarding the amenity levels of Residential, Rural Residential and Rural zones from intrusive noise and glare, particularly at night
- Avoiding reverse sensitivity issues arising from potentially noise sensitive activities such as dwellings being developed in business and industrial zones, or near other noise generators.

The noise, vibration and glare rules are a method to implement the objectives and policies contained within Chapter 4 (Objectives and Policies for the District's Towns), Chapter 5 (Objectives and Policies for the District's Rural Areas), and Chapter 7 (Objectives and Policies for the District's Infrastructure and Development).

15.3 Noise Limits

15.3.1 Zone-Based Noise limits

Noise from any activity (but excluding those listed in Table A2) shall not exceed the following limits in Table A1 when measured at or within the following receiving zones.

Table A1			
	Noise Limits, dB		
Proposed Receiving Zone	Daytime	Night-time	Notes
	On any day: 7am to 10pm	At all other times:	
Residential Zones: Tokoroa Putaruru Tirau Arapuni Village	50dB LAeq	40dB LAeq 70dB LAmax	
Rural and Rural Residential Zones	50dB LAeq	40dB LAeq 70dB LAmax	To be measured and assessed within the notional boundary
Tokoroa Neighbourhood Retail Zone	55dB LAeq	45dB LAeq 75dB LAmax	-
Town Centre Zones: Tokoroa Putaruru Tirau	60dB LAeq	55dB LAeq 70dB LAmax	- Octave band noise levels should not exceed: 75dB Leq(1 minute) at 63Hz 65dB Leq(1 minute) at 125Hz
Business Zones: Tokoroa Putaruru	65dB LAeq	60dB LAeq 75dB LAmax	Octave band noise levels should not exceed: 75dB Leq(1 minute) at 63Hz 65dB Leq(1 minute) at 125Hz
Industrial Zone and Electricity Generation Zone	75dB LAeq	70dB LAeq 80dB LAmax	

15.3.2 Specific Activity Noise limits

Table A2			
Activity	Noise Controls		
Construction Noise	Comply with the provisions of NZS6803:1999 – Construction Noise		
Temporary Activities,	At or within receiving zones	LAeq, dB	LAmax, dB
Temporary Film Making	0630-0730hrs 0730-1800hrs 1800-2000hrs 2000-0630hrs	60 75 70 40	70 90 85 60

Vehicles and mobile machinery associated with rural production	Exempt providing they are of limited duration and not in a fixed location and are vehicles and mobile machinery associated with rural production activities and S16 and S17 of the RMA have been satisfied. Examples include farm and forestry harvesting, spraying and planting machinery.
Mineral exploration, mining and quarrying	Shall comply with the relevant zone noise limits at the specified measurement and assessment position for those zone(s), **except** that blasting noise and all vibration shall comply with the following: • Occur only between 7am and 7pm; and • No more than 2 events per hour, with a maximum of 8 events per day; and • Overblast pressure incident on houses or habitable buildings (but excluding houses or habitable buildings within the property containing the mine or quarry) shall not exceed 115dB LZpeak; and • Ground borne vibration shall not exceed the limits specified in DIN4150-2:1999 and Part 3:1999.
Community Events	1. Events held between 7am and 10.30pm, where the event and pre event rehearsal do not individually exceed 3 hours in duration, shall not exceed a noise limit of 80dB LAeq(1 hour) within relevant adjacent zone(s). Octave band noise levels at houses, dwellings or habitable buildings shall not exceed: 95dB Leq (1 minute) at 63Hz 85dB Leq (1 minute) at 125Hz 2. Events that do not meet the duration or hours specified in 1 above, but do not exceed 12 hours per day over a two day period shall not exceed a noise limit of 70dB LAeq(1 hour) within relevant adjacent zone(s). Octave band noise levels at houses, dwellings or habitable buildings shall not exceed: 85dB Leq (1 minute)at 63Hz 75dB Leq (1 minute) at 125Hz 3. Events that do not meet the duration or hours specified in 1 or 2 above shall comply with the zone noise limits at the specified measurement and assessment position for those zone(s).
Helicopters	Shall comply with the provisions of NZS6807:1994 – Noise Management And Land Use Planning For Helicopter Landing Areas.
Wind turbine generators with swept area greater than $80m^2$	Shall comply with NZS 6808: 2010 Acoustics – Wind farm noise
Audible bird scaring devices	Noise from audible explosive bird scaring devices shall only be operated between sunrise and sunset, and shall not exceed 100dB LZpeak, when measured within the notional boundary of any rural zoned site, or within the site boundary of any residential zoned site. Discrete sound events of a bird scaring device including shots or audible sound shall not exceed 3 events within a 1 minute period and shall be limited to a total of 12 individual events per hour. Where audible sound is used over a short or variable time duration, no event may result in a noise level greater than 50dB SEL when assessed at the notional boundary of any rural zoned site, or within the site boundary of any residential zoned site. A legible notice is fixed to the road frontage of the property on which is the device is being used, giving the name, address and telephone number of the person responsible for the operation of any such device(s).

Dwellings/ occupancies/ habitable spaces in zones other than Residential and Rural	A dwelling or occupancy or habitable space is permitted in zones other than Residential and Rural if the total internal noise level in any habitable room does not exceed 35dB LAeq(24 hours) while at the same time complying with the ventilation requirements of clause G4 of the New Zealand Building Code. The total noise level shall include all intrusive noise and mechanical services. In determining the external noise level, an assumption that the noise incident upon the noise sensitive facade is from at least three separate activities simultaneously generating the maximum allowable noise level for that zone. Compliance with the above must be confirmed in writing by a suitably qualified and experienced acoustic consultant.		
Frost fans	Noise generated by frost fans shall not exceed 55dB LAeq (15min) when assessed within the notional boundary of any other rural zoned site, or within the site boundary of any residential zoned site. A legible notice is fixed to the road frontage of the property on which it is being used, giving the name, address and telephone number of the person responsible for its operation.		
Atiamuri, Whakamaru, Maraetai, Waipapa, and Arapuni Electricity Generation Core Sites	Noise from these sites shall not exceed 45dB LAeq(15 minutes) when measured at the relevant noise control boundary shown in Figs 1 to 5. The noise limits shall not apply to sirens, circuit breakers and hydro spills associated with the Electricity Generation Core Sites.		
Well drilling within Electricity Generation Core Sites	Noise from drilling activities for the purpose of observation wells within Electricity Generation Core Site shall not exceed the following limits, for up to 30 days, when measured within the notional boundary of any rural zoned site or within the site boundary of any residential zoned site:		
	Hours	LAeq, dB	LAmax, dB
	0700-2200	70	85
	2200-0700	60	75
Kinleith Industrial Sites, and Lichfield and Tirau Dairy Factory Sites	Noise from these sites shall not exceed 45dB LAeq(15 minutes) when measured at the relevant noise control boundary shown in Figs 6 to 8.		
Emergency response	Exempt providing activity is in response to an emergency. All non-emergency related activities shall comply with the relevant zone standards.		
Temporary military exercises undertaken without weapons firing	At the notional boundary to any building housing a noise sensitive activity	LAeq dB	LAmax dB
	0630-0730hrs	60	70
	0730-1800hrs	75	90
	1800-2000hrs	70	85
	2000-0630hrs	40	60
Temporary military exercises undertaken with weapons firing and/or the use of explosives	1. Notice is provided to the Council at least 48hours prior to the commencement of the activity, specifying whether the activity involves live firing and/or the use of explosives, or firing of blank ammunition; the location of the activity and the boundaries within which the activity will take place, and distances to buildings housing noise sensitive activities; and the timing and duration of the activity.		
	2. Compliance with the noise standards below:		

		Time (Monday to Sunday)	Separation distance required between the point of firing and the notional boundary to any building housing a noise sensitive activity	
	Live firing of weapons and/or use of explosives	0700-1900hrs	At least 1500m	Less than 1500m if conditions a) and c) below are complied with
		1900-0700hrs	At least 4500m	Less than 4500m if conditions b) and c) below are complied with
	Firing of blank ammunition	0700-1900hrs	At least 750m	Less than 750m if conditions a) and c) below are complied with
		1900-0700hrs	At least 2250m	Less than 2250m if conditions b) and c) below are complied with
Conditions to be complied with if minimum separation distances for temporary military exercises undertaken with weapons firing and/or the use of explosives cannot be met:				
Condition	Time (Monday to Sunday)	Noise level at the notional boundary to any building housing a noise sensitive activity		
a)	0700-1900hrs	Peak sound pressure level of 120 dBC		
b)	1900-0700hrs	Peak sound pressure level of 90 dBC		

c)	The activity is undertaken in accordance with a Noise Management Plan prepared by a suitably qualified expert and provided to Council at least 15 working days prior to the activity taking place. The Noise Management Plan shall, as a minimum, contain: • A description of the site and activity including times, dates, and nature and location of the proposed training activities. • Methods to minimise the noise disturbance at noise sensitive receiver sites such as selection of location, orientation, timing of noisy activities to limit noise received at sensitive receiver sites. • A map showing potentially affected sites on which noise sensitive activities are based and predicted peak sound pressure levels for each of these locations. • A programme for notification and communication with the occupiers of affected sites on which noise sensitive activities are located prior to the activities commencing, including updates during the event. • A method for following up any complaints received during or after the event, and any proposed de-briefing meetings with Council.

15.3.3 Internal Design Sound Levels

Buildings for noise sensitive activities sited:

- within a noise control boundary shown in Figs 1 to 8, or
- located within 80m (measured from the nearest painted edge of the carriageway) of a State Highway in an area with a 100km/h speed limit, or
- located within 80m of land that is subject to a notice of requirement for a State Highway (refer to Appendix A),

shall be constructed to comply with the following standards in Table A3:

Table A3

Internal Design Sound Levels
(based on AS/NZ 2107:2000 Recommended design levels and reverberation times for building interiors)

Type of occupancy/activity	Recommended Internal Design Sound Levels dBA Leq(24hr)	
	Satisfactory	Maximum
Residential Buildings -Bedrooms -Other habitable rooms	 35 (see note) 40 (see note)	 40 45
Travellers' Accommodation - Bedrooms	35	40
Places of Assembly, education and childcare facilities, health and veterinary services	35	45
Educational Buildings (Teaching spaces)	35	45
Office buildings (general office space)	40	45

Compliance with Table A3 shall be confirmed in writing by a suitably qualified and experienced acoustic consultant.

Note:

- Although AS/NZ 2107:2000 recommends 30dBA as the satisfactory internal design sound level for bedrooms, such standards may be technically difficult and costly to achieve in high noise areas. 35 dBA Leq(24hr) is therefore acceptable.

15.3.3 Internal Design Sound and Vibration Levels for Putaruru Urban Growth Cells 1 to 4 – Railway Activities

Noise Sensitive Activities within Putaruru Urban Growth Cells 1 to 4 located within 100m of a Rail Network Boundary shall meet Rules 15.3.3a) and b) below:

a) Indoor railway noise

1. Any new building or alteration to an existing building that contains an activity sensitive to noise where the building or alteration:

(c) Shall be designed, constructed and maintained to achieve design noise levels resulting from the railway that do not exceed the maximum values in Table A4;

Table A4 – Internal Noise Limits

Building Type	***Occupancy/activity***	***Maximum railway noise level, dB $L_{Aeq(1h)}$***
Residential	*Sleeping spaces*	*35dB*
	All other habitable spaces	*40dB*
Education	*Lecture rooms/theatres, music studios, assembly halls*	*35dB*
	Teaching areas, conference rooms, drama studios, sleeping areas	*35dB*
	Libraries	*45dB*
Health	*Overnight medical care wards*	*40dB*
	Clinics, consulting rooms, theatres, nurses stations	*45dB*
	Places of worship, marae	*35dB*

Mechanical ventilation

2. if windows must be closed to achieve the design noise levels in clause 1(a), the building is designed, constructed and maintained with a mechanical ventilation system that:

(a) For habitable rooms for a residential activity, achieves the following requirements:

vi. provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and

vii. is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour; and

viii. provides relief for equivalent volumes of spill air;

ix. provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser

(b) For other spaces, is as determined by a suitably qualified and experienced person.

b) Indoor railway vibration

3. Any new buildings or alterations to existing buildings containing any of the activities in Table A3 above, closer than 60 metres from the boundary of a railway network:

(c) is designed, constructed and maintained so that rail vibration levels do not exceed Class C as defined in Table 1 of NS8176;2017.

4. A report is prepared by a suitably qualified and experienced acoustic consultant and submitted to the council demonstrating compliance with clauses (1) to (3) above (as relevant) prior to the construction or alteration of any building containing an activity sensitive to noise and vibration. In the design:

(a) Railway noise is assumed to be 70 LAeq(1h) at a distance of 12 metres from the track, and must be deemed to reduce at a rate of 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres;

(b) Railway noise spectrum at 12 m shall be assumed to be:

Table A5: Train noise octave band data for calculation needs completion?

Octave Band Centre Frequency (Hz)							
63	**125**	**250**	**500**	**1000**	**2000**	**4000**	**dBA**
							70

and

(c) The on time of the train shall be taken as 5 minutes per hour.

(d) The ground borne vibration shall be taken as:

[Data at 15 and 30m to be provided by Kiwirail; number of measurements to be agreed with and confirmed by Council]

(Submission 4.5 – KiwiRail)

15.4 Measurement and Assessment - Noise

(a) Noise shall be measured and assessed using the following standards:

- NZS 6801:2008 Acoustics – Measurement of Environmental Sound
- NZS 6802:2008 Acoustics – Environmental Noise
- NZS 6803:1999 Acoustics – Construction Noise
- NZS 6805:1992 Airport Noise Management and Land Use Planning
- NZS 6806: 2010 Acoustics – Road traffic Noise: New and altered roads
- NZS 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas
- NZS 6808: 2010 Acoustics – Wind farm noise

(b) Noise levels shall be measured and assessed in accordance with the relevant Standard(s).

(c) Where a scenario arises where the standards above are not best suited in assessing the noise source or receiver of interest, Council may through the resource consent process agree to the use of alternative standards.

15.5 Alternative Noise Measurement Position

Alternative measurement location(s) to those specified above may be appropriate where acoustic standards suggest an alternative measurement location, or on a case by case basis as may be agreed through the resource consent process. This shall be discussed and agreed with appropriate Council staff. Any reports submitted to Council shall describe the use of an alternative measurement position and the reasons for its use.

15.6 Measurement and Assessment - Vibration

(a) Vibration from any activity (excluding mineral exploration, mining and quarrying, as specifically provided for in Rule 15.3.2 Table A2, *and railway vibration in Putaruru Growth Cells 1 to 4 as provided for under Rule 15.3.3b),* **(Submission 4.5 – KiwiRail)** shall be measured and assessed in accordance with the following standards:

- AS 2670.1-2001 Evaluation of human exposure to whole-body vibration – General requirements
- AS 2670.2-1990 Evaluation of human exposure to whole-body vibration - Continuous and shock-induced vibration in buildings (1 to 80 Hz)
- DIN 4150-3:1999 Effects of vibration on structures

(b) Where a scenario arises where the standards above are not best suited in assessing the vibration source or receiver of interest, Council may through the resource consent process agree to the use of alternative standards.

15.7 Lighting and Glare

Effects of lighting are calculated using the procedure in NZS 6701:1983 Sections 6 and 7. For any light received at a residential, rural residential or rural property a comparison of the light generated at the source and the component having an effect on the receiver with a threshold increment (TI) of 20% or greater is deemed to be glare.

In addition the effect from the source shall not exceed an absolute increment on the ambient level of light specified in the following clauses:

a) At no time between the hours of 7.00am and 10.00pm shall any outdoor lighting be used in a manner that causes an added illuminance in excess of 125 lux, measured horizontally or vertically at the boundary of any Residential, Rural Residential or Rural zoned site adjoining

b) At no time between the hours of 10.00pm and 7.00am shall any lighting be used in a manner that causes:

i) An added illuminance in excess of 10 lux measured either horizontally or vertically at the glazing of a habitable room of an adjoining dwelling within a Residential, Rural Residential or Rural Zone

ii) An added illuminance in excess of 20 lux measured either horizontally or vertically at any point along the boundary of a property zoned residential, rural residential or rural.

Where measurement of any added illuminance cannot be made because any person refuses to turn off lighting, measurements may be made in locations of a similar nature that are not affected by such lighting.

c) Rules 15.7a) and 15.7b)ii) above shall not apply to any lighting from sites in the Industrial zone, or from normal intermittent agricultural practices such as harvesting, measured at sites that are not zoned Residential

d) All lighting on any site adjoining a Residential, Rural Residential, or Rural zoned site shall be selected, located, aimed, adjusted and screened to ensure that glare resulting from the lighting does not exceed a TI of 20%

e) Lighting of traffic access and parking areas shall be selected, located, aimed, adjusted and screened to ensure that stray light effects resulting from vehicles are mitigated.

f) No building shall be constructed and/or left unfinished and/or clad in any protective material or cover which could reflect sufficient light to detract from the amenities of the neighbourhood or cause discomfort to any person resident in the locality. Material used in the construction or cladding or protection of a building from which discomfort glare is likely to occur should have a reflective value not greater than 20%

g) Development on all properties adjacent to State Highways should be undertaken in such a way that the emission of light from these properties does not adversely affect the safety of drivers on State Highways in accordance with NZTA policy

Where lighting and glare may affect the safe and efficient operation of any road, including a State Highway, consideration shall be given to Australian Standard 4287–1997 Control of Obtrusive Effects of Outdoor Lighting

h) Signage shall be constructed to comply with the following levels of luminance:

- Daytime – 25 lux
- Night-time – 10 lux

Luminance levels shall be measured vertically or horizontally anywhere along the affected site boundary in accordance with professional illumination engineering practice or any relevant NZ Standard.

i) No light source used for illuminating a sign, except for neon and side-emitting fibre optics, shall be visible to motorists on any road or road reserve

Rules a) to h) above specifically exclude the lighting and glare effects generated from street lighting, and from Christmas lights and similar temporary festive illuminations.

Any activity that cannot comply with these provisions will require restricted discretionary resource consent.

Map Index

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