



Section 42A Report

Rotorua Operative District Plan

Proposed Plan Change 9
Housing for Everyone



ROTORUA
LAKES COUNCIL

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Appendices

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Supporting Technical Evidence

Evidence 1:	Strategic Evidence – Damon Mathfield (Rotorua Lakes Council)
Evidence 2:	Urban Design – Cam Wallace (Barker & Associates)
Evidence 3:	Demand Report – Susan Fairgray (Market Economics)
Evidence 4:	Transport – Mike Nixon (Commute Transportation)
Evidence 5:	Waste Collection Implications – Craig Goodwin (Rotorua Lakes Council)
Evidence 6:	Management of Development – Infrastructure and Flood Hazards - Paula Meredith (Rotorua Lakes Council)
Evidence 7:	3 Waters Infrastructure – Greg Manzano (Rotorua Lakes Council)
Evidence 8:	Specific Flood Hazard Methods - Mark Pennington (Tonkin + Taylor)
Evidence 9:	Geothermal Risk Assessment- John Brzeski (Tonkin + Taylor)

1 Executive Summary

- 1.0 This report is prepared in accordance with Section 42A of the Resource Management Act 1991 ('the RMA') to assist decision makers to consider the merits of Plan Change 9 to the Rotorua District Plan ('PC9') and whether further changes are needed in response to submissions. It is prepared by officers employed/contracted by Rotorua Lakes Council ('the Council') and relies upon existing reports and further expert evidence as discussed.
- 2.0 PC9 is an Intensification Planning Instrument ('IPI') and, as such, is required to give effect to Policy 5 of the National Policy Statement on Urban Development and ensure every relevant residential zone incorporates the Medium Density Residential Zone Standards ('MDRS') unless a qualifying matter exists. PC9 also proposes changes to papakāinga, financial contributions provisions; and changes that support or are consequential on implementation of the MDRS and Policy 5 under section 80E. As a result of the consideration of matters raised in submissions, we recommend further changes to PC9 in this report.
- 3.0 Below are the key changes PC9 proposes and the further key changes we recommend:

1. Residential Zones:

- a. Incorporation of the MDRS into Residential 1 and 2 Zones, with provisions that are more enabling than the MDRS in the Residential 2 Zone.
- b. Amendments to the extent of the Residential 2 Zone.
- c. Supporting objectives, policies and rule framework for those residential units that are not permitted under the MDRS and for the more enabling framework for the Residential 2 Zone (with further refinement in response to submissions).
- d. Amendments to the rule framework for rest homes in response to submissions.
- e. Exclusion of the MDRS from Residential 3 Zone as a qualifying matter.

2. City Centre and Commercial Zones:

- a. Increases to performance standards for building heights in the City Centre Zones and Commercial 1, 2, 4, and 6 Zones.
- b. Amendments to the activity status of new buildings and building alterations to allow for consideration of design in Commercial 1, 2, 4 and 6 Zones.
- c. Provision for residential units in the City Centre 2 and Commercial 6 Zones as a permitted activity.
- d. Consequential amendments to the objectives and policies, performance standards and matters of discretion for buildings (with further refinement in response to submissions).
- e. Amendments to the rule framework for rest homes in response to submissions.

3. Natural Hazards

- a. Requirement for resource consent as a restricted discretionary activity (to enable an assessment of flood risk assessment) for building in areas where flood depths are anticipated to be more significant and related policy and matters of discretion (with refinement in response to submissions).
- b. A new performance standard for the venting of geothermal gases. In response to submissions, this is recommended to be replaced by a performance standard requiring an expert assessment of geothermal hazards and risk to be provided alongside building consent applications for buildings in the Rotorua Geothermal System.

4. Historic heritage

- a. A requirement for resource consent for new buildings on the same site as specific historic structures or adjacent site (new qualifying matter) and related matters of discretion (with refinement in response to submissions).

5. Papakāinga

- a. Removal of the existing performance standard that required papakāinga to adjoin or be adjacent to an existing Marae.
- b. Amendments to density standards for papakāinga in rural zones to permit one unit per 2000m² average net site area. This was further refined in response to submissions to permit up to 10 units within the Rural 1 Zone and 5 within the Rural 2 and 3 Zones. Developments that exceed this threshold to be assessed as a restricted discretionary activity.
- c. Amendments to permit non-residential activities in association with papakāinga development (with further clarification in response to submissions).
- d. Inclusion of matters of discretion in respect of general title land and papakāinga development.

6. Financial Contributions

- a. Reduction in the financial contribution rates for reserves.
- b. Extension of the requirement for financial contributions for reserves to permitted residential units.

4.0 The full set of changes to the District Plan that we recommend be adopted are set out in **Appendix 1**. Recommended responses to submissions are set out in **Appendix 3**.

2 Introduction

2.1 Proposed Plan Change 9 – Housing for Everyone

- 5.0 This report is prepared under Section 42A of the Resource Management Act 1991 ('RMA') for consideration at the hearing on Plan Change 9 – Housing for Everyone ('PC9'). PC9 is an Intensification Planning Instrument ('IPI') under Section 80E of the RMA and amends the Operative Rotorua District Plan ('District Plan').
- 6.0 On 14 March 2022, the Resource Management (Territorial Authorities Required to Prepare and Notify Intensification Planning Instruments) Regulations 2022 required the Rotorua Lakes Council ('Council') to prepare and notify an IPI.
- 7.0 Section 80E of the RMA requires that PC9, as an IPI:
 - a. Give effect to Policy 5 of the National Policy Statement on Urban Development ('NPS-UD'); and
 - b. Ensure every relevant residential zone incorporates the Medium Density Residential Zone Standards ('MDRS') unless a qualifying matter exists.
- 8.0 This is the purpose of PC9. A range of other supporting changes are also proposed that will support the implementation of the MDRS and Policy 5.
- 9.0 This introductory section of the s42A report provides the background to PC9 and outlines the relevant statutory context. It has been prepared by the Council's reporting team, the makeup of which is outlined in Section 1.3 of the report below.
- 10.0 The report thematically addresses the submissions received on PC9 focusing on the key issues raised. Additional analysis on submissions, including responses to all individual submission points in **Appendix 3**.

2.1.1 Medium Density Housing

- 1.0 The MDRS is a set of objectives, policies and rules that aim to promote the development of a greater variety of housing types, including detached dwellings, terrace housing, and low-rise apartments.
- 2.0 By enabling greater development capacity within the existing urban footprint, the application of the MDRS in Rotorua aims to support the delivery of a more sustainable and resilient city. It can also provide opportunities for a wider range of people to access affordable housing options, as medium density housing can often be more affordable than detached houses.
- 3.0 From 20 August 2022 the MDRS provisions were regarded as operative in the District Plan, where no qualifying matter applies to a site. Section 86BA of the Amendment Act outlines those rules that have immediate legal effect from the above date.

2.1.2 High Density Housing

- 1.0 Policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD') directs that the District Plan should also enable heights and density of urban form commensurate with the greater of the level of accessibility or relative demand for housing and business use. In accordance with these directives, PC9 proposes to enable high density residential development within an amended Residential 2 Zone, which applies in highly accessible locations close to the City Centre.

2.1.3 Commercial Areas

- 1.0 In addition, PC9 has assessed ways to facilitate residential development in the Commercial and City Centre Zones, given their high levels of accessibility. To achieve this, PC9 allows for greater building heights by relaxing height standards in these areas. Residential activities are also proposed to be enabled in the City Centre 2 Zone and Commercial 6 Zone, given their high levels of accessibility and ability to accommodate more mixed-use development over time. These changes will enable a broader spectrum of activities to establish over time, supported by increased population density.

2.1.4 Quality Design & Responding to Local Context

- 1.0 With an increase in the height and density of development comes an increasing need to ensure that a good standard of design quality is achieved. This includes ensuring that higher density development appropriately responds to local context, provides quality on site amenity for people on site and the street, and manages effects on neighbouring sites, in a manner that is focused on the future built form and character enabled. PC9 proposes to achieve this by requiring resource consent for four or more residential units in the Residential 1 and 2 zones and for any new development in the City Centre and Commercial Zones. In combination with the zone standards, this will allow a qualitative assessment of a development proposal. This is intended to work hand-in-hand with other measures aimed at improving the design quality of development, including urban design review of proposals

2.1.5 Papakāinga

- 1.0 PC9 incorporates revisions to the provisions relating to papakāinga, aimed at providing a more enabling framework for this type of development as a means to reducing regulatory barriers for iwi and hapū. These proposed amendments are made under section 80E(b)(ii) of the RMA, which permits the Plan Change to modify provisions to facilitate papakāinga housing in both urban and rural areas of the district.
- 2.0 The Minister included a recommendation that the plan change also makes changes to amend the papakāinga provisions to better consider the values and aspirations of hapū and iwi within

Rotorua. "As the IPI can include papakāinga provisions we encourage RLC to consider provisions that will enable papakāinga and additional opportunities where appropriate.¹"

2.1.6 Qualifying Matters

- 1.0 Under the Amendment Act, section 77I enables the Council to make the MDRS less enabling of development in areas where there are "qualifying matters," also referred to as development constraints. As part of PC9, we must provide a rationale for why these qualifying matters are justified. An assessment of exiting qualifying matters is found in **Appendix 4** and new qualifying matters are found in the report section below:
- 2.0 The following rules are already within the Operative District Plan and are proposed to be retained as qualifying matters.
- a. Nationally significant infrastructure (the National Grid, Rotorua Regional Airport (including the obstacle limitation surfaces) and state highways);
 - b. Natural Hazards;
 - c. Historic and Cultural Values;
 - d. Significant Natural Areas;
 - e. Outstanding Natural Character;
 - f. Outstanding Natural Features and Landscapes;
 - g. Public Access;
 - h. Notable trees;
 - i. Development areas - provisions supporting the provision of infrastructure, addressing reverse sensitivity and protection of the landscape values of the Rotorua Caldera Rim.
- 3.0 The operative rules of the District Plan pertaining to these qualifying matters are generally proposed to be retained but with some minor amendments. The proposed amendments include modifications to the qualifying matters for the Pukehangi Heights Development Area to safeguard the landscape values of the Caldera Rim and to the performance standards for Wharenui, concerning the Eastern Arterial and road upgrades and focusing the subdivision rules for flooding.
- 4.0 PC9 proposes new qualifying matters within the District Plan, including:
- a. Flooding – amendments to the rules to more effectively manage flood risk in higher risk locations;
 - b. Residential 3 Zone – retention of the Residential 3 zone applying to the cultural villages of Ōhinemutu, Whakarewarewa, and Ngāpuna to enable Māori to maintain their culture and traditions with their ancestral lands;
 - c. Historic heritage – amendments to the rules to ensure that the heritage values of protected buildings are maintained.

1.0

¹ Letter from Hon Dr Megan Woods to Hon Mayor Chadwick, *Order in Council under the Resource Management (Enabling Housing Supply and Other Matters Amendment Act)*

2.1.7 Additional Supporting and Consequential Changes

1.0 PC9 also proposed further supporting and consequential changes, key changes are below:

- a. Financial contributions for reserves – amendments to the provisions to reduce the financial contribution requirement from 5% to 3.5% in the urban zones and 2.5% in the Rural zones, with lower rates applying to minor residential units, and related changes to the objectives and policies.
- b. Transport – amendments to the transport provisions to ensure that the access standards safely and efficiently provide for all modes of transport and that the effects of higher density residential development on the immediately adjoining transport network are appropriately managed.

2.2 Purpose of the Report

1.0 This report is prepared in accordance with Section 42A of the Resource Management Act 1991 ('the RMA'). This report considers the merits of PC9 which is an Intensification Planning Instrument ('IPI') under Section 80E of the RMA, submissions and further submissions ('submissions') received by the Council on PC9. The Council is required to prepare and notify an IPI following the enactment of the Amendment Act. It is intended to assist the hearing commissioners in their consideration of submissions and evidence presented at the hearing.

2.3 Report Authors, Qualifications and Experience

1.0 This report has been prepared by:

- a. Kim Smith, Senior Policy Advisor (RMA Policy), Rotorua Lakes Council
- b. Simon Thurston, Senior Policy Planner (RMA Policy), Rotorua Lakes Council
- c. Anna Bindon, Graduate Policy Planner (RMA Policy), Rotorua Lakes Council
- d. Rachel Morgan, Director / Planner, Barker & Associates, consultant planner on behalf of Rotorua Lakes Council

2.0 A summary of our relevant qualifications and experience is included in Appendix 8.

3.0 We, the authors, confirm that we have reviewed and understand the expert witness code of conduct as outlined in the Environment Court Practice Note 2023. We agree to adhere to this code of conduct.

4.0 Furthermore, we have taken into account any relevant facts that may affect or challenge the opinions expressed in this report. We confirm that the opinions expressed in this report are our own, unless otherwise specified that we have relied on external sources to form our opinion.

5.0 However, we acknowledge that during the course of the hearing, new evidence, information, or other matters may arise that could impact our opinion and subsequent recommendations. As such, we reserve the right to modify our opinion, in whole or in part, based on any such new developments.

6.0 **Table 1** below summarises how the topics have been allocated amongst the various reporting planners. The table also details the supporting technical evidence that has informed our evaluation of the submissions.

Table 1: Showing authors and supporting technical evidence for each of the Section 42 Report Sections.

Reporting planner on behalf of Rotorua Lakes Council	Topics Addressed	Supporting technical evidence
Kim Smith	Transport Infrastructure Natural Hazards Financial contributions Other potential qualifying matters Other subdivision changes Community Housing Treatment of Qualifying Matters Other consequential changes Rezoning requests	Mike Nixon – Transport Craig Goodwin – Waste Collection Implications Paula Meredith – Management of Development – infrastructure and Flood Hazards Greg Manzano – 3 Waters Infrastructure Mark Pennington – Specific Flood Hazard Methods John Brzeski – Geothermal Risk Assessment Rice Speirs – Building Act and Geothermal Hazards (Appendix 6) Brad Scott – Geothermal System Boundaries (Appendix 7)
Simon Thurston	Papakāinga Partnership with Te Arawa	-
Anna Bindon	Process Residential 3 Zone Development Areas Historic Heritage and Cultural Values	-
Rachel Morgan	Growth and demand Residential Amendments (except the Residential 3 Zone) City Centre and Commercial Retirement Activities Correction Activities Education Activities	Cam Wallace – Urban Design Susan Fairgray – Economics
		Damon Mathfield - Strategic

3 Background

3.1 Growth Context

- 1.0 The National Policy Statement on Urban Development 2020 ('NPS-UD') sets out requirements relating to planning for growth and development in urban environments, including the need to provide at least sufficient development capacity to meet expected demand (Policy 2).
- 2.0 As per the NPS-UD guidelines, a Housing and Business Development Capacity Assessment ('HBA') must be conducted to evaluate the housing and business market within the urban environment. The assessment for Rotorua was completed in 2021 in collaboration with the Council by Market Economics ('M.E') to ensure a thorough and reliable evaluation.
- 3.0 The reporting undertaken for the HBA was extensive and included a detailed evaluation of housing and business demand and plan-enabled, feasible, infrastructure ready, and reasonably expected to be realised capacity. The HBA concludes that there is strong demand for housing and business use over the next 30 years, however, there is insufficient feasible capacity to cater for this, which the current planning framework contributes to.
- 4.0 The housing demand for Rotorua in the short, medium, and long term is based on the population projections provided by Infometrics. Additionally, data from the Ministry of Housing and Urban Development ('MHUD') shows that Rotorua had a housing shortage of approximately 1,500-1,750 homes, as estimated by MHUD through a place-based assessment of the city's housing demand and supply in March 2020.
- 5.0 In the urban environment, there is projected demand for 2,970 additional houses in the short term, 5,200 additional houses in the medium term and 8,250 additional houses in the long term, driven by projected household growth and addressing the current shortfall in housing.
- 6.0 In addition to the projected demand and the current housing shortfall, the NPS-UD mandates that the Council include a competitiveness margin to facilitate housing choice and market competitiveness. The competitiveness margin entails a 20% increase in the short and medium term and a 15% increase in the long-term to the demand figures stated above. Together, the demand and competitiveness margin are collectively referred to as the 'housing bottom lines' as stipulated below (Policy 7 of the NPS-UD).

Table 2: Showing the projected demand in the short, medium and long term (Rotorua HBA, 2021)

Timeframe	Demand for dwellings	Including NPSUD Competitive Margin
Short term (3 years, 2020-2023)	2,970	3,560
Medium term (10 years, 2020-2030)	5,200	6,240
Long term (30 years, 2020-2050)	8,250	9,740

- 7.0 The feasibility of development capacity in Rotorua is impacted by the existing planning framework. A key objective of Plan Change 9 ('PC9') is to modify the rules to accommodate a broader selection of housing types and choices within the urban area. The proposed planning framework will enhance the feasibility of development in the urban area and allow for more attached housing types. These changes will directly address the primary concerns raised in the HBA.

3.2 District Plan Context

- 1.0 District Plans are required by Section 72 of the Resource Management Act 1991 ('**RMA**') to assist territorial authorities to carry out their functions to achieve the purpose of the RMA. District plans must be aligned with national policy statements and regional policy statements while ensuring they do not contradict regional plans and any relevant water conservation orders.
- 2.0 Development in Rotorua is managed through the Rotorua District Plan. The Rotorua District Plan was made operative on 10 July 2016 following a full review. It has since gone through a number of plan changes, which except PC9, are all operative. In July 2021 the Rotorua District Plan was restructured to in part align with the National Planning Standards.

4 Summary of PC9 and Key Changes Proposed

- 1.0 Plan Change 9 ('**PC9**') proposes a range of changes to the Rotorua District Plan to give effect to section 80E of the Resource Management Act 1991 ('**RMA**'). We propose to amend the notified version of PC9 in response to submissions received and further discussions with submitters as detailed in the sections of the report below. The table below provides a brief summary of these proposed changes and a link to where the reasons for these changes are explained in the report.

Table 3: Showing a summary of the key proposed changes in PC9.

PC9 summary	Key changes proposed in response to submissions	Report section addressed
Residential zone extent: Residential 2 Zone: Extension of the Residential 2 spatial extent at the northern and western extents, and reduction at the southern extent. Refer Map 1 (<i>Residential 2 Zone extent proposed under PC9 as notified</i>) at Section 8.1.4 .	No changes are proposed to the Residential Zone extent.	Residential 2 Zone: Section 8.1.4
Residential zone objectives, policies and rules: 2.0 Inclusion of new objectives, policies, and rules to guide urban residential development in the Residential 1 and 2 zones and incorporate Policies 1, 3, and 4 of the MDRS. 3.0 Inclusion of the MDRS in the Residential 1 Zone, the MDRS/more enabling provisions in the Residential 2 Zone, and additional refinements. 4.0 Inclusion of matters of discretion for the assessment of non-compliances to standards and four or more residential units.	a. A number of amendments are proposed to the objectives and policies to achieve improved clarity and consistency with the NPS-UD. b. Building height and daylight envelope standard (Residential 2 Zone): increase maximum allowable building height from 19.5m to 22m. c. Maximum building length standard: exclusion of development up to three residential units and increase the maximum allowable building length above ground level from 22m to 28m; d. Outdoor living space standard: exclusion of development up to three residential units from requirements for south-facing outdoor living spaces. e. Matters of discretion: inclusion of simplified matters of discretion and associated assessment criteria. f. Rest homes: amend the activity status to restricted discretionary in the Residential 1 and 2 Zones.	a. Residential Zone objectives and policies: Section 8.1.4 b. Building height: Section 8.1.5 c. Other provisions: Section 8.1.6 d. Rest homes: 8.1.7
Commercial zone objectives, policies and rules: a. Consequential amendments to the objectives and policies to give effect to Policy 5 of the NPS-UD.	a. Outdoor living space standard: deletion of standard from the City Centre 1 & 2 Zones b. Matters of discretion: inclusion of simplified matters of discretion and associated assessment criteria.	a. Residential units on ground floor: Section 8.3.3 b. Standards for residential units: Section 8.3.4

b. Increase to building heights in the City Centre Zones and Commercial 1, 2, 4, and 6 Zones. c. Amend the activity status of new buildings to restricted discretionary. d. Amend the activity status of residential units in the City Centre 2 and Commercial 6 Zones to permitted. e. Inclusion of matters of discretion for the assessment of non-compliances to standards and new buildings.	c. Increase the permitted threshold for alternations and alterations to building in the City Centre and Commercial Zones d. Restriction of residential units and rest home units on the ground floor of primary retail streets e. Rest homes: amend the activity status to permitted in the City Centre Zones and Commercial 1, 2, 3, 4, and 6 Zones.	c. Rest homes: Section 8.3.5 d. Building design and site layout: Section 8.3.3
Natural hazards objectives, policies and rules: a. Requirement for resource consent as a restricted discretionary activity (to enable an assessment of flood risk assessment) for building in areas where flood depths are anticipated to be >300mm in a 1%AEP event with an allowance for climate change (new qualifying matter). b. Proposed standard for venting of geothermal gases	a. Replacement of the proposed standard for venting of geothermal gases with a performance standard requiring an expert assessment of geothermal hazards and risk be provided alongside building consent applications.	Natural Hazards: 8.5
Historic Heritage: An additional “New building” rule is to sites that contain historic structures as listed in the schedule in the Residential 1, Residential 2, Commercial 4 Zones and specified sites as a new qualifying matter to protect historic heritage from inappropriate subdivision, use and development (RMA s6(f))	Amendments to HH-I1 and proposed matters of discretion to HH-R2A.	a. Issue: 8.6.5 b. Matters of Discretion 8.6.6
Papakāinga: a. Removal of the existing performance standard which required papakāinga to adjoin or be adjacent to an existing Marae.	a. Further amendments to density provisions for papakāinga within rural zones to permit up to 10 units on a site with developments that exceed this threshold assessed as a restricted discretionary activity.	Papakāinga: 8.9

b. Amendments to density standards for papakāinga in rural zones to permit one unit per 2000m2 average net site area. c. Amendments to permit non-residential activities in association with papakāinga development.	b. Inclusion of infrastructure performance standards c. Clarification of non-residential activities associated with papakāinga d. Inclusion of restricted discretionary criteria to determine ancestral connection with the Whenua.	
Financial Contributions: a. Reduction in the financial contribution rates for reserves b. Extension of the requirement for financial contributions for reserves to permitted residential units.	No key changes in response to submissions	Financial Contributions: 8.10

5 Statutory Context

5.1 Resource Management Act 1991

- 1.0 Plan Change 9 ('PC9') must be prepared in accordance with the Council's functions under Section 31, Part 2 of the Resource Management Act 1991 ('RMA'), and its obligation to have particular regard to an evaluation report prepared in accordance with Section 32, any further evaluation required by 32AA of the RMA, and to be in accordance with matters to be considered as set out in Section 74 of the RMA.
- 2.0 In addition, and as further described below, as PC9 is an Intensification Planning Instrument ('IPI') for a tier 2 territorial authority, PC9 must include the Medium Density Residential Standards ('MDRS') in relevant residential zones and give effect to policy 5 of the National Policy Statement on Urban Development (section 77G). Other proposed changes must also be within the scope of section 80E of the RMA. Only limited potential is provided to include provisions less enabling than the MDRS and specific assessment is required to existing and proposed provisions that are less enabling (sections 77I to 77L).
- 3.0 In Section 5 of Part 2, the RMA outlines its objective of advancing the sustainable management of natural and physical resources. The term "sustainable management" refers to:
- managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
- a. sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - b. safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - c. avoiding, remedying, or mitigating any adverse effects of activities on the environment*
- 4.0 Part 2 also sets out matters of national importance (section 6), other matters for particular regard (section 7) and requirements in relation to the Treaty of Waitangi (section 8).
- 5.0 Sections 72-77 of the RMA contains the framework for district plans. The purpose of a district plan's preparation, implementation and administration, as stated in Section 72, is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act. The functions of district councils, which are listed in Section 31 of the RMA, include:
- a. ... achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;*
 - b. ... ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:*
 - c. ... control of any actual or potential effects of the use, development, or protection of land...*
- 6.0 Any district plan, including any district plan change, must give effect to higher order planning documents, such as National Policy Statements and the Bay of Plenty Policy Statement (section 75). However, specifically in relation to an IPI, section 77G states that the requirement to incorporate the MDRS into a relevant residential zone applies irrespective of any inconsistent objective or policy in a regional policy statement

- 7.0 Various higher order planning documents and strategic plans have provided guidance for the preparation and content of PC9. These documents are extensively discussed in the Section 32 Evaluation provided to support PC9 and, where relevant, in the substantive sections below. It is important to acknowledge the notification of Proposed Plan Change 6 to the Bay of Plenty Regional Policy Statement occurred on 9 August 2022 and was not addressed in the Section 32 Report but is addressed below.
- 8.0 An evaluation of efficiency, effectiveness, costs and benefits etc. must be prepared to support notification of a plan change (section 32). Such an evaluation was prepared to support PC9 and is available on the Council's website.
- 9.0 The RMA also requires a further evaluation of any changes to support the decision on the plan change (section 32AA). This report, and the analysis it contains, is intended to assist the decision makers to undertake this further evaluation, as well as the specific evaluation requirements for provisions that are less enabling than the MDRS (qualifying matters).

5.2 Order in Council

- 1.0 The Resource Management (Territorial Authorities Required to Prepare and Notify Intensification Planning Instruments) Regulations 2022 were enacted on March 14, 2022, to include Rotorua Lakes Council in the obligations set by the RMA, as amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act ('**Amendment Act**'). Rotorua, being recognised as an area with significant housing demand, is now designated as a "specified territorial authority". As per the newly introduced Section 77G of the RMA, specified territorial authorities are mandated to amend their district plan in order to:
1. Give effect to Policy 5 of the National Policy Statement on Urban Development 2020 ('**NPS-UD**'); and
 2. Incorporates the MDRS set out in Schedule 3A of the RMA into relevant residential zones unless a qualifying matter exists.

5.2.1 Intensification Planning Instrument

- 1.0 The IPI is required to incorporate the MDRS outlined in Schedule 3A of the RMA into relevant residential zones unless a qualifying matter exists. Furthermore, it must give effect to the applicable policies of the NPS-UD. For tier 2 territorial authorities, this is policy 5 (section 80E). Specified territorial authorities are also required to amend their plans to give effect to policy 5 in non-residential zones (section 77N). There is also discretionary authority to incorporate or modify district plan provisions concerning financial contributions, papakāinga housing, and any other provisions that are supportive or consequential to the MDRS or Policy 5 of the NPS-UD in an IPI (section 80E).
- 2.0 The MDRS includes compulsory provisions concerning the activity status of residential units, land subdivision, exemption from specific notification requirements, as well as objectives and policies. Schedule 3A, Part 2 outlines density standards for:
- a. Number of residential units per site,
 - b. Building height,
 - c. Height in relation to boundary,
 - d. Setbacks,
 - e. Building coverage,

- f. Outdoor living space (per unit),
- g. Outlook space (per unit),
- h. Windows to street, and
- i. Landscaped area

3.0 Sections 77G and 77H of the RMA provide Council with the authority to make the following adjustments:

- a. create new residential zones or modify existing ones;
- b. incorporate objectives and policies that uphold the MDRS and align with more enabling density standards;
- c. make amendments to the requirements outlined in Schedule 3A to be less enabling of development (subject to authorization under Section 77I, which pertains to the application of qualifying matters); and
- d. facilitate a higher level of development beyond what is specified in the MDRS.

5.2.2 Relevant Residential Zones

1.0 Relevant residential zone is defined at Section 2 of the RMA as:

relevant residential zone—

- a. *means all residential zones; but*
- b. *does not include—*
 - i. *large lot residential zone.*
 - ii. *an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment.*
 - iii. *an offshore island:*
 - iv. *to avoid doubt, a settlement zone.*

2.0 The Rotorua District Plan includes the following residential zones:

- a. The “Residential 1 Zone (‘**RESZ1**’) – Low density living” which includes most of the urban residential environment.
- b. The “Residential 2 Zone (‘**RESZ2**’) – Medium density living” which includes the residential areas which are located close to the city centre.
- c. The “Residential 3 Zone (‘**RESZ3**’) – Ōhinemutu, Whakarewarewa, Ngāpuna” which include the cultural and historic villages in Rotorua.
- d. The “Residential 4 Zone (‘**RESZ4**’) – Lakeside settlements” which includes those located at Hamurana, Rotoiti, Ōkere Falls, Rotoehu and Rotomā
- e. The “Residential 5 Zone (‘**RESZ5**’) – Residential lifestyle (Wharenuī Road area)” which includes the rural-residential lifestyle area specifically located within the area of the Wharenuī Road Development Plan.
- f. The “Lakes A Zone”

3.0 Residential 1, 2 and 3 Zones are considered a “relevant residential zone” in the case of Rotorua. The Residential 4 and 5 Zones do not need to incorporate the MDRS because they are considered equivalent to the definition of large lot residential zone (Residential 5), settlement

zones (Residential 4), large lot residential zones (Lakes A Zone), and natural open space zone (Lakes A Zone) included within the National Planning Standards.

5.3 National Policy Statement on Urban Development

- 1.0 The NPS-UD came into effect on 20 August 2020. The NPS-UD promotes the concept of "well-functioning urban environments", which are those urban environments that have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport and support a reduction in greenhouse gas emissions, amongst other matters.
- 2.0 The NPS-UD classifies urban areas into different tiers relating to population size and projected growth rates, with Rotorua being classified as a Tier 2 urban environment.
- 3.0 Section 5.3 of the Section 32 Report provides an overview of the NPS-UD in relation to its application to the development of PC9. The below table below provides further explanation, outlining the objectives and policies relevant to a tier 2 urban environment, how PC9 responds and cross references to further detail in this report.

Table 4: Showing the relevant objectives and policies of the NPS-UD and the consistency with PC9.

Relevant NPS-UD Objectives and Policies	Plan Change 9 Response
Objective 1 New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future. Policy 1 Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: - have or enable a variety of homes that: i. meet the needs, in terms of type, price, and location, of different ii. households; and iii. enable Māori to express their cultural traditions and norms; and iv. have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and v. have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and vi. support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and vii. support reductions in greenhouse gas emissions; and are resilient to the likely current and future effects of climate change.	PC9 will give effect to Objective 1 and Policy 1, and will contribute to a well-functioning urban environment for the following reasons: a. It will enable a significant increase in the variety of homes throughout the Residential 1 and 2 Zones and the City Centre and Commercial Zones, by increasing the heights and densities of development enabled. In addition to the Residential 1 Zone, PC9 will provide opportunities for a range of housing typologies and residential environments to establish with a different planned character, which also assists to provide choices for people; b. It will enable the greatest density of development to occur in the most accessible locations, where there are existing jobs, community services and open spaces that can be accessed by active transport. Combined with other methods outside of the District Plan, this can support a reduction in greenhouse gas emissions, by enabling people to walk and cycle to what they need more easily. c. The Economic Assessment finds that intensification scenarios proposed under PC9 enable high levels of plan enabled capacity relative to demand. PC9 will therefore provide at least sufficient development capacity and support the competitive operation of land and development markets. d. It will provide a more enabling framework for papakāinga development within urban and rural areas, which will better support Māori to express their cultural traditions and norms. Refer to Section 8.1, Section 8.3 and Section 8.9 of the s42A report below for further assessment.
Objective 4 New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.	In accordance with Objective 4 and Policy 6, PC9 enables a variety of homes to increase housing choice and respond to the diverse and changing needs of people, communities, and future generations. This is reflected in the proposed height and density standards in the Residential, City Centre and Commercial Zones, which are more enabling than the operative District Plan

Policy 6 When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters: a. the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement b. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes: i. may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and ii. are not, of themselves, an adverse effect c. the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1) d. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity e. the likely current and future effects of climate change	and will result in changes to the existing environment if taken up. PC9 recognises that this can have positive effects for future generations by promoting a wider range of choices, and realising the wider benefits of intensification, including greater vitality, and more efficient use of infrastructure. The amendments proposed to the Strategic and Residential Chapters of the District Plan recognise that this may result in changes to the urban environment. Within the Residential 1 and 2 Zones, the performance standards seek to directly enable the form of development that the zone provides for. In the case of the Residential 2 zones, this includes medium and high density housing, in response to Policy 6(a). At the same time PC9 seeks to ensure that development achieves quality built form outcomes, and recognises that this becomes increasingly important for larger scale and multi-unit development. The quality of these residential areas, forms part of the planned urban built form of the zones as set out in the objectives and policies of PC9. Refer to Section 8.1 and Section 8.3 of the s42A report below for further assessment.
Objective 8 New Zealand's urban environments: a. support reductions in greenhouse gas emissions; and b. are resilient to the current and future effects of climate change	In accordance with Objective 8, PC9 supports the use of active and public modes of transport through a range of methods, including consideration of cycle parking for multi unit development and consideration of active modes as part of any transport assessment required via Appendix 1. This will support mode shift a make a contribution towards reducing greenhouse gas emissions. PC9 enables greater capacity for the development of residential units on land that is accessible to public and active transport and therefore better enables efficient use of that infrastructure. Refer to Section 8.1 of the s42A report below for further assessment.
Policy 2 Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.	In accordance with Policy 2, PC9 enables at least sufficient development capacity and seeks to facilitate increased residential capacity through the inclusion of the MDRS and providing for residential units in and around centres. PC9 has been informed by the 2021 HBA, which identified

	insufficient reasonably expected to be realised capacity for all attached and detached dwellings in the short term, medium, and long term. Refer to Section 8.1 and Section 8.3 of the s42A report below for further assessment.
Policy 5 Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of: - the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or - relative demand for housing and business use in that location.	In accordance with Policy 5, a detailed accessibility and demand analysis has been undertaken to inform PC9, which has been prepared by Mr Wallace. This has been a key informing factor for the PC9 height strategy, together with a consideration of the level of development that is broadly feasible, relative to the types of development anticipated within the zone. The overall demand for higher density forms of housing have also been considered. Refer to Section 8.1 and Section 8.3 of the s42A report below for further assessment.
Policy 9 Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must: - involve hapū and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and - when preparing RMA planning documents and FDSs, take into account the values and aspirations of hapū and iwi for urban development; and - provide opportunities in appropriate circumstances for Māori involvement in decision-making on resource consents, designations, heritage orders, and water conservation orders, including in relation to sites of significance to Māori and issues of cultural significance; and - operate in a way that is consistent with iwi participation legislation.	In preparing PC9, consultation and engagement with iwi and hapū has been undertaken throughout 2022 and 2023. Targeted engagement occurred to support the development of the papakāinga provisions for PC9 and this has also occurred following the close of submissions. Refer to Section 6.4 of the s42A report for further assessment.

5.4 Other National Direction

5.4.1 National Policy Statement on Electricity Transmission 2008

- 1.0 The National Policy Statement on Electricity Transmission 2008 ('NPS-ET') serves as a broad framework for the management and future planning of the national grid in New Zealand. Local authorities are advised to consider this policy when developing plans and should take it into account when making decisions regarding resource consents. The NPS-ET recognises the national significance of operating, maintaining, developing and upgrading the electricity transmission network. PC9 gives effect to this, by identifying the National Grid and the rules associated with them in the District Plan as an existing qualifying matter (see **Appendix 4** of the s42A report).

5.4.2 National Policy Statement for Freshwater Management 2020

- 1.0 The National Policy Statement for Freshwater Management 2020 ('NPS-FM') provides direction to local authorities regarding the management of freshwater resources within the framework of the RMA. Pertaining to PC9, the NPS-FM outlines specific requirements that focus on the effective implementation of Te Mana o te Wai and the responsibility to enhance the quality of deteriorated water bodies while maintaining or improving others.
- 2.0 Te Mana o te Wai signifies the fundamental significance of water. It establishes a hierarchical order of obligations, with the utmost priority given to the health and well-being of water itself. Following that, the second priority is the fulfillment of human health requirements, such as access to clean drinking water. The third priority encompasses the capacity of individuals and communities to meet their social, economic, and cultural well-being.
- 3.0 Most of the obligations in the policy statement relate to regional council functions and are not directly relevant to PC9. Of relevance, however, is the requirement for integrated management in section 3.5, which requires local authorities to:
- a. *recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and*
 - b. *recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and*
 - c. *manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and*
 - d. *encourage the co-ordination and sequencing of regional or urban growth.*
- 4.0 PC9 seeks to give effect to this requirement for integrated management within the confines of the scope of the plan change permitted under section 80E.

5.4.3 National Policy Statement on Highly Productive Land

- 1.0 The primary objective of the National Policy Statement on Highly Productive Land 2022 ('NPS-HPL') is to safeguard New Zealand's most fertile soils for the purpose of food and fiber production. It provides councils with guidance on the process of mapping and designating highly productive land, as well as managing its subdivision, usage, and development.
- 2.0 The NPS-HPL is of limited relevance to PC9 given that the plan change applies only to the urban area, which is not highly productive land. However, it is noted that at a strategic level, PC9 would assist in protecting highly productive land by encouraging a greater level of development to be accommodated within the urban area, which assists to limit urban expansion into rural areas containing highly productive land.

5.4.4 National Adaptation Plan 2022

- 1.0 The National Adaptation Plan 2022 (**'NAP'**), which became effective following the notification of PC9 in August 2022, outlines strategies, policies, and proposals led by the government to aid New Zealand in adapting to the evolving climate and its associated impacts. The NAP is scheduled for updates every six years. The NAP assesses the present and future impacts of climate change while outlining our approach to adaptation.

5.4.5 National Emissions Reduction Plan 2022

- 1.0 The National Emissions Reduction Plan 2022 (**'NERP'**) outlines the roadmap for climate action and the transition to a low-emissions economy over the next 15 years. It establishes targets, budgets, plans, and strategies for reducing emissions, including a long-term goal to support global endeavors in limiting temperature rise.
- 2.0 Considering the NERP's objectives, it emphasizes the promotion of housing developments in proximity to urban centres and efficient active transport routes as a means to reduce reliance on vehicle usage.

5.4.6 National Planning Standards 2019

- 1.0 The National Planning Standards 2019 (**'planning standards'**) have the objective of enhancing the efficiency and efficacy of the planning system by establishing nationally consistent guidelines for the structure, format, definitions, noise and vibration metrics, electronic functionality, and accessibility of regional policy statements, regional plans, district plans, and combined plans under the RMA.
- 2.0 Council is implementing the National Planning Standards in a phased manner. Thus far, a significant reformatting of the District Plan has been completed to ensure compliance with the prescribed general layout outlined in the National Planning Standards. However, the Council still needs to harmonize its set of zones with the zone framework specified in the standards.
- 3.0 PC9 aims to enhance the integration of the District Plan with the planning standards by ensuring the alignment of the Residential 1 and Residential 2 Zones with the planning standards, where it fits with the structure and formatting of the District Plan and avoids unnecessary duplication or complexity. Additionally, PC9 incorporates applicable definitions from the Planning Standards where appropriate to ensure consistency and compliance.

5.5 Regional Policy Statements

- 1.0 District plans are required by Section 75 of the RMA to give effect to the operative Regional Policy Statement and have regard to any proposed Regional Policy Statement.

5.5.1 Bay of Plenty Regional Policy Statement

- 1.0 The Bay of Plenty Regional Policy Statement (**'BOPRPS'**) presents an overview of the resource management issues within the region, along with objectives and policies to promote the integrated management of its natural and physical resources within the region. The BOPRPS is addressed in Appendix 5 of the section 32 report and is referenced in the relevant parts of the s42A report below.
- 2.0 Since PC9 was notified, the Bay of Plenty Regional Council has notified Change 6 to the BOPRPS, which is detailed below.

5.5.1.1 Proposed Plan Change 6 (NPS-UD) to the Bay of Plenty Regional Policy Statement

- 1.0 On 9 August 2022, Proposed Change 6 was publicly notified to modify the BOPRPS in order to implement and give effect to the NPS-UD. The specific changes introduced through Proposed Change 6 to the BOPRPS include:

- a. Amendments to be 'responsive to plan changes that add significantly to development capacity and contribute to well-functioning urban environments'.
- b. Delete the urban limits in the Western Bay sub-region, including policies, Appendices and references relating to urban limits.
- c. Enable increased density in urban environments, in response to relevant district and city councils enabling higher densities. As a consequence, Policy UG 4A (dwelling yield) is deleted.
- d. Planning decisions for urban environments to take into account the principles of the Te Tiriti o Waitangi. The original policy addressing Papakāinga has undergone an expansion, transforming into a "Te Tiriti o Waitangi principles" policy. This revised policy aims to facilitate the development of Māori land. Additionally, the amended policy extends the application of existing policies in the Iwi Resource Management section of the Regional Policy Statement to encompass urban development as well.

5.5.2 Waikato Regional Policy Statement

- 1.0 The Waikato Regional Policy Statement ('WRPS') offers a comprehensive outline of the resource management challenges within the region and presents approaches to attain integrated management of its natural and physical resources. However, it is noted that the WRPS does not spatially apply to the urban area of Rotorua so it is of limited relevance to PC9.

5.5.2.1 Proposed Change 1 to the Waikato Regional Policy Statement

- 1.0 Proposed Change 1 was publicly notified on October 18, 2022, with the aim of incorporating the provisions of the NPS-UD into the WRPS. Proposed Change 1 introduces specific modifications to the WRPS, which include:
 - a. An updated chapter on urban form and development has been introduced to ensure that the WRPS effectively implements the NPS-UD.
 - b. The inclusion of provisions to provide guidance in the preparation of growth strategies and emphasizes the importance of giving due consideration to such strategies.
- 2.0 The existing objectives and policies of the WRPS which are relevant to PC9 were addressed in Appendix 5 of the Section 32 Report for PC9. This appendix assesses the consistency of PC9 with the BOPRPS as required 77G(8) and is referenced in the relevant sections of the report below if and where relevant.

5.6 Regional Plans

- 1.0 District plans are required by Section 75 of the RMA to not be inconsistent with regional plans regarding any matter specified in Section 30(1) of the RMA.

5.6.1 Bay of Plenty Regional Plans

- 1.0 The Bay of Plenty Regional Plans play an important role in the comprehensive management of the natural and physical resources within the Bay of Plenty region by implementing the Bay of Plenty Regional Policy Statement.
- 2.0 The Plans within the Bay of Plenty that are applicable to PC9 include:
 - a. Regional Natural Resources Plan; and
 - b. Rotorua Geothermal Regional Plan.

- 3.0 There are no proposed alterations to the Bay of Plenty Regional Plans as a result of the NPS-UD or the Amendment Act, or applicable plan changes to PC9. These plans are assessed in relation to PC9, where relevant, in the report below.

5.6.2 Waikato Regional Plan

- 1.0 The Waikato Regional Plan plays the role of facilitating the coordinated management of the natural and physical resources within the Waikato region, as it implements the Waikato Regional Policy Statement. Considering the boundary of the Waikato Regional Council, it is determined that the Rotorua urban environment falls outside of this jurisdiction. Therefore, only minimal changes are anticipated for this area, primarily focusing on district-wide flooding regulations and Papakāinga.
- 2.0 There are no proposed alterations to the Waikato Regional Plan as a result of the NPS-UD or the Amendment Act.

5.7 Iwi Management Plans

- 1.0 In accordance with section 74(2A) of the RMA, a territorial authority is required to consider any pertinent planning document recognized by an iwi authority and submitted to the territorial authority when making amendments to a district plan. The Council has received several iwi and hapū management plans, which must be duly considered as per the RMA when modifying the District Plan.
- 2.0 The Section 32 Evaluation conducted an assessment of PC9 in relation to the relevant Iwi Management Plans, as outlined in Appendix 6 of the Section 32 Report and they are referenced where relevant in the report below, particularly with respect to the Residential 3 zone and the papakāinga provisions of PC9.

5.8 Joint Management Agreements

- 1.0 Council has two Joint Management Agreements whose territories are located within the district. . These Joint Management Agreements serve as the foundation for collaborative efforts between the Council and iwi, ensuring that cultural considerations are duly taken into account when addressing planning matters concerning the Waikato River and its catchment.
- 2.0 These joint management agreements include:
- a. Raukawa Charitable Trust
 - b. Te Arawa River Iwi Trust ('TARIT')
- 3.0 These agreements are only related to plan changes which affect the river or its catchments.

5.9 Other Management Plans and Strategies

5.9.1 Planning for the Future of Rotorua – 2018 Spatial Plan

- 1.0 The development of the Spatial Plan 2018 aimed to establish a strategy for the growth, development, and change of the district over a span of thirty years, aligning with Rotorua's 2030 vision and objectives. The primary objectives of the Spatial Plan were to:
- a. Present a unified vision of the district's future direction, emphasizing significant areas for growth and change.
 - b. Serve as a reference for investment decision-making at the local, regional, and central government levels.

- c. Identify the principal challenges confronting the district and outline the key priorities that must be pursued to address these issues.
- 2.0 The 2018 Spatial Plan is a document which PC9 must have regard to, and it is addressed, in the Strategic Direction evidence by Damon Mathfield.
- 5.9.2 **Rotorua Future Development Strategy 2023-2053**
- 1.0 The Council is currently developing the Rotorua Future Development Strategy ('FDS') to ensure responsible and well-planned growth in suitable locations and at appropriate times. The primary objective of the FDS is to identify optimal areas for future housing and business developments and to meet the obligations of the NPS-UD.
- 2.0 The FDS serves as a long-term strategy that guides the development of a functional urban environment, encompassing the city and Ngongotahā. Its overarching goal is to promote the social, economic, and cultural well-being of the community. Moreover, the FDS provides a clear roadmap for directing and managing growth over the next 30 years.
- 3.0 The outcomes of the FDS are:
 - a. Culture - Te Arawa reo, tikanga and values are woven into our communities and influence how our communities grow
 - b. Choice - We have a range of housing choices to meet the diverse needs of our existing and future community
 - c. Access - Our people live in a compact city where they can easily access jobs, services, education and quality open spaces
 - d. Connection - Our thriving inner city is our social and economic hub – supported by local centres that meet local needs
 - e. Prosperity – A strong economy will provide opportunities for our people to thrive. We enable businesses to grow in locations that meet their needs, and the needs of our growing population
 - f. Environment - The wellbeing of our taiao is connected to the wellbeing of our communities. We are committed to protecting and enhancing our environment
 - g. Resilient – We actively look for opportunities to reduce our environmental impact. Our communities are resilient to the effects of climate change and significant natural hazards
 - h. Investment – We prioritise smart investment in safe and reliable infrastructure to enable and support growth, where and when it is needed
- 4.0 The draft FDS is currently progressing through public consultation using the special consultative procedure ('SCP') under the Local Government Act 2002 ('LGA'). It is expected that a Hearing for the FDS will be held in August 2023 and will be adopted by Council by the end of 2023. As the draft FDS is not an adopted Council strategy, at the present time, the document has limited weight for this s42A evaluation. However, acknowledging, that the draft FDS may be adopted before decisions on PC9 are issued, we address the relevant aspects of this strategy in the relevant sections of the report below.

6 Plan Change Process

6.1 Pre-Notification

- 1.0 The following is a summary of the process and steps prior to notifying proposed Plan Change 9 ('PC9').

Table 5: Showing the steps prior to notification of PC9.

Plan Change Steps	Comment
Joint Management Agreement processes under Treaty settlement legislation	No applicable joint management agreements.
Mana Whakahono a Rohe (clause 1A, Schedule 1, Resource Management Act 1991 ('RMA'))	No applicable Mana Whakahono a Rohe
Consultation (clause 3, Schedule 1, RMA)	Prior to notification of the plan change Council undertook consultation as detailed below: a. Tauranga City Council and Bay of Plenty Regional Council to ensure a broad level of consistency across the region; b. Ministry for the Environment officials; c. Council's resource consent department and local practitioners, including consent testing of proposed provisions; d. Technical Advisory Group made up of government departments, agencies and the Bay of Plenty Regional Council; e. Iwi Authorities; f. Community and stakeholder engagement over a series of meetings and workshops, including developers, consultants, iwi, schools and community groups; and g. The community at large, through a series of open days and information sessions. A summary of the feedback received is set out in the Section 32 Report – Appendix 19.
Preparation of proposed plan (clause 2, Schedule 1, RMA)	Preparation of the proposed PC9 started in early 2022. Consultation was ongoing throughout the preparation and development process of the Section 32 Report and provisions as detailed above and in Appendix 19 of the Section 32 Report. The preparation of proposed PC9 was informed by technical evidence as mentioned below.
Reviewing and commissioning technical analysis and evidence base to inform the development of provisions	a. The Rotorua Housing and Business Development Capacity Assessment 2021 b. Accessibility and Demand Analysis (Appendix 7 of the Section 32 Report) c. Rotorua Intensification Economic Assessment (Appendix 8 of the Section 32 Report) d. Urban Design Analysis (Appendix 9 of the Section 32 Report) e. Pukehangi Landscape Opinion (Appendix 10 of the Section 32 Report) f. Transport Assessment (Appendix 11 of the Section 32 Report)

	g. Flood provisions memo (Appendix 13 of the Section 32 Report) h. Geothermal risk assessment (Appendix 14 of the Section 32 Report) i. Heritage assessment (Appendix 15 of the Section 32 Report) j. Reverse sensitivity effects assessment (Appendix 16 of the Section 32 Report) k. Acoustic assessment (Appendix 17 of the Section 32 Report) l. Analysis of Plan Provisions from the Resource Consent Department m. Urban Design Guidelines
Pre-notification requirements (clause 4 & 4A, Schedule 1, RMA)	Prior to notification Council circulated a letter and the draft plan to: a. requiring authorities with designations relevant to the plan change b. Iwi authorities

6.2 Notification and Key Dates

1.0 The following is a summary of the process and steps involved in notifying proposed PC9.

Table 6: Showing the notification process for PC9.

Plan Change Steps	Comment
Public Notification for Submissions (clause 5, Schedule 1 RMA).	PC9 was publicly notified for 40 days. Notification on the Council's website and in the News Paper occurred on 20 August 2022. Letters with the public notice attached were circulated to every ratepayer where they are considered to be directly affected by the proposed plan change. The public notice and proposed plan change were circulated to the following parties: a. Minister for the Environment b. Applicable Regional Councils c. Adjacent local authorities d. Applicable iwi authorities e. Requiring authorities with relevant designations The draft plan was available at reception of the Rotorua Lakes Council building and the Rotorua Library.
Submissions (clause 6, Schedule 1, RMA)	The submission period ended on 14 October 2022. Council held a number of information sessions throughout the submission period to answer queries. 99 submissions were lodged. Four of these submissions were received after the closing date (addressed below in Section ##). Direction #1 from the Independent Hearing Panel accepted all of those late submissions received up until midnight 9 November 2022. All late submissions were received before 9 November 2022.
Public Notice of Submissions & Opportunity for Further Submissions (clause 7, Schedule 1, RMA)	PC9, full submissions and a summary of submissions was notified for further submissions for 10 working days. Notification on the Council's website and in the newspaper occurred on 12 November 2022. A copy of the notice and information on the further submission process was sent to all submitters.

	Letters detailing submission points received which deviated significantly from the notified PC9 with the public notice attached were circulated to every ratepayer where they are considered to be affected by the change sought by a submitter. The draft plan and a copy of submissions was available at reception of the Rotorua Lakes Council building and the Rotorua Library.
Further Submissions (clause 8 and 8A, Schedule 1, RMA)	The further submission period ended on 25 November 2022. 173 further submissions were lodged. There were no further submissions received after the closing date.
Notification of summary of submissions and further submissions	The full summary of submissions and further submissions were made publicly available on 21 December 2022.

6.3 Submissions and Further Submissions

- 1.0 A total of 99 submissions were received on the proposed PC9 with four received late. The late submissions were accepted by the Hearing Panel in Direction #1.
- 2.0 A total of 173 further submissions were received in response to submissions on proposed PC9, none of which were received late.
- 3.0 Submissions and further submissions relate to a wide range of matters as summarised below:

Table 7: Showing the key issues raised in submissions for PC9.

Topic	Submitter Issue
Residential Amendments	Growth/Demand – What is the level of demand.
	Concern with compulsory MDRS standards
	Concern with the proposed High Density Residential 2 Zone standards
	Extent of the proposed High density Residential 2 Zone: a. Kāinga Ora (KO) submission to extend throughout and beyond Glenholme b. Waka Kotahi submission extend Tarewa Road c. Flooding issues in some of proposed High Density Zone
	Whether we should have a High Density Residential 2 Zone at all – Not sufficient demand. Impacts on character and amenity.
	Requests to rezone to Residential 1 Zone a. Heritage Farm b. Racecourse c. Industrial T d. Maori land block
	Subdivision standards in Residential Zones a. Appropriate minimum lot size
City Centre and Commercial	Height limits in various commercial zones
	Status of residential activities in commercial zones
	Expanded consent requirement for new buildings and building alterations
	Appropriate built form along Fenton Street

Transport	Private accessways Access for delivery, emergency vehicles On-going maintenance of private accessways
	Transport assessment requirements
Infrastructure	Sufficiency of infrastructure to support intensification
	Fire-fighting water supply standards
	Protection of infrastructure corridors – Railway and Gas
	Low impact design
Natural Hazards - Flooding	Impact of intensification on exacerbating flooding
	Suitability for intensification given flood risk
	Detail of new rule framework
	Management of overland flowpaths
Natural Hazards - Geothermal	Adequacy of rule framework – greater role for District Plan
	Extending the geothermal system layer
Heritage	Extending rules for development on same site as item to other zones
Papakāinga	Not a lot of interest – very few submissions
Activity specific	Retirement village framework
	Community Housing framework
	Corrections facilities framework
	Education facilities framework
Process	Inclusion in the legislation – why, how
	Partnership with Te Arawa
Other	Environmental impact of infill – water quality.

6.4 Engagement & Consultation

- 1.0 PC9 was significantly influenced by an extensive engagement program involving central and local government, iwi and hapū, the development industry, local consultants, and the community. The outcomes of this program have directly shaped the development of PC9.

6.4.1 Consultation with Bay of Plenty Regional Council and Tauranga City Council

- 1.0 Throughout the process of preparing the plan change, meetings were conducted with the Bay of Plenty Regional Council and Tauranga City Council ('TCC') to ensure seamless integration of the Rotorua approach with Change 6 to the Regional Policy Statement and the TCC Intensification Planning Instrument (Plan Change 78), where applicable.
- 2.0 Council has continued to consult with TCC following the submission period to aim for consistency and a degree of regional integration where appropriate.

6.4.2 Engagement with Central Government and the Technical Advisory Group

- 1.0 Additionally, input on the draft provisions of PC9 was sought from a Technical Advisory Group ('TAG') comprising representatives from the Bay of Plenty Regional Council, Ministry of Education, Waka Kotahi, Ministry of Housing and Urban Development, and Kāinga Ora.
- 2.0 Conversations with the TAG group have been on-going to ensure that other agencies are aware of the direction of PC9.

6.4.3 Engagement with Iwi Authorities

1.0 Rotorua Lakes Council actively pursued engagement with iwi and hapū throughout the development of PC9, utilizing a series of hui as outlined in Appendix 19 of the Section 32 Report. Specifically, various iwi authorities and representatives of mana whenua were invited to participate in pre-drafting workshops, ensuring their valuable input in the process. These authorities and representatives of mana whenua are detailed below:

- a. Maru o Ngāti Rangiwewehi
- b. Te Tāhuhu o Tawakeheimoa Trust;
- c. Ngāti Rangiteaorere Koromatua Council;
- d. Ngāti Pikiao Iwi Trust;
- e. Ngāti Tahu Ngāti Whāoa Rūnunga Trust;
- f. Ngāti Rongomai Iwi Trust;
- g. Ngāti Mākino Iwi Authority;
- h. Te Mana o Ngāti Rangitihī;
- i. Ngāti Tarawhai Iwi Trust;
- j. Te Rūnunga o Ngāti Kea Ngāti Tūara Trust;
- k. Ngāti Tura Ngāti Te Ngakau Hapū Trust;
- l. Te Komiti Nui a Ngāti Whakaue;
- m. Ngāti Ngararanui Iwi Trust;
- n. Ōwhata Marae at Hineomoa Point;
- o. Ngāti Whakaue Environmental Group;
- p. Te Tatau o Te Arawa;
- q. Te Runanga o Ngāti Kea Ngāti Tūara Trust;
- r. Tūhourangi Tribal Authority;
- s. Ngāti Roro o Te Rangi Hapū Trust;
- t. Ngāti Uenukukopako Iwi Trust; 43
- u. Pukeroa Oruawhata Trust;
- v. Tiki Te Kohu Ruamano Ahu Whenua Trust;
- w. The Proprietors of Part Ōwhatiura South 5 Incorporated;
- x. Ōwhata 2b Ahu Whenua Trust;
- y. Papaouru Marae (Ōhinemutu);
- z. Tunohopu Marae (Ōhinemutu);
- aa. Hinemihi Maare (Ngāpuna);
- bb. Hurungaterangi Marae (Ngāpuna);
- cc. Tumahaurangi Marae (Te Koutū);
- dd. Te Tatau Pounamu;
- ee. Te Arawa Lakes Trust;
- ff. Te Pumautanga o Te Arawa; and
- gg. Ngāti Whakaue Tribal Lands

2.0 Through engagement with iwi, several key issues have emerged that are directly pertinent to the development of PC9. These issues include:

3.0 The retention of the Residential 3 Zone provisions as a new qualifying matter, and the proposed changes to the Papakāinga provisions are in response to the matters raised through engagement with iwi and hapū.

4.0 A comprehensive report of the consultation and engagement carried out for PC9 is provided in Appendix 19 of the Section 32 Report, which demonstrates compliance with the requirements of clause 3 and 4 of Schedule 1 of the Resource Management Act (RMA) concerning the involvement of tangata whenua. The insights gained from this consultation and engagement process have significantly influenced the development of PC9, as elaborated in the following sections.

6.4.4 Broader Community & Stakeholder Engagement

1.0 Throughout the development of PC9, the Council has actively engaged in consultation with a diverse range of stakeholders. This inclusive process of consultation and engagement has involved the following groups:

- a. The Rotorua developers forum and one-on-one meetings;
- b. The Rotorua consultants forum;
- c. Schools; and
- d. Community groups.

6.4.5 Information Sessions during the Submission Period

1.0 During the submission period and further submission period of PC9, Council held a number of information sessions with a range of groups. The purpose of these sessions was to give an overview of the plan change and answer any questions. We held sessions with the following groups:

- a. Iwi authorities;
- b. Iwi and hapu groups;
- c. TAG group;
- d. The Rotorua developers forum;
- e. The Rotorua consultants forum;
- f. Community groups;
- g. Local real estate agents; and
- h. The wider community.

6.5 Post Submission Meetings

1.0 To date preliminary post submission meetings have occurred with the following parties:

- a. Kainga Ora Homes & Communities
- b. Retirement Villages Association & Ryman
- c. Ministry of Housing and Urban Development
- d. Classic Group
- e. Pukeroa Oruawhata
- f. Waka Kotahi
- g. First Gas
- h. Fire and Emergency New Zealand
- i. Summerset
- j. Ministry for Education
- k. Department of Corrections
- l. Sigma
- m. Rotorua Consultants Group
- n. Heritage New Zealand Pouhere Toanga
- o. Bay of Plenty Regional Council
- p. Waikato Regional Council

2.0 The purpose of these meetings was to gain a better understanding of the submitters' issues raised in their submissions, particularly where they related to technical and detailed matters on the planning provisions. These meetings have assisted the Council team to better understand the context and background to the points raised by these submitters.

6.6 Direction and Minutes

- 1.0 To date the Independent Hearing Panel ('IHP') has released three Directions. These are detailed below:
- a. Direction #1 was issued on 18 November 2022 outlining that the IHP was accepting late submissions up to 9 November 2022 and that submissions received past this date will need to seek an individual waiver from the IHP.
 - b. Direction #2 was issued on 25 November 2022 outlining that the IHP was accepting late further submissions up to 9 December 2022 and that further submissions received past this date will need to seek an individual waiver from the IHP.
 - c. Direction #3 was issued on 5 December 2022 containing procedural matters and timetabling directions for the hearing of PC9.

6.7 Submissions Relating to Process

6.7.1.1 Background & Statutory Context

- 1.0 The above sections outline the plan change process that was taken, including the statutory requirements at each of the steps.

6.7.1.2 Submissions

- 1.0 The following submissions have been received about the plan change process.
- 2.0 Rotorua District Residents and Ratepayers ('RDRR') expresses concern about the legitimacy of the decision by the outgoing Council to notify PC9 (20.1). Kainga Ora Homes and Communities ('Kainga Ora') opposes this submission point, and rather supports notification of PC9 (FS 97.4). RDRR also made a further submission urging Council to withdraw from tier 1 status (FS 91.30).
- 3.0 P Staite raises concerns around the level of detail included in the notification letter (21.3).
- 4.0 J Fletcher is concerns about not everyone receiving notification letters (29.1).
- 5.0 Body Corporate of Lakeview Villas ('Lakeview Villas') raises concerns about the speed of the process undertaken by the council which is reflected through the lack of understanding or consideration on the level of effects of chosen areas for greater intensification (36.7). Lakeview Villas is also concerned that no site visit was made to 285 Vaughan Road to understand the implications of the proposed changes to the commercially zoned land, and that the existing land use consent for residential units was not taken into consideration (36.3). Lakeview Villas is additionally concerned by the blanket nature of communications (notification letter) that went out, stating that it did not specify how the villas would be impacted (36.4). Lakeview Villa's also objects to Rotorua becoming a tier 1 authority. The submitter is concerned about the lack of consultation with being included in the Amendment Act and that the decision did not take into account the impacts to the residents of Rotorua (36.2). The submission was supported also by S Eruini-Bennett, stating that there was no notification/consultation about requesting to be included in the Amendment Act and that decision should be reversed (FS 58.3). It was also supported by I Marsh raising concerns about the lack of consultation to be included in the legislation and that the decision should be reversed (FS 155.4).
- 6.0 V and J Cusumano raises concerns about the process undertaken by Council to increase urban density for money. Increased density has shown all around the world to add social problems and a deterioration of living standards. Many people purchased homes or were born and raised in Rotorua because of the openness of the current planning standards (97.3).

- 7.0 A Morrison seeks that the new Council reverses its decision to apply to be incorporated into the Amendment Act and must incorporate MDRS (85.2).
- 6.7.1.3 **Evaluation**
- 6.7.1.3.1 *Notification of PC9*
- 1.0 I consider the points raised by RDRR about the legitimacy of the outgoing Council to notify PC9 to be unwarranted. The Council's notification of PC9 followed all of the statutory requirements to notify a plan change for submissions, and I consider the notification processes as stated above to be adequate. Furthermore, the timeframes for notification were set in the Amendment Act, and Council was required to notify its IPI by 20 August 2022.
- 2.0 The public notice and letter were published on 20 August 2022. As required by Clause 5 of Schedule 1 of the RMA, the letter went out to all of those who Council considered to be directly affected by PC9. The letters with the attached public notice were circulated through a combination of email (where council had one on its database) and hard copy letters to all ratepayers. The letter was sent to all ratepayers with specific messaging about what zone/overlay their property is in within the following spatial layers:
- a. Residential 1, 2 and 3 Zones and all adjacent properties;
 - b. City Centre 1, 2 and 3 Zones and all adjacent properties;
 - c. Commercial 1, 2, 3, 4 and 6 Zones and all adjacent properties;
 - d. Areas which were proposed to change zones being Residential 1 to Residential 2 and Residential 2 to Residential 1;
 - e. Māori owned land and adjacent properties in rural zones;
 - f. Areas affected by the proposed Historic Heritage rule; and
 - g. Areas affected by the proposed flood risk assessment.
- 3.0 In reviewing the public notice, I confirm that all of the requirements as required in Clause 5, Schedule 1 of the RMA were included.
- (2) Public notice under subclause (1) shall state—*
- where the proposed policy statement or plan may be inspected; and*
- that any person may make a submission on the proposed policy statement or plan; and*
- the process for public participation in the consideration of the proposed policy statement or plan; and*
- the closing date for submissions; and*
- the address for service of the local authority.*
- 4.0 Furthermore, I am satisfied that the public notice met the "Meaning of public notice" under Section 2AB of the RMA.
- (1) If this Act requires a person to give public notice of something, the person must—*
- (a) publish on an Internet site to which the public has free access a notice that—*
- (i) includes all the information that is required to be publicly notified; and*
- (ii) is in the prescribed form (if any); and*

(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates.

(2) The notice and the short summary of the notice must be worded in a way that is clear and concise.

5.0 The letter included with the public notice provided an overview of the plan change explaining how the ratepayers were affected, and how they could have their say. While the letter did not contain details on every change of PC9, it prompted readers to where further information could be found including on the website and in person hard copies at the Rotorua Lakes Council building and the library.

6.0 I note the concerns by P Staite, J Fletcher and Lakeview Villas, however I am satisfied that the letter and public notice was sent to ratepayers affected by the plan change and that both met all obligations under the RMA.

6.7.1.3.2 *Timeline of PC9*

1.0 While I note the concerns of Lakeview Villas around the timeframes of preparing and notifying PC9, this was outside the decision of Council and was pre-determined by the Amendment Act.

2.0 I also note that Council doubled the required initial submission period time from 20 working days to 40 working days noting the significance of PC9.

3.0 Therefore I am satisfied that Council met the required timeframes.

6.7.1.3.3 *Other*

1.0 I note the submissions seeking that Rotorua Lakes Council not become a tier 1 council or requesting reversal of the decision to be included in the Amendment Act (RDRR 91.30, I note the submissions seeking that Rotorua Lakes Council not become a tier 1 council or requesting reversal of the decision to be included in the Amendment Act (RDRR 91.30, Lakeview Villa's 36.2, V and J Cusumano 97.3, S Eruini-Bennett FS 58.3 and I Marsh FS 155.4). The Resource Management (Territorial Authorities required to prepare and notify Intensification Planning Instruments) Regulations 2022 recognised that Rotorua is an area with acute housing need, and was now designated as a "specified territorial authority" under the Amendment Act (I note that Rotorua remains as a tier 2 territorial authority). As mentioned above in **Section 5.2** a "specified territorial authority" through the OIC required Council to incorporate the MDRS set out in Schedule 3A of the RMA into relevant residential zones unless a qualifying matter exists. This is also addressed in the Strategic Planning Evidence by Damon Mathfield, Therefore, I consider the points raised by the above submitters are not relevant or able to be considered.

6.7.1.4 **Recommendation**

1.0 I recommend that all submissions above relating to the plan change processes be rejected for the above reasons.

7 Plan Change Evaluation Requirements

7.1 Section 32 & Section 32AA Evaluation Requirements

1.0 Although the Intensification Planning Instrument ('IPI') is obligatory as per Section 80F of the Resource Management Act 1991 ('RMA'), the Council needs to demonstrate that the proposal's objectives, policies, and methods are the most effective means of fulfilling the RMA's purpose. The evaluation sections in the substantive part of this report contain the assessment.

2.0 When the plan change was notified, an assessment of the matters in section 32 was completed, an overview of this is outlined in Section 6.6 of the Section 32 Report. However, according to section 32AA, an additional evaluation is necessary for any subsequent modifications made to the plan change after the completion of the initial assessment. This supplementary evaluation must adhere to the criteria outlined in sections 32 (1) to (4) and should be conducted with an appropriate level of detail that matches the scale and importance of the changes.

3.0 Any section 32AA requirements are addressed in the appropriate sections below within this report.

7.1.1 Qualifying Matters

1.0 Section 77I provides that a specified territorial authority may make the Medium Density Residential Standards ('MDRS') less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate one or more of the qualifying matters as outlined under section 77I of the RMA as follows:

Qualifying matters in applying medium density residential standards and policy 3 to relevant residential zones

A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

- (a) a matter of national importance that decision makers are required to recognise and provide for under section 6:*
- (b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:*
- (c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:*
- (d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:*
- (e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:*
- (f) open space provided for public use, but only in relation to land that is open space:*
- (g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:*
- (h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:*
- (i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:*
- (j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if s77L is satisfied.*

2.0 Where Plan Change 9 ('PC9') proposes changes to the MDRS to accommodate any one or more of the qualifying matters, a thorough evaluation becomes necessary. The evaluation criteria for these qualifying matters are specified in Sections 77J, 77K and 77L of the RMA. Section 77J outlines the following requirements:

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—

- (a) demonstrate why the territorial authority considers—*

- (i) that the area is subject to a qualifying matter; and*
- (ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and*
- (b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and*
- (c) assess the costs and broader impacts of imposing those limits.*

(4) The evaluation report must include, in relation to the provisions implementing the MDRS,—

- (a) a description of how the provisions of the district plan allow the same or a greater level of development than the MDRS;*
- (b) a description of how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including—*
 - (i) any operative district plan spatial layers; and*
 - (ii) any new spatial layers proposed for the district plan.*

3.0 A separate assessment is applicable to existing qualifying matters, referring to qualifying matters listed in section 77I(a) to (i) that were already operative in the District Plan when PC9 was notified. For existing qualifying matters, the evaluation process outlined in section 77K of the RMA can be followed, as outlined below:

S77K Alternative process for existing qualifying matters

- (1) A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in Section 77J, do all the following things:*
- (a) identify by location (for example, by mapping) where an existing qualifying matter applies;*
 - (b) specify the alternative density standards proposed for those areas identified under paragraph (a);*
 - (c) identify in the report prepared under Section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a);*
 - (d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3;*
 - (e) notify the existing qualifying matters in the IPI.*

4.0 Section 77I(j) includes a provision for considering "any other matter" that makes higher density, as provided for by the MDRS unsuitable for a particular area, subject to the fulfillment of Section 77L. The criteria for meeting this requirement are outlined in Section 77L and includes the following requirements:

S77I Further requirement about application of section 77L(J)

A matter is not a qualifying matter under section 77I(j) in relation to an area unless the evaluation report referred to in section 32 also—

- (a) identifies the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A or as provided for by policy 3) inappropriate in the area; and*
- (b) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and*
- (c) includes a site-specific analysis that—*
 - (i) identifies the site to which the matter relates; and*
 - (ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and*
 - (iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics.*

- 5.0 The District Plan contains existing provisions that restrict development. These were assessed in Appendix 2 and 3 of the Section 32 Evaluation to determine if they met the criteria for qualifying matters under the RMA (s77I) and a further assessment is provided in **Appendix 4** of this report.
- 6.0 PC9 also introduced several new qualifying matters. These were assessed in Appendix 4 of the Section 32 Evaluation against the requirements outlined in s77J of the RMA. A further evaluation of new qualifying matters, as refined through submissions, is provided in the relevant sections of this report (Historic Heritage – **Section 8.6**, Flooding – **Section 8.5.2**, Residential 3 – **Section 8.2**).

8 Evaluation of Submissions by Theme

8.1 Residential Zones

- 7.0 This section has been prepared by Rachel Morgan and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to the Residential 1 and 2 Zones and related matters in the Strategic Direction and Interpretation Chapters. This section also includes recommendations on the changes to be made to the Residential Zone and Strategic Direction chapters under PC9.
- 8.0 These recommendations are informed by the technical evidence provided by Susan Fairgray who authored the Economic Assessment and Cam Wallace who authored the Urban Design Report, and Accessibility and Demand Analysis respectively, which informed PC9 as notified (refer Appendix 7-9 of the Section 32 Report), and further evaluation.
- 9.0 A significant number of submissions further submissions were received in relation to the Residential 1 and 2 Zone provisions and related objectives and policies in the Strategic Direction chapter. Due to the number of submission points, this evaluation discusses the key themes and issues raised generally in accordance with Clause 10(2), as opposed to making specific recommendations on each submission point. Following the close of submissions, I have had a number of informal discussions with the planners representing a number of the submitters below. These discussions have been constructive, and have informed a number of the amendments to the provisions that I set out below.
- 10.0 The Residential 1 and 2 Zone submissions have been evaluated in accordance with the following themes:

- a. Strategic direction;
 - b. Residential objectives and policies;
 - c. Inclusion and extent of the Residential 2 zone;
 - d. Appropriate height limits;
 - e. Achieving a quality built environment;
 - f. Rest homes;
 - g. Subdivision; and
 - h. Relevant definitions.
- 11.0 In accordance with Clause 10(3) of the First Schedule of the Resource Management Act 1991 ('RMA'), the evaluation and recommendations for the Residential Zones section of this report has been undertaken based on the matters to which they relate, as opposed to addressing each submission individually.
- 12.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.
- 13.0 The sections below address the key themes identified above.
- 8.1.1 Growth & Demand**
- 1.0 This section includes a summary and analysis of submissions received on PC9 that relate generally to the theme of growth and demand within Rotorua. These submission points do not relate to a specific district plan chapter or individual provisions. This section of the s42A report is authored by Rachel Morgan.
- 8.1.1.1 Scope of proposed amendments**
- 1.0 PC9 is an Intensification Planning Instrument ('IPI') under s80E of the RMA and required under s80F to incorporate the Medium Density Residential Standards ('MDRS') and give effect to the National Policy Statement on Urban Development 2020 ('NPS-UD'), including Policy 5. Facilitating the growth directives contained within the NPS-UD is therefore one of the key drivers of PC9, and the following relevant changes are proposed:
- a. Amendments to Part 2: District Wide Matters - Strategic Direction objectives and policies, which guide urban development to give effect to the relevant objectives and policies of the NPS-UD;
 - b. Amendments to Part 3: Area Specific Matters - Residential Zones to amend the Residential 1 zone to incorporate the MDRS and related amendments; and to enable high density residential development within the Residential 2 zone and related amendments;
 - c. Amendments to Part 3: Area Specific Matters - Commercial Zones and City Centre Zones to amend building height limits and the design-based rules and matters of discretion and criteria that guide development; and to enable residential activities within the City Centre 2 and Commercial 6 zones; and
 - d. Amendments to Part 2: District Wide Matters – General District Wide Matters to amend the provisions for papakāinga to be more enabling of this form of development.
- 2.0 Submissions to PC9 raised the following matters in relation to growth and demand for housing within Rotorua:

- a. Opposition to PC9 in full or in part (Lindsay, P 33.1; Shekell, G 83.1; Morrison, A 85.2);
- b. Similar to the above, a significant number of submissions opposed amendments to the Residential Zone chapter. The proposed amendments will provide for increased development capacity in the Residential 1 and 2 Zones through the incorporation of the MDRS and enabling high density development in the Residential 2 Zone; and
- c. The projected demands for housing and the sharing of the information base that has informed PC9 (Rotorua District Residents and Ratepayers 20.2; Kereopa, L 39.2; Morrison, A 85.2).

3.0 The submitters raised the following key points:

- a. The housing crisis within Rotorua may be exaggerated and based on outdated information (Rotorua District Residents and Ratepayers 20.2);
- b. High growth assumptions have been adopted without explanation (Rotorua District Residents and Ratepayers 20.2); and
- c. The COVID-19 pandemic is likely to have caused an influx in demand for dwellings (Morrison, A 85.2).

8.1.1.2 Evaluation

8.1.1.2.1 *Increased Development Capacity under Plan Change 9*

1.0 PC9 is an IPI under Section 80E of the RMA and the proposed amendments seek to give effect to the Policy 5 of the NPS-UD and incorporate the MDRS into a relevant residential zone. The requirements of Policy 5 and the MDRS are detailed in Section 1. Collectively, the MDRS and Policy 5 direct that district plans enable intensification within the Residential 1 and 2 Zones, which are considered to meet the definition of a relevant residential zone under the RMA, and the City Centre and Commercial Zones.

2.0 Evaluation of the relevant submissions and provisions proposed under PC9 for the Residential, City Centre, and Commercial Zones is included in Sections 7.2 and 7.4. Overall, I consider that the proposed changes under PC9, as I recommend are amended later in this report, are the most efficient and effective way to achieve the requirements of Policy 5 and Section 80E. I also note that the MDRS cannot be modified to be less enabling within the Residential 1 and 2 Zones, unless qualifying matters are identified to apply. As such, I do not recommend amendments to PC9 in response to submissions which oppose PC9 or the amendments proposed to the Residential Zone chapter generally.

8.1.1.2.2 *Projected Demand within Rotorua*

1.0 The evidence base that has informed PC9 includes the Rotorua Housing and Business Capacity Assessment 2021 ('HBA') completed by Market Economics ('M.E') and Rotorua Lakes Council ('RLC'), and the Economic Assessment by M.E.

2.0 The findings of the HBA are summarised in the Section 32 report. In summary, the HBA concludes that there is strong demand for housing and business use over the next 30 years, however, there is insufficient feasible capacity to cater for this, which the current planning framework contributes to. A copy of the HBA and economic assessment is included at Appendix 8 of the Section 32 Report.

3.0 Submissions 20.2, 39.2, and 85.2 have been assessed by Susan Fairgray (of M.E.) in her statement of evidence. With respect to the projected housing demands being over-stated and the implications of the COVID-19 pandemic, Ms Fairgray comments that, while the demand

projections are on the higher side, this is generally appropriate as it is generally lower risk to err on the high side and over-estimate rather than to under-estimate likely future demand. Ms Fairgray also notes that Covid-19 is likely to have a limited effect on medium to long term growth given that. See paragraph 11.2 of Ms Fairgray's evidence for a discussion of these issues.

- 4.0 Based on the expert evidence from Ms Fairgray, I consider that the evidence base for projected demand for housing in Rotorua, which has informed the relevant amendments proposed under PC9, is appropriate and will give effect to the NPS-UD, including Policy 2. In particular, PC9 seeks to address the key issues identified within the HBA, including insufficient feasible development capacity over the short, medium, and long term and a shortfall of attached housing capacity. The mandatory nature of the MDRS in the Residential 1 zone also in my view, mutes the relevance of the demand projections for the Residential 1 Zone at least.

8.1.1.3 Recommendation

- 1.0 I recommend that the submissions which oppose PC9 and/or amendments proposed within the Residential Zone chapter generally are rejected as PC9 is an IPI which gives effect to sections 80E and 80F of the Act.

- 2.0 I recommend that the submissions from Rotorua District Residents and Ratepayers (20.2), Kereopa, L (39.2), and Morrison, A (85.2) are rejected for the reasons given in the above assessment.

- 3.0 Submissions to be accepted or rejected and individual responses to submission points are set out at **Appendix 3**.

8.1.2 Strategic Direction

8.1.2.1 Scope of Proposed Amendments

- 1.0 PC9 includes amendments to the objectives and policies contained in the Urban Form and Development section of the Strategic Direction chapter which apply to residential development. The amendments align with the purpose of PC9 and the objectives and policies proposed under the Residential Zones chapter, and include a number of mandatory objectives and policies under the MDRS.

- 2.0 The amendments to the residential objectives and policies are related provisions which support or are consequential to the inclusion of the MDRS and amendments made to give effect to Policy 5 of the NPS-UD, and are made in accordance with Section 80E(1)(b)(iii) of the RMA.

8.1.2.2 Submissions

- 1.0 Submissions were received in relation to the Issues, Objectives and Policies for Urban Form and Development contained in the Strategic Direction chapter.

- 2.0 These submissions raised the following key matters:

- a. The inclusion of mandatory objectives and policies under the MDRS in the Residential Zones chapter.
- b. Amendments to the provisions to align with and/or give effect to the NPS-UD;
- c. Recognising the needs of an ageing population;
- d. Recognising the benefits of higher density housing, including reduced vehicle kilometres travelled; and
- e. Amendments to other objectives and policies contained in the Strategic Direction chapter.

- 3.0 Nelson, L (26.10) sought to include the mandatory objectives and policies under the MDRS in the Residential chapter.
- 4.0 Transpower sought to amend SDUD-O2 and SDUD-O4 to delete reference to 'relevant residential zones' and to specifically include reference to the Residential 1 and 2 zones
- 5.0 Cheal Consultants Limited sought to include SDUD-O2 to the Residential chapter (29.23).
- 6.0 Waka Kotahi sought to include a new objective seeking that mixed use and higher density development supports a reduction in vehicle kilometres travelled (77.7), and a new policy to ensure that higher density and mixed-use development supports and provides for multi-modal transport options, with an emphasis on public and active modes of travel (77.8).
- 7.0 Fire and Emergency New Zealand ('FENZ') sought the following:
 - a. Delete reference to 'relevant residential zones' and to specifically include reference to the Residential 1 and 2 zones and to recognise that qualifying matters that have been identified in accordance with SDUD-P3 (30.8); and
 - b. Amendments to SDUD-P20 to replace 'encourage' with 'require' (51.4).
- 8.0 Bay of Plenty Regional Council ('BOPRC') sought the following:
 1. Amendment to Issues Section to recognise other factors that contribute to a well-functioning urban environment, including urban environments which support reductions in greenhouse gas emissions and design which is resilient to the likely and current effects of climate change (56.3);
 2. Deletion of SDUD-O11 as there is overlap with SDUD-O3 (56.6); and
 3. Delete SDUD-P3 as there is duplication with SDUD-P4 (56.8).
- 9.0 Retirement Villages Association ('RVA') sought the following:
 - a. Amendments to the Issues Section to acknowledge that retirement villages and/or accommodation for the ageing population are required to be provided for as part of a well-functioning urban environment to respond to the projected ageing population (88.4);
 - b. Amendments to the SDUD-I6 as follows (88.5):

~~Well-designed~~ High-quality development can support quality living environments for people and achieve ~~enhance the visual attractiveness of~~ and safe streets. This is important as Rotorua transitions to a more compact urban form. Neighbourhoods will change over time as more intensive development occurs and land is used more efficiently. This will change the amenity values appreciated by some people in existing neighbourhoods but will ~~may~~ also improve amenity values for future generations, by enabling greater housing choice in the most accessible parts of Rotorua.
 - c. Amendments to SDUD-O2 to recognise that development up to six storeys in the Residential 2 zone is the permitted standard and not a limit (88.7);
 - d. Amendments to SDUD-O4 to recognise that retirement villages need to locate in all residential areas (88.8);
 - e. Deletion of SUD-O9 as it overlaps with several MDRS objectives and policies and should be deleted to avoid confusion (88.10);

- f. Deletion of SDUD-P3 or consolidation with SDUD-P4 (88.13);
- g. Amendments to SDUD-P6 to replace 'of development' with 'urban built character' and include reference to 'a variety of housing types and densities' (88.15);
- h. Additional amendments or deletions to SDUD-O7 and SDUD-P24 (88.9, 88.16, 88.19, 88.20); and
- i. Inclusion of a new objective to recognise and enable the housing and care needs of the ageing population (88.13).

8.1.2.3 Evaluation

- 1.0 PC9 proposes to include mandatory Objectives 1 and 2 and Policies 2 and 5 under the MDRS within the Strategic Direction chapter of the District Plan. Collectively, these provisions reinforce the concepts of a well-functioning urban environment, a relevant residential zone, the MDRS, and qualifying matters in accordance with the NPS-UD and Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ('Amendment Act'). I consider that these provisions include higher level directions which have informed the policy framework for the Residential 1 and 2 Zones, and are therefore more appropriately contained under the Strategic Directions chapter.
- 2.0 I consider that retaining the term 'relevant residential zones' as opposed to identifying the Residential 1 and 2 Zones SDUD-O2 and SDUD-P4 will provide a more flexible and efficient policy framework within the District Plan, in the event of future plan changes which identify additional relevant residential zones. I note that the term is also defined in the Act, and this will ensure that the provisions are applied accurately and consistently within Rotorua.
- 3.0 I agree with the submission from Bay of Plenty Regional Council which sought to incorporate other factors which contribute to a well-functioning environment as this is consistent with Policy 1 of the NPS-UD and therefore better gives effect to it. I recommend amendments to SDUD-I1 to recognise that a well-functioning urban environment within Rotorua will support reductions in greenhouse gas emissions and be resilient to the current and future effects of climate change.
- 4.0 I consider the outcomes sought under the additional objective and policy from Waka Kotahi are provided for by other provisions of the District Plan, including in SDUD-I1 with the above amendments. In particular, SDUD-I1 will recognise the benefits of future development to support good accessibility by public and active transport modes to support reductions in greenhouse gas emissions. I also note that RESZ-O8 seeks to use land with good accessibility to public transport efficiently for high density urban living. As such, I do not consider additional objectives and policies are necessary in response to these submission points.
- 5.0 Amendments are also recommended to SDUD-I1 in response to submissions from RVA to recognise the housing needs of an ageing population. As informed by the population projections identified in the 2021 HBA, I consider that this is a relevant consideration in Rotorua and agree that this will affect the housing needs of communities. I therefore recommend that SDUD-I1 is amended to recognise that rest homes can provide housing and care options that are suitable for an aging population. I do not consider that an additional policy is necessary as SDUD-O1 and SDUD-O2 recognise and enable the housing and care needs of the ageing population.
- 6.0 In relation to amendments to SDUD-I6 sought by RVA, I agree with the inclusion of attractive and safe streets as this will align with RESZ-O3 and RESZ-O10. I consider that reference to 'well designed' development is aligned and further informed by the objectives, policies, standards,

and assessment matters contained in the Residential zone chapter, and recommend that this is retained. I also note that the reference within the policy to ‘change to amenity values appreciated by some people in existing neighbourhoods but *may* improve amenity values for future generations’ (emphasis added) is consistent with the wording of Policy 6 of the NPS-UD and I therefore recommend that this is retained. Other amendments to SDUD-16 are recommended to align with amendments to the Residential Zone chapter provisions:

Well-designed development can support quality living environments for people and enhance the achieve ~~visual attractiveness~~ attractive and safe of streets.

...

- 7.0 The evaluation of submissions received that relate to other objectives and policies contained in the Strategic Directions chapter is included at **Table 8** below.

Table 8: Evaluation of submissions received in relation to relevant Strategic Direction objectives and policies.

Provision	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
SDUD-O2 Objective proposed under PC9. Includes mandatory Objective 2 of the MDRS	A relevant residential zone provides for a variety of housing types and sizes that respond to— housing needs and demand; and the neighbourhood’s planned urban built character, including three storey buildings within the Residential 1 Zone and up to six storeys in the Residential 2 Zone.	Amend to recognise that six storey development is the permitted standard and not a limit (RVA 88.7).	This amendment will provide improved clarity on the anticipated built character outcomes in the Residential 1 and 2 zones and is consistent with recommended amendments to RESZ-O2 and RESZ-O9 as further detailed at Section 8.1.3 below.	Amend SDUD-O2 (ii) as follows: ... the neighbourhood’s planned urban built character, including three storey buildings within the Residential 1 zone and ~~up to six~~ storeys buildings in the Residential 2 zone. ...
SDUD-O4 Objective proposed under PC9	The primary focus for higher residential intensification and additional business or community services include areas: within and adjacent to centres or employment opportunities; well-serviced by existing or planned public or active transport; where there is high demand for housing or for business land in the area, relative to other areas within the urban environment.	Amend to recognise that retirement villages need to locate in all residential areas (RVA 88.8).	I consider that the purpose of SDUD-O4 is to provide direction on the location of intensification opportunities, which will in turn inform zoning patterns and consequentially land uses within Rotorua. SDUD-O4 does not provide a policy framework to identify or direct the suitability of specific land use activities within the locations identified.	Retain the objective proposed under PC9 as notified.
SDUD-O9 Objective proposed under PC9	Urban development results in attractive, safe and healthy environments.	Delete as there is overlap with several MDRS objectives and policies (RVA 88.10).	I consider that SDUD-O9 seeks to address the broader amenity and design outcomes in urban zones, including both the Residential and Commercial zones, and the anticipated amenity and design outcomes	Retain the objective proposed under PC9 as notified.

Provision	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
			are further detailed within each respective zone.	
SDUD-O11 Objective included in the operative District Plan	Sufficient and suitable land zoned for future urban development that provides the residents of Rotorua with a range of lifestyle and development choices lifestyle and development choices.	Delete as there is overlap with SDUD-O3 (Bay of Plenty Regional Council 56.6).	I consider that the SDUD-O11 directs zoning outcomes within the Rotorua District, and is specifically focussed on future urban development. I acknowledge there is some degree of overlap with SDUD-O3, however, O11 provides wider direction on housing choices and remains appropriate to direct land use outcomes in future urban areas.	Retain the objective under the operative District Plan.
SDUD-P3 Policy proposed under PC9	Within the urban environment, limit heights and densities where it is necessary to recognise and provide for matters of national importance, or other matters of significance to Rotorua, including: Nationally significant infrastructure; Historic heritage; Sites of significance to Maori and identified cultural values; Outstanding natural features and landscapes; Significant indigenous vegetation and significant habitats of indigenous fauna; Maintenance and enhancement of public access along lakes and rivers; Management of significant risks from natural hazards, including flooding and geothermal hazards.	Delete as there is overlap with SDUD-P4 (RVA 88.13). Consolidate with SDUD-P4 (Bay of Plenty Regional Council 56.8).	I consider that SDUD-P3 identifies instances where it is necessary to limit heights and densities that may otherwise be required to be increased to give effect to the NPS-UD (Policy 5) or other provisions of the District Plan (SDUD-O4, RESZ-O8). I note that SDUD-P4 directs the application of the MDRS and is a mandatory policy under the MDRS. I acknowledge that both SDUD-P3 and SDUD-P4 set out instances where opportunities for intensification may be limited, however I consider that it is appropriate to retain SDUD-	Retain the policy proposed under PC9 as notified.

Provision	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
			P3 given that it applies beyond the residential zones and provides Rotorua specific guidance that explains what the actual qualifying matters are.	
SDUD-P6 Proposed policy under PC9.	Within the urban environment enable: The highest density of development within and adjoining the City Centre, recognising that this location has access to the greatest range of commercial activities and community services in Rotorua; A high density of development within the suburban centres of Ngongatahā and Owata; A medium density of development elsewhere in residential areas.	Include reference to 'a variety of housing types and densities', and to replace 'of development' with 'urban built character' (RVA 88.15).	The purpose of SDUD-P6 proposed under PC9 as notified is to apply to all land use activities within the areas identified, and is not limited to residential activities.	Retain the policy proposed under PC9 as notified.
SDUD-P20 Proposed policy under PC9.	Encourage subdivision, use and development to be designed to promote the health, safety and well-being of people and communities.	Replace 'encourage' with 'require' (FENZ 51.4).	In my view, SDUD-P20 is a broad policy contained in the Strategic Direction chapter, which gives effect to SDUD-O9. These provisions are also given effect to by other objectives and policies within the District Plan, for example RESZ-P3, RESZ-O4, RESZ-O10, and RESZ-O11. I therefore consider that SDUD-P20 proposed under PC9 as notified is appropriate as it will enable greater flexibility at the strategic level, noting that objectives and policies within the District Wide and Zone chapters will also apply to	Retain the policy proposed under PC9 as notified.

Provision	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
			ensure appropriate development outcomes are achieved.	

8.1.2.4 Recommendation

- 1.0 For the reasons given in the above assessment, I recommend the following amendments (also refer to **Appendix 1**) to the Strategic Direction chapter to achieve improved clarity and consistency with the NPS-UD:
- a. Amend SUD-I1 to incorporate recognise that a well-functioning urban environment within Rotorua will support reductions in greenhouse gas emissions and be resilient to the current and future effects of climate change;
 - b. Amend SDUD-I1 to recognise that the housing needs of an ageing population within Rotorua.
- 2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.1.3 Residential Objectives and Policies

8.1.3.1 Scope of proposed amendments

- 1.0 PC9 proposes to introduce amendments to the residential objectives, which will guide urban residential development. Amendments are also proposed to incorporate Policies 1, 3, and 4 of the MDRS.
- 2.0 As identified in the Section 32 Report, the amended and additional objectives can be grouped into the following themes:
- 1. A well-functioning urban environment;
 - 2. Increasing housing supply and choice;
 - 3. Increasing height and density within accessible or market attractive areas;
 - 4. Providing for residential amenity on a neighbourhood and site scale; and
 - 5. Ensuring development can be serviced by infrastructure.
- 3.0 The amendments to the residential objectives and policies incorporate the MDRS and include related provisions which support or are consequential to the inclusion of the MDRS and amendments made to give effect to Policy 5 of the NPS-UD, and are made in accordance with Section 80E(1)(b)(iii) of the Act.

8.1.3.2 Submissions

- 1.0 A number of submissions were received in relation to the Introduction, Issues, and Objectives and Policies in the Residential chapter.
- 2.0 The submissions raised the following key matters:
- a. Amendments to the provisions to align with the NPS-UD and MDRS;
 - b. Amendments to the provisions to improve clarity;
 - c. Additional infrastructure to be provided in the policy framework; and
 - d. Rest homes to be provided in the policy framework.
- 3.0 Classic Group sought the following:
- a. Deletion of 'open space' from RESZ-O2. They consider that the meaning of 'open space' is unclear in this context (38.7); and

- b. Deletion of references to 'access to sunlight' and 'safe and convenience pedestrian access' from RESZ-P5 and RESZ-P14. They consider that the inclusions are not supported by the MDRS (38.8, 28.10).

4.0 Cheal Consultants Limited sought the following amendments to RESZ-O9 to improve clarification that subdivision or development that does not achieve a high-density residential character is not contrary to RESZ-O9 (79.4):

Development contributes to the creation of neighbourhoods with a variety and mix of housing typologies including high density residential built character, comprising residential buildings generally which may be up to six storeys, integrated with on-site landscaped areas.

5.0 Kāinga Ora Homes and Communities ('Kāinga Ora') sought the following:

- a. Deletion of 'surrounded by open space' in RESZ-O2 as this could be confused with providing for Open Space zoned land around proposed medium density residential developments (86.52);
- b. Amend RESZ-P6 and RESZ-15 to delete the reference to four or more residential units, and instead encourage all development to use the design techniques identified. They consider that the design techniques should be encouraged for all developments where potential adverse effects on adjoining sites have been identified (86.62, 88.66);
- c. Amendments to RESZ-P6 and RESZ-P15 to delete references to building length (86.62, 88.66); and
- d. Amend RESZ-P8 and RESZ-P17 to delete reference to 'require'. They consider that 'promoting' the provision of cycle parking is more appropriate than 'requiring' cycle parking as there is no consenting pathway where such requirements cannot be met (86.64).

6.0 RVA sought the following:

- a. Amendments to the Introduction and Issues section to align with the NPS-UD, including reference to 'urban built form' in accordance with Policy 6 (88.22, 88.25);
- b. The following amendments to RESZ-O2 and RESZ-O9 and consequential changes to RESZ-P2 and RESZ-P11. They consider that the amendments recognise that three and six storey development in the Residential 1 and 2 zones respectively is the permitted standard and not a limit. They also consider that reference to 'surrounded by open space' is inconsistent with the MDRS, which provide for attached dwellings and apartments, and note the yard density standard does not apply where are common walls (88.28, 88.34, 88.41, 88.53).

RESZ-O2: Development contributes to the creation of neighbourhoods with a medium density residential built character including three storey attached and detached dwellings and low-rise apartments ~~comprising residential buildings generally up to three storeys, surrounded by open space.~~

RESZ-O9: Development contributes to the creation of neighbourhoods with a high density residential built character, ~~comprising residential buildings generally up to~~ including six storey residential buildings, integrated with on-site landscaped areas.

- c. Amendments to RESZ-P6 and RESZ-P15 to delete references to building length and other amendments to ensure that the policies clearly acknowledge that compliance with the MDRS is sufficient to achieve the purposes of these policies. This includes amendments to

specify that building setbacks and heights address visual dominance and that height and height in relation to boundary address overlooking effects and provide opportunities for sunlight access (88.45, 88.57);

- d. A policy that provides for the diverse and changing residential needs of communities, and to recognise that the character and amenity of residential zones will change over time to enable a variety of housing types with a mix of densities (88.48, 88.60);
- e. A policy to enable the efficient use of larger sites (88.49, 88.61);
- f. A policy that provides for housing and care options for the particular needs and characteristics of an ageing population and to recognise the functional and operational needs of retirement villages (88.50, 88.62); and
- g. A policy that directs that density standards are to be used as a baseline for the assessment of the effects of developments (88.51, 88.63).

8.1.3.3 Evaluation

- 1.0 I agree with submissions from RVA, which sought to incorporate 'urban built character' as this is consistent with Policy 6 of the NPS-UD and therefore better gives effect to it, and I recommend consequential amendments within the Residential chapter to incorporate this term.
- 2.0 In relation to RESZ-O2, I agree with the submission points that the reference to 'open space' is not clear in terms of the outcomes to be achieved, and recommend that the objective is amended to include 'integrated with on-site landscaped areas'. This is consistent with RESZ-O9, which applies to the Residential 2 zone and is clearer as to the open space outcomes sought.
- 3.0 I also consider that further amendments to RESZ-O2 and RESZ-O9 would be appropriate to address the submission points from Cheal Consultants Limited (79.4) and RVA (88.28, 88.34) in order to provide improved clarity on the anticipated built character outcomes for the Residential 1 and 2 Zones. The following amendments are therefore recommended, and are also in accordance with discussions with a number of submitters at a pre-hearing meeting held on 9th June 2023:

RESZ-O2: Development contributes to the creation of neighbourhoods with an overall medium density residential urban built character comprising residential buildings in a variety of forms and generally up to including three storeys, surrounded by open space integrated with on-site landscaped areas.

RESZ-O9: Development contributes to the creation of neighbourhoods with an overall high density residential urban built character, comprising residential buildings in a variety of forms and generally up to including six storey residential buildings, integrated with on-site landscaped areas.

- 4.0 In relation to amendments to RESZ-P5 and RESZ-P14 sought by Classic Group, I consider that reference to 'access to sunlight' and 'safe and convenience pedestrian access' are important considerations in achieving quality living environments that contribute to well-functioning urban environments. In my opinion, the inclusion of these matters will not result in a residential framework that is less enabling than what is provided for under the MDRS as appropriate outcomes for built form and site layout can be achieved by the built form enabled by the MDRS and through matters of discretion for four or more residential units. As such, no amendments are recommended in response to this submission point.

5.0 In relation to RESZ-P6 and RESZ-P15, the standard for building length is addressed in **Section 8.1.6.3.2** below, and in accordance with this evaluation, it is recommended that reference to building length is retained. Notwithstanding, I consider the following amendment is appropriate in response to submission points to clarify that the purpose of the policies is to *manage the effects* of the length of buildings to neighbouring sites, which primarily relate to visual dominance and intensity of overlooking.

~~Mitigate~~ Manage² *the potential adverse effects of development on adjoining sites, without limiting the ability to achieve the planned medium density residential built character, including by:*

...

2. ~~Limiting~~ Manage the effects *of the length of buildings along side and rear boundaries;*

...

6.0 In relation to other amendments sought by RVA to RESZ-P6 and RESZ-P15, I consider that the amendments they are seeking are not comprehensive in identifying all relevant standards which may affect sunlight access and overlooking to neighbouring sites. For example, standards for building coverage and outlook space are also relevant in managing these effects, particularly for developments containing four or more residential units. As such, no amendments to the Residential Zones objectives and policies are recommended in response to these submission points.

7.0 Kāinga Ora also sought amendments to RESZ-P6 and RESZ-P15 in relation to the application of additional design considerations to all residential units. RESZ-P6 and RESZ-P15 as notified refer to 'other design techniques' including 'building recesses, varied architectural treatment and landscaping along side and rear boundaries'. In my opinion, these other techniques are additional considerations to the outcomes enabled by the MDRS, and are more appropriately applied to developments for four or more residential units, where design responses can be assessed qualitatively through the resource consent process.

8.0 In relation to RESZ-P8 and RESZ-P17, I agree that the inclusion of 'require' may create uncertainties in terms of appropriate provision for cycle parking, noting that this is addressed through assessment criteria, and recommend the following amendments to RESZ-P8 and RESZ-P17 in response to the submissions from Kāinga Ora:

~~Require proposals for four or more residential units to provide~~ Provide *adequate storage for cycle parking on site for four or more residential units.*

9.0 In my opinion, the above amendments will achieve improved consistency with the MDRS and matters for discretion under RESZ-MDB as notified under PC9, where the assessment of four or more residential units through the resource consent process includes whether provision has been made for the secure storage for bicycles.

10.0 In relation to additional policies sought by RVA, I consider that matters that relate to the diverse and changing residential needs of communities and the housing and care options for an ageing population are generally addressed in the Strategic Direction chapter, in particular SDUD-O1 and SDUD-O2, which are mandatory objectives under the MDRS which a) provide for a well-functioning urban environment that provides for the needs of *all people and communities* and b) provides for a *variety of housing types* and sizes in a relevant residential

1.0

² Other recommended amendment in accordance with RVA (88.45), refer **Appendix 1**.

zone to respond to *housing needs and demands* [emphasis added]. In my opinion, duplication in the Residential chapter is not required, and no amendments to the Residential zone objectives and policies are recommended in response to these submission points.

11.0 Notwithstanding, I recommend the inclusion of 'rest homes' to RESZ-P1 and RESZ-P1 to recognise that rest homes are a type of housing typology and choice anticipated in the Residential 1 and 2 Zones. An additional policy is also recommended to manage the design and layout of rest homes, while also recognising their functional requirements. These recommendations are in accordance with amendments to the management of rest homes within the Residential 1 and 2 Zones, and are further discussed at **Section 8.1.7** below.

12.0 In relation to additional policies sought by RVA which relate to the efficient use of larger sites, I consider that the proposed wording by RVA does not provide clear direction or specificity on the appropriate built form outcomes to be achieved. I also note that the assessment criteria contained in RESZ-MDA for specific non-compliance matters includes consideration to contextual site factors. In my opinion, this is an appropriate method that will enable consideration of site specific characteristics and give effect to the relevant Residential zone objectives contained at RESZ-O2, RESZ-O3, RESZ-O4, RESZ-O9, RESZ-O10, and RESZ-O11. Further, RESZ-O2, RESZ-O9, RESZ-P2 and RESZ-P11 clearly establish the planned urban built character of the zone and the related heights and densities which support that. Together with the matters of discretion and criteria for infringements, this provides a clear framework to assess proposals on larger sites. For the same reasons, in my view, an additional policy is not required that sets out the role of density standards as sought by RVA. As such, no amendments to the Residential zone objectives and policies are recommended in response to these submission points.

8.1.3.4 Recommendation

1.0 For the reasons given in the above assessment, I recommend that the Residential Zones Introduction, Issues, Objectives, and Policies are amended to achieve improved clarity and consistency with the NPS-UD. Recommended amendments are included at **Appendix 1**.

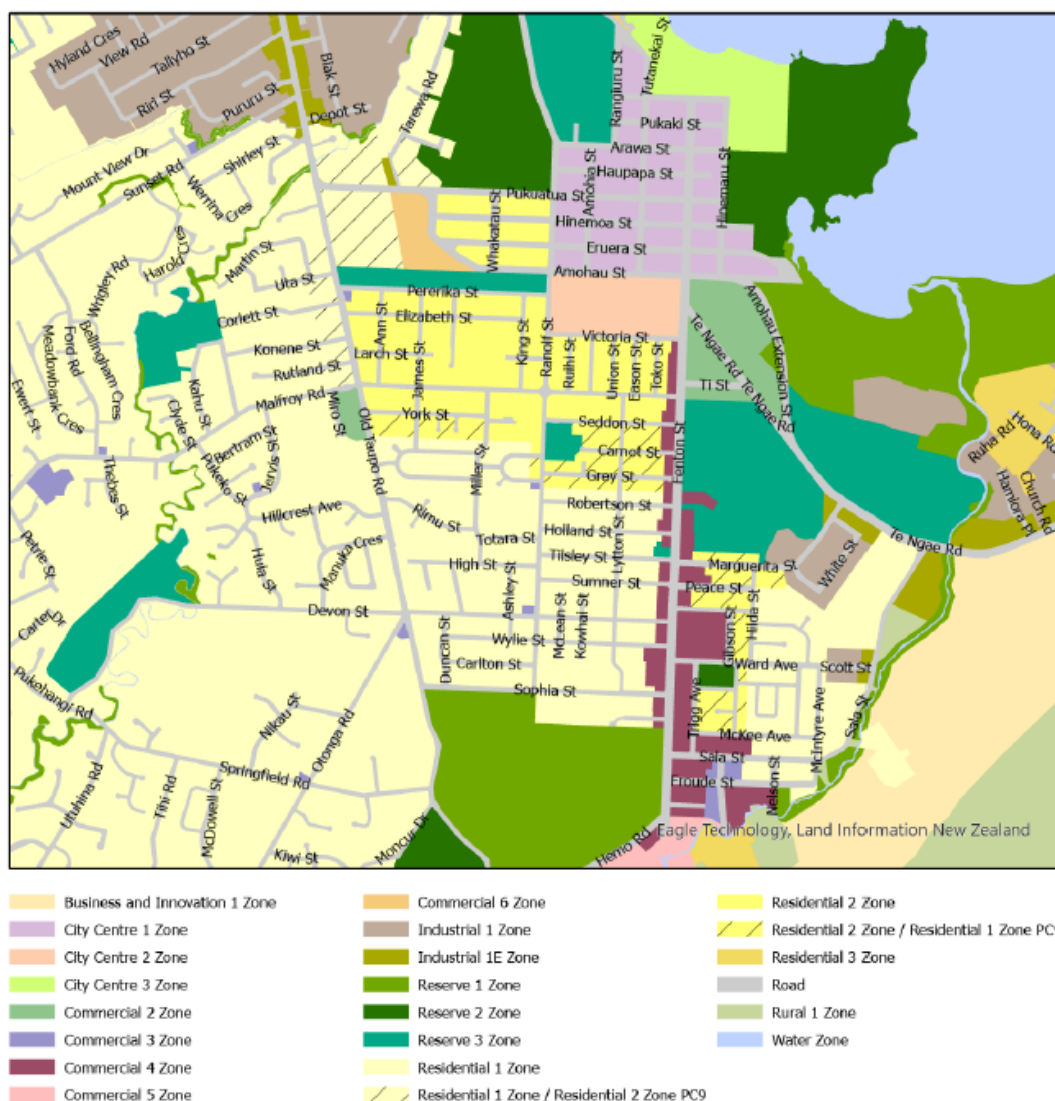
2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.1.4 Inclusion & Extent of the Residential 2 (High Density Residential) Zone

8.1.4.1 Scope of Proposed Amendments

1.0 PC9 seeks to enable high density residential development in the Residential 2 Zone.

2.0 The operative District Plan incorporates the Residential 2 – Medium Density Living Zone which provides for medium density development close to the city centre, with a limited spatial application to the south and south-west of the City Centre 1 Zone.



Map 1: Residential 2 zone extent proposed under PC9 as notified.

3.0 The amendments proposed to the Residential 2 Zone give effect to Policy 5 of the NPS-UD, and include more lenient provisions than the MDRS in accordance with Section 77H. The amendments are made in accordance with Sections 80E(1)(a)(ii), 80E(1)(a)(i), and 80E(1)(b)(iii) of the Act.

8.1.4.2 Submissions

1.0 Submissions by Nelson, L (26.47), Waka Kotahi (77.11), Sigma Consultants (84.16), and Kāinga Ora (86.1), raised matters in relation to the inclusion of the Residential 2 Zone and extensions to its spatial extent. In summary, the submitters make the following key points:

- The Residential 2 zone has the potential to create significant amenity effects on surrounding properties and should be rezoned to Residential 1 (Sigma Consultants 84.16);
- The Residential 2 zone is not justified given the HBA finds that there is limited demand for high density vertically stacked apartments in Rotorua and the potential for amenity effects (Sigma Consultants 84.16, The Rotorua Planning Consultants FS104.36);
- The spatial extent of the Residential 2 zone should not apply to either side of Tarewa Road due to potential effects on character and natural hazard risks (Nelson, L 26.47);

- d. The spatial extent of the Residential 2 zone should be extended along Tawera Road, connecting the Lake Road entranceway and Tarewa Place high density areas around the fringe of Kairau Park, and to the south of York Street and Seddon Street (Waka Kotahi (77.11); and
 - e. The spatial extent of the Residential 2 zone should be extended to the south to create a conglomeration of high density residential zoning bound by Fenton Street, Old Taupo Road and Amohau Street within Rotorua Central (Kāinga Ora 86.1).
- 2.0 A significant number of further submissions were received on submission 86.1 from Kāinga Ora to extend the spatial extent of the Residential 2 Zone, and primarily oppose the extension of the Residential 2 Zone. In summary, the submitters raised key concerns in relation to the following resource management matters:
- a. Residential character and visual amenity, particularly in Glenholme;
 - b. Shading and sunlight access, outlook and privacy;
 - c. Reduced on-street parking;
 - d. Increased noise;
 - e. Geothermal and flooding constraints in Rotorua;
 - f. Constraints on infrastructure and services,
- 3.0 Submissions received on the provisions for the Residential 2 Zone are addressed in **Section 8.1.6**.
- 8.1.4.3 Evaluation**
- 1.0 As discussed in Section 7.8.1 of the Section 32 Report, the application of the Residential 2 Zone and provision for high density residential development give effect to Policies 2 and 5 of the NPS-UD, which has been informed by the HBA, Economic Assessment, and Accessibility and Demand Analysis. This is assessed in further detail below.
- 8.1.4.3.1 Inclusion of the Residential 2 Zone**
- 1.0 The operative District Plan framework for residential zones labels the Residential 2 Zone as a medium density area (operative RESZ-P8). In practice, this zone does not genuinely enable medium density development in the manner anticipated by the MDRS. Within the current policy context of the NPS-UD and the introduction of the MDRS under the RMA Amendment Act 2021, in my view a High Density Residential zone is the most efficient and effective way to achieve the objectives and give effect to the NPS-UD for the following key reasons:
- a. It provides the opportunity for a **range of homes to be delivered** including apartments, **within a residentially focussed environment** close to the city centre. This supports increases to development capacity (Policy 2 NPS-UD) and the delivery of a well-functioning urban environment, by providing a variety of higher density homes in a different type of environment, with a different type of amenity than centre locations (Policy 1(a)(i) NPS-UD).
 - b. Enabling high density development squarely focuses on the **planned urban built form of Rotorua** and recognises that while the level of development enabled will result in a change to the environment, and may detract from existing amenity values, it may also result in positive changes for future generations, as expressly provided for by Policy 6 of the NPS-UD.
- 2.0 I address each of these matters further below.

8.1.4.3.1.1 Housing Variety & Choice

- 1.0 The 2021 HBA identified that there are projected shortfalls in reasonably expected to be realised capacity and attached housing, with current planning provisions driving single detached houses on larger lots being a contributing factor. Further, the HBA identifies that there is demand for about 1,000 apartments over the next 30 years in Rotorua. I accept that this demand is relatively modest compared with the overall residential demand, which is estimated to be 9,740 dwellings over 30 years.
- 2.0 The submissions variously state that this demand is relatively low and that it can be met through supply in the City Centre zone and/or through medium density development within the amended Residential 1 zone. Essentially stating that there is no need for a high density residential zone.
- 3.0 In my view, while demand and capacity provided is relevant, the need to provide a variety of housing choices within the city is also equally relevant. The proposed Residential 2 Zone provides opportunities for higher density housing to establish within a quieter residential environment, which provides a different level of amenity than that experienced in the City Centre or other centres. In that regard, I agree with the analysis of Mr Wallace on this matter as set out in his evidence. Apartments can also offer a different form of living for people to terraces or low-rise walk-ups, with typically smaller floorplates, access to view etc, depending on their design. This provides housing choices for people. This point is also supported by Ms Fairgray.

8.1.4.3.1.2 Amenity Values

- 1.0 As set out above, a number of submitters raise concerns about the loss of views, sunlight access etc within the proposed Residential 2 Zone. I agree with the submitters that the Residential 2 Zone will result in a change to the existing environment, and in some cases that may be a significant degree of change. However, these potential adverse effects, need to be balanced with the potential positive effects or benefits for future residents and generations, in particular, through increased housing choices in accessible locations, new, well designed and healthy homes, and potentially more affordable housing depending on the type of development delivered. This balancing of current amenity related costs vs future community benefits is reflected in Policy 6 of the NPS-UD. Mr Wallace addresses these matters in his evidence and I agree with his analysis.
- 2.0 Further, PC9 includes a package of standards, including height and height in relation to boundary, within the Residential 2 Zone which have been informed by urban design analysis to ensure that the effects of future development on residential character, amenity, and neighbouring sites resulting from building design, scale, and intensity are appropriately managed in the context of the Residential 2 Zone and the NPS-UD. The proposed restricted discretionary framework for four or more residential units also ensures that new development achieves quality design outcomes within a high density environment. These standards are further discussed in **Section 8.1.6** below.
- 3.0 In terms of matters in relation to natural hazard risks, infrastructure and the management of historic heritage values, I note that there are other District Plan provisions which manage potential effects of development capacity enabled under PC9. Amendments to related provisions are also proposed under PC9, and are further detailed in **Section 8.5**.

8.1.4.3.1.3 Summary

- 1.0 Having regard to the expert evidence from Mr Wallace and Ms Fairgray and for the reasons given above, I consider that providing for a genuine high density residential zone in Rotorua is the most efficient and effective way to achieve the objectives and will contribute to the

implementation of the NPS-UD in Rotorua. In particular, I consider that the inclusion of the Residential 2 Zone will:

- a. In accordance with Policy 1, contribute to enabling a variety of homes, including an alternative to higher density housing located within centres;
- b. Provide more enabling planning provisions to address projected shortfalls in reasonable expected to be realized capacity, and in accordance with Policy 2, contribute to ensuring sufficient development capacity is available to meet the needs of different households;
- c. In accordance with Policy 5, enable high density residential development within accessible locations in close proximity to the city centre; and
- d. In accordance with Policy 6, support improvements to the amenity values for people and future generations by increasing housing variety and choices.

2.0 As such, I do not consider that the Residential 2 Zone should be rezoned to Residential 1 in response to these submission points.

8.1.4.3.2 *Spatial Extent of the Residential 2 Zone*

3.0 That spatial extent of the Residential 2 Zone is assessed in the Section 32 report (Section 7.8.2), and has been informed by the Accessibility and Demand Analysis (Appendix 7 of the Section 32 Report) undertaken by Barker & Associates and Economic Assessment (Appendix 8 of the Section 32 Report) by M.E.

4.0 Policy 5 of the NPS-UD provides direct guidance on how and where to apply heights and densities within Rotorua, which is particularly relevant to the spatial extent of the Residential 2 zone. It states:

Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

- (a) *the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or*
- (b) *relative demand for housing and business use in that location.*

5.0 The Section 32 Report addresses this through the accessibility analysis undertaken, which illustrates that the zone applies to the areas with the highest levels of accessibility for residential areas around the City Centre. At the same time, this is balanced with the level of demand expected for higher density forms of housing, and the need to ensure that future high density development is focussed in areas that would benefit the most from the amenities, services and employment offered in the City Centre, as outlined in the evidence of Ms Fairgray. This also supports the continued development of the vitality and vibrancy of the City Centre (CCZ-O1). Specifically, the Section 32 report concludes at paragraphs 7.8.2(7) and 7.8.2(9) that:

Overall, the Accessibility and Demand Analysis demonstrates that the spatial extent of more intensive residential activities in Rotorua should be increased to give effect to Policy 5 of the NPS-UD. In particular, while the current spatial extent of the Residential 2 zone is generally well aligned with the areas of high accessibility, a number of areas could accommodate increased heights and densities to reflect their level of accessibility, including key centres, and the northern portion of Glenholme; and

The Economic Assessment finds that there are high levels of plan enabled capacity relative to demand under all intensification options considered, and estimates a relatively small level of future demand for higher density apartment dwellings in Rotorua. This level of

future demand has been confirmed through discussions with the local development sector. It was therefore considered that a smaller extent of high density residential zoning would be more appropriate from an economic perspective. In particular, it is noted that if the spatial application of the provision is too extensive, then it may not adequately encourage the concentration of higher density development into areas that function together with, and support the viability of, key nodes. Development may occur in locations that do not function together with these nodes and consequently reduce the level of remaining market size for intensification within the nodes.

- 6.0 The proposed spatial application of the Residential 2 Zone under PC9 has therefore been concentrated to the best performing areas in terms of accessibility, having regard to proximity to the city centre, employment opportunities, and supporting amenities such as supermarkets and educational facilities.
- 7.0 The proposed spatial extent also recognises the economic benefits of providing a carefully considered and confined spatial extent for high density residential development in order to maximise development opportunities that contribute to cohesive high density development that support the viability of centres, while focussing development to areas with the highest levels of accessibility. Ms Fairgray addresses this matter in her evidence, and states that a concentrated Residential 2 Zone would better support the viability and vitality of the City Centre given the overall level of demand for apartments, which in my view is an important policy consideration for the District Plan (SDVC-O1 and SDVC-O2). She further states that conversely, a more expansive Residential 2 Zone would potentially reduce or dilute the benefits of intensification that might otherwise occur with development closer to the City Centre.
- 8.0 Submissions 26.47, 77.11, and 86.1 have been assessed by Mr Wallace in his evidence and I agree with his analysis. With respect to the spatial extent of the Residential 2 zone, Mr Wallace comments that:
- a. *The section of Tarewa Road referred to in Waka Kotahi's submission does perform generally well in terms of its overall accessibility, it is relatively isolated from primary and intermediate school sites and supermarkets, which are considered to be critical destinations to support higher residential densities;*
 - b. *The extension requested by Kāinga Ora is between 2,100m and 2,300m from the city centre, and analysis undertaken to inform the Residential 2 zone spatial extent proposed under PC9 indicates a continued reduction in accessibility further south from Malfroy Road. Large portions of the areas identified by Kāinga Ora have been assessed as having moderate to low levels of accessibility due to increased distances from the city centre, supermarkets, schools, and healthcare facilities such as GPs and pharmacies;*
 - c. *The direction of the NPS-UD to promote and enable greater levels of residential intensification in areas which better support the use of active modes of transport, reduce private vehicle use and contribute to more vibrant, well-functioning centres is consistent with good urban design practice. This considers the optimal spatial arrangement of land uses relative to each other that results in the most efficient use of land, supports community and commercial centres, and maximises use of active and public transport networks.*
- 9.0 Based on the expert evidence from Mr Wallace and the findings of the Economic Assessment and Accessibility and Demand Analysis, I do not support amendments or extensions to the spatial extent of the Residential 2 Zone as proposed by the submitters.

10.0 The draft Rotorua Future Development Strategy was released for public consultation on 1 June 2023, with submissions closing on 14 July 2023. As this is a draft strategy and may change in response to feedback, and as such, it has limited statutory weight at this stage. However, it does provide useful context, in that it sets out a proposed strategy for high density residential, as shown in **Map 2** & **Map 3** below. The analysis that informed this strategy is relevant and is consistent with the accessibility analysis undertaken by Mr Wallace for PC9, with myself and Mr Wallace having assisted the Council to prepare the draft FDS.



Map 2: Showing potential high density residential areas (orange), including potential long term high density residential areas shown in faded orange



Map 11: Preliminary Eastside Priority Area Plan

Map 3: Showing potential high density residential areas (orange), including potential long term high density residential areas shown in faded orange.

- 11.0 The Future Development Strategy identifies longer term areas for residential intensification to the south of the proposed Residential 2 Zone extent in PC9 and around the Owhata Centre. In his evidence, Mr Wallace, states that this area has “reasonably good levels of accessibility to a range of services when compared with other areas around the Rotorua urban environment. However, in terms of accessibility they would benefit from further investment in amenities and an expansion of services which development of the Res2 zone (as notified) could support.” He goes on to state that the redevelopment of Arawa Park in the future, including open space provision, would be an important consideration and would better support the expansion of the Residential 2 Zone.
- 12.0 I agree with Mr Wallace, and consider that over time, the accessibility of this area will grow as investment in the open space network occurs on a staged basis, and as the market delivers supporting services as part of a growing high density residential area. Coupled with potential for growing demand for higher density forms of living in the long term, this is likely to make these areas suitable for high-density residential. However, in my view, they are less suitable for high density residential right now, given that the current level of accessibility does not support it and overall demand for apartments is assessed as relatively low. In the meantime, the MDRS will enable a significant level of intensification to occur in those locations.
- 13.0 I consider the spatial extent proposed under PC9 is efficient and effective as it will facilitate the concentration of higher density residential development in suitable locations in terms of accessibility and proximity to the city centre. In my opinion, the proposed Residential 2 zone spatial extent will give effect to Policy 5 of the NPS-UD by enabling high density residential development in concentrated areas with the highest levels of accessibility.

- 14.0 I do not consider that the spatial extent of the Residential 2 zone should be amended in response to these submission points.
- 8.1.4.4 Recommendation**
- 1.0 For the reasons given in the above assessment, I recommend that the Residential 2 zone is retained and that no changes be made to the spatial extent proposed under PC9.
- 2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.
- 8.1.5 Appropriate Height Limits**
- 8.1.5.1 Scope of Proposed Amendments**
- 1.0 PC9 includes amendments to the building height and daylight envelope standard to incorporate the MDRS in the Residential 1 zone and enable high density residential development in the Residential 2 zone, including:
- a. Amending the Residential 1 zone height limit from 7.5m to 11m in accordance with the MDRS;
 - b. Amending the Residential 2 zone height limit from 7.5m to 19.5m;
 - c. Residential 1 zone: height in relation boundary control of 4m + 60 degrees in accordance with the MDRS; and
 - d. Residential 2 zone: height in relation to boundary control of 12m + 60 degrees for the first 23.5m of the site from the street boundary. Beyond this, the 4m + 60 degrees recession plane would apply.
- 2.0 These amendments are in accordance with Section 80E(1)(a)(i) of the Act to incorporate the MDRS into the Residential 1 Zone and more lenient provisions within the Residential 2 Zone in accordance with Section 77H.
- 8.1.5.2 Submissions**
- 8.1.5.2.1 Building Height**
- 1.0 Six submissions to PC9 sought to reduce the building heights as notified (Davies, T 18.1; Mau, K 74.1; Pore, A 75.1; Turner, N 76.1; Hitchcock, M 80.1; Cusumano, V and J 97.5). Key points raised include the potential for amenity effects on existing housing and neighbouring sites, including sunlight and daylight access, and privacy effects.
- 2.0 Buchanan, C and A (31.1) sought a graduation of heights between Residential 1 and 2 zones, for example a height of 15m where a site adjoins a lower or higher intensity zone, in order to reduce tension created by abrupt height changes between zones.
- 3.0 Kāinga Ora (86.68) sought building heights of up to 22m in the Residential 2 zone in line with national consistency and to enable greater design flexibility.
- 8.1.5.2.2 Daylight Envelope**
- 1.0 Four submissions sought amendments to the daylight envelope standard:
- a. Nelson, L (26.27) sought to delete height in relation to boundary control for the Residential 2 zone and apply the 4m + 60 degrees recession plane to all boundaries;
 - b. Kilpatrick, J (96.65) sought to amend the height in relation to boundary control for the Residential 2 zone and apply the 12m + 60 degrees recession plane to all boundaries.

- c. Kāinga Ora (86.68) sought to amend the height in relation to boundary control for the Residential 2 zone to increase the recession plane to 19m + 60 degrees within 25m of the site the frontage, and 8m + 60 degrees beyond this to enable greater design flexibility; and
- d. RVA (88.68 and 88.69) sought to include exclusions to the height in relation to boundary control when adjacent to a less sensitive zone, including reserve and water, rural, city centre, commercial, mixed use, business and innovation, and industrial zones.

8.1.5.3 Evaluation

8.1.5.3.1 Residential 1 Zone

- 1.0 In accordance with section 80E(1)(a)(i) PC9 is required to incorporate the MDRS into the Residential 1 Zone, which meets the definition of a relevant residential zone under the Act. The Residential 1 Zone height and daylight envelope standard proposed under PC9 is therefore in keeping with the MDRS.
- 2.0 I note that the potential effects of building height on sunlight and daylight access and privacy in the Residential 1 Zone cannot be considered by the Council in response to these submission points, and the MDRS cannot be modified to be less enabling, unless qualifying matters are identified to apply.
- 3.0 In the absence of identification of qualifying matters and planning evaluation from the submitters, I consider that the building height and daylight envelope standard in the Residential 1 zone cannot be reduced in response to these submission points.

8.1.5.3.2 Residential 2 Zone

- 1.0 PC9 proposes more lenient building height and height in relation to boundary standards than the MDRS in the Residential 2 Zone in order to facilitate high density residential development.
- 2.0 As discussed above in **Section 8.1.4**, in my view, the inclusion of the Residential 2 Zone to enable high density residential development is the most efficient and effective way to achieve the objectives and will contribute to the implementation of the NPS-UD in Rotorua. Mr Wallace concludes in his evidence that the requested amendments for a less enabling building height and daylight envelope will undermine the development of intended building typologies on typical site sizes present throughout the Residential 2 Zone. I agree with this analysis.
- 3.0 I therefore do not consider that the Residential 2 Zone height and daylight envelope standards should be amended in response to submissions which sought a less enabling framework.
- 4.0 Submission 86.68 from Kāinga Ora in relation to the Residential 2 Zone height standard has been assessed by Mr Wallace in his evidence. Mr Wallace supports an increase to the maximum building height up to 22m as it will provide greater flexibility in the overall design and allow development to respond to contextual site factors to ensure development of six storeys can be accommodated. This includes flood hazards and the need to raise ground levels to provide sufficient clearance. Mr Wallace considers that an increase in building height will have negligible effect at lot or zone boundaries as height in relation to boundary controls will apply, and that the additional height allowance is likely to be utilised for varied roof forms, plant and life overruns.
- 5.0 I agree with Mr Wallace's analysis and consider that the greater design flexibility for increased floor to floor heights and architectural variety in roof and building forms, would more effectively contribute to the attractiveness of streets and public open spaces (RESZ-O10), the quality of on site living environments (RESZ-O11) and better enable the efficient use of land (RESZ-O8). For these reasons, I recommend amendments to increase the maximum building height standard in the Residential 2 zone from 19.5m to 22m.

- 6.0 In relation to the daylight envelope, Mr Wallace considers that the application of a 4m + 60 degrees recession plane at the rear of the site will encourage larger buildings to be placed closer to the street, maintain reasonable sunlight access to the rear of neighbouring sites, and maintaining a greater sense of openness to the rear of sites should several undergo comprehensive redevelopment. However, Mr Wallace recommends that the 4m + 60 degrees recession plane is applied from an increased distance of 29.5m from the street boundary. This increase is aligned with the recommended changes to the maximum building length standard further detailed at **Section 8.1.6.3.2**, and will provide increased design flexibility on larger sites whilst still maintaining a degree of openness at the rear. The application of the 12m + 60 degrees recession plane for the first 29.5m of the site frontage would enable the construction of a large apartment building at 50 per cent building coverage on a typical 1,000m² without infringing the daylight envelope standard.
- 7.0 I support the amendments to the daylight envelope standard recommended by Mr Wallace. The analysis set out in his evidence demonstrates that extending the application of the 12m + 60 degrees recession plane to the first 29.5m of the site will align with recommended changes to the maximum building length standard (refer **Section 8.1.6.3.2**) while also increasing design flexibility. I also note that the application of the 4m + 60 degrees recession plane at the rear of sites will ensure that providing greater design flexibility is balanced with achieving quality living environments that are in keeping with the anticipated residential character of the zone, which is differentiated from the more intensive built character sought within centre zones.
- 8.0 In relation to submission 86.68 from Kāinga Ora in relation to the Residential 2 Zone daylight envelope standard, Mr Wallace's analysis identifies the theoretical built form that would be enabled under the height in relation to boundary plane sought from Kāinga Ora, shown at **Figure 1** below.

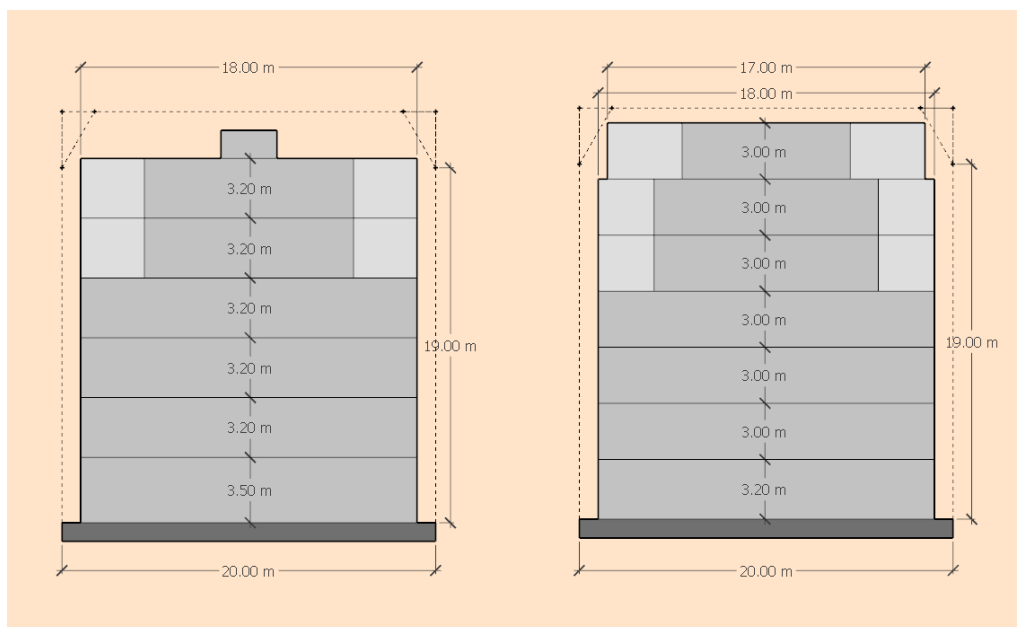


Figure 1: Modelling from Mr Wallace's evidence (Figure 8) showing theoretical 6 and 7-storey building envelope (street elevation) enabled on a typical site with Kainga Ora's proposed daylight envelope standard and 22m height limit.

- 9.0 This analysis demonstrates that a height in relation to boundary plane of 19m + 60 degrees within 25m of the site the frontage, and 8m + 60 degrees beyond this would enable a six to seven storey building to be constructed within 1m of a side boundary. I agree with Mr

Wallace's analysis that the scale and intensity of development enabled under the greater height in relation to boundary plane sought from Kāinga Ora would not achieve the expected levels of amenity for the Residential 2 Zone, and is more appropriately accommodated within a centre zone.

- 10.0 I note that by comparison, the theoretical built form enabled under the proposed height in relation to boundary plane under PC9 as notified, albeit subject to minor amendments identified above, includes greater setbacks from side and rear boundaries beyond four storeys (refer **Figure 2**).

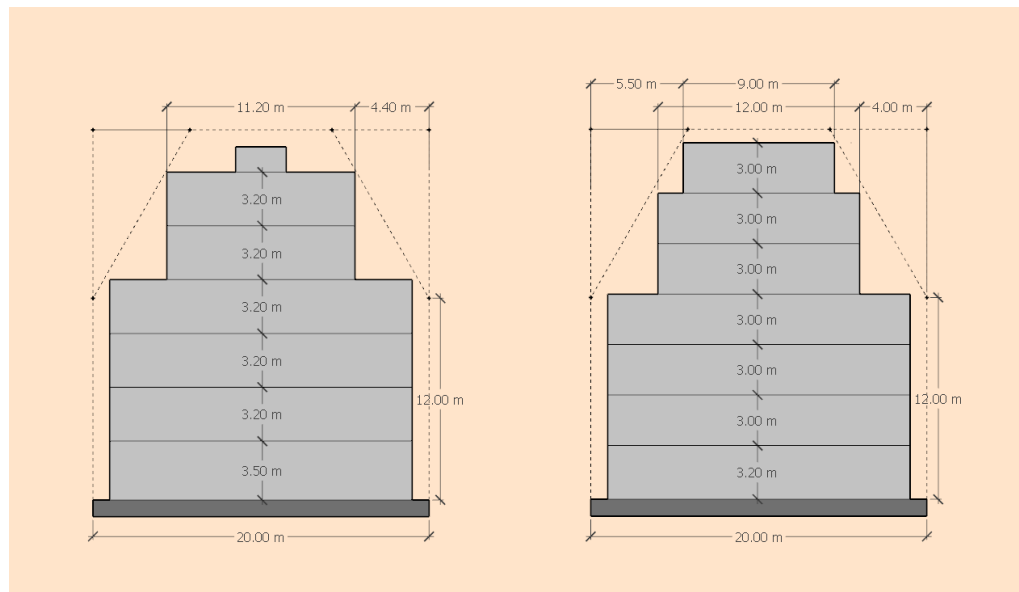


Figure 2: Modelling from Mr Wallace's evidence (Figure 7) showing theoretical 6 and 7-storey building envelope (street elevation) enabled on a typical site with the notified daylight envelope standard and 22m height limit.

- 11.0 I consider that the built form enabled under the recommended height in relation to boundary plane is appropriate for the Residential 2 Zone, in particular as it will promote passive surveillance of streets and support a quality built environment which better manages potential visual dominance, shading, and privacy effects on neighbouring sites.
- 12.0 In relation to submission 96.65 from Kilpatrick, J, Mr Wallace considers that application of the 12m + 60 degrees recession plane at all site boundaries are not necessary or appropriate. I agree with this analysis and consider that the resulting built form would create potential shading and sunlight access effects to neighbouring sites that are inconsistent with RESZ-O11.
- 13.0 Based on expert evidence by Mr Wallace, I consider it would be appropriate to amend the maximum allowable height in the Residential 2 zone from 19.5m to 22m and the daylight envelope to include height in relation to boundary controls of 12m + 60 degrees for the first 29.5m of the site from the street boundary. Beyond this, the 4m + 60 degrees recession plane would apply.

8.1.5.3.3 Exclusions

- 1.0 Mr Wallace addresses the amendments sought by RVA to include exclusions to the height in relation to boundary recession plane, I agree with his analysis and consider it would be appropriate to apply exclusions to sites that adjoin the Reserve, Rural, City Centre, Commercial, Business and Innovation, and Industrial Zones. This is because the anticipated

- character and/or activities in these zones are less sensitive than activities in the Residential 1 and 2 Zones in terms of visual, sunlight, and privacy effects, and the requested amendments will enable the efficient development of residential sites.
- 2.0 As identified by Mr Wallace, in most instances, the majority of Residential 2 Zone boundaries, including to existing open spaces, are formed by roads. As such, the exclusion is unlikely to result in change from the notified provision, however does include an appropriate design framework within the District Plan in the event of future changes to the zone interface.
- 8.1.5.4 Recommendation**
- 1.0 For the reasons given in the above assessment, I recommend that:
- a. The maximum building height standard in the Residential 2 zone is amended to 22m; and
 - b. The daylight envelope standard in the Residential 2 zone is amended to include a height in relation to boundary control of 12m + 60 degrees for the first 29.5m of the site from the street boundary and a 4m + 60 degrees recession plane beyond this.
 - c. Exclusions to the daylight envelope standard apply where a Residential 1 or 2 zoned site adjoins a less sensitive zone.
- 2.0 No other amendments to the height and daylight envelope standard are recommended in response to the submission points.
- 3.0 Submissions to be accepted or rejected and individual responses to submission points are set out at **Appendix 3**.
- 8.1.6 Achieving a Quality Built Environment**
- 8.1.6.1 Scope of Proposed Amendments**
- 1.0 As discussed above, PC9 includes amendments to the Residential 1 Zone to incorporate the MDRS and to the Residential 2 Zone to enable high density residential development. In addition to increased building heights, additional refinements are proposed to the standards in both the Residential 1 and 2 Zones to help deliver a quality, attractive urban environment, including:
- a. A maximum building length control above ground level of 22m to manage effects on neighbouring sites in relation to visual dominance and the intensity of overlooking;
 - b. A minimum dwelling size of 35m² for a studio dwelling and 45m² for one or more-bedroom dwelling to manage on-site amenity;
 - c. Amendments to the dwellings fronting the street standard, to ensure that garage doors do not contribute to the glazing requirement and to clarify that front doors may be solid, and portions of the façade associated with non-habitable roof space, are excluded from the overall calculation requirement;
 - d. A standard in relation to fences fronting the street and public open spaces; and
 - e. Additions to the matters of discretion to include four or more residential units per site and specific non-compliance to the standards.
- 2.0 These amendments are made in accordance with Sections 80E(1)(a)(i) and 80E(1)(b)(iii) of the Act.

8.1.6.2 Submissions

- 1.0 Topics relating to urban design and achieving a quality built environment within the residential zones were the subject of a significant number of submissions and further submissions on PC9.
- 2.0 These submissions raised the following key matters:
- a. The effects of intensification on residential amenity;
 - b. Amendments to or deletion of Standard RESZ-S6A(5) Maximum Building Length (Residential 1 and 2 zones);
 - c. Amendments to Standard RESZ-S6A(4) Windows to street (Residential 1 and 2 zones);
 - d. Amendments to other residential zone standards, including to achieve consistency with the MDRS; and
 - e. Assessment of four or more dwellings and specific non-compliance matters.

8.1.6.2.1 Residential Development and Amenity

- 1.0 Richards, C and Murray J and B; and Jones A and N (42.2,58.2, 70.1) seek additions and refinements to the residential zones standards and provisions to include consideration of sunlight admission, views, solid walls on boundaries, security lights, the location of driveway, and planting.
- 2.0 Percival, J (78.2) seeks greater differentiation between the Residential 1 Zone and Residential 2 Zone rules.
- 3.0 Kāinga Ora advised at the pre-hearing meeting held on 5 May that they will not be pursuing submission 86.67, seeking the development of six residential units on a site a permitted activity in the Residential 2 zone. However, as this submission has not been withdrawn, I address it briefly below.

8.1.6.2.2 Maximum Building Length

- 1.0 Four submissions seek the deletion of Standard RESZ-S6A(5) Maximum Building Length. In summary, the submitters make the following points:
- a. The standard is not required by the MDRS (Classic Group 38.16; RVA 88.79).
 - b. The standard does not align with the yard standards, and potentially requires a greater separation distance between buildings on the same site than what is required between buildings on separate sites, and the diagram under Standard RESZ-S6A(5) is presumptuous in terms of where the principal living room could be located (Cheal Consultants Limited 79.11); and
 - c. The standard will restrict development potential (Kāinga Ora 86.76).

8.1.6.2.3 Windows to Street

- 1.0 Three submission seek amendments to Standard RESZ-S6A(4) Windows to street. In summary, the submitters make the following points:
- a. Windows in a roof space or non-habitable spaces do not achieve passive surveillance and streetscape amenity, and garages and gables should be excluded from the calculation of the habitable façade (Classic Group 38.15);
 - b. Further consideration and clarification to the standard, including exclusions and inclusions of gable ends, attached garages, and non-habitable rooms from the calculation of façade area, and the identification of ‘street facing’ facades (Rotorua Lakes Council 61.7); and

- c. Standard RESZ-S6A(4)(b) is unclear in terms of the wording 'front doors being solid' (Sigma Consultants 84.55).

8.1.6.2.4 *Other Residential Zone Standards*

- 1.0 Thirty-one submissions were received in relation to other standards (excluding height and height in relation to boundary). The submissions generally seek to:
 - a. Amend Standard RESZ-S2 Yard requirements for the Residential 2 zone to 0m unless windows are proposed on side and rear walls, in which case a 2m setback is required (Kāinga Ora 86.69);
 - b. Amend or delete the proposed amendments to Standard RESZ-S3(2)(b) for maximum impervious coverage (for example Classic Group 38.12 RVA 88.72). These submission points are addressed fully in **Section 8.5.2**.
 - c. Amend or delete Standard RESZ-S6A(1) Minimum size of residential units (Residential 1 and 2 zones) (Sigma Consultants 84.54; Kāinga Ora 86.73; RVA 88.75);
 - d. Delete Standard RESZ-S6(2)(a)(iii), which includes design requirements for outdoor living spaces located to the south of any building located on the same site (RVA 88.76; Classic Group 38.14);
 - e. Amend or delete Standard RESZ-S6A(6) Landscaped area (Residential 1 and 2 zones) (Classic Group 38.17; Kāinga Ora 87.77; Kilpatrick, J 96.72); and
 - f. Delete Standard RESZ-S6A(7) Fencing (Residential 1 and 2 zones) (Nelson, L 26.33; RVA 88.81; Kilpatrick, J 96.73).

8.1.6.2.5 *Assessment of Four or More Dwellings and Specific Non-compliance Matters*

- 1.0 Kāinga Ora sought to simplify the matters of discretion pertaining to specific non-compliance matters for residential units (86.78) and for four or more residential unit developments (86.79). Kāinga Ora submit that simplification of these matters is in line with national consistency, and that the objectives and policies of the zones cover many of the matters identified.
- 2.0 Cheal Consultants Limited (79.14) sought to amend the matters of discretion for infringements to yard standards to include effects on the safe and efficient functioning of the transport network and whether architectural design measures such as setbacks, modulations, or articulation mitigate visual dominance effects on the streetscape.

8.1.6.3 **Evaluation**

8.1.6.3.1 *Residential Development and Amenity*

- 1.0 The key points raised in the relevant submission points primarily relate to the rules and standards for density and height. As discussed above at, PC9 incorporates the MDRS into the Residential 1 zone in accordance with section 80E(1)(a)(i). Modifications to the MDRS informed by Urban Design analysis are proposed to the height and daylight envelope standard in the Residential 2 zone to enable high density residential development.
- 2.0 I note that potential residential amenity affects in relation to the inclusion of the MDRS in the Residential 1 zone cannot be considered by the Council, and that these standards cannot be modified to be less enabling unless qualifying matters are identified to apply.

- 3.0 In relation to modifications to the MDRS in the Residential 2 Zone, the proposed height and daylight envelope is discussed in **Section 8.1.5** above, and are not repeated. In summary, I consider that the recommended amendments to height and daylight envelope will enable high density residential development at a scale and intensity that is in keeping with the built character and amenity expectations of a high density residential zone.
- 4.0 As such, and in the absence of identification of qualifying matters and planning evaluation from the submitters, I consider that the standards for residential unit density and height cannot be amended to enable lesser residential development in response to these submission points.
- 5.0 In relation to submission 86.67 from Kāinga Ora, I consider that the proposed rules which permit the development of up to three residential units on a site a permitted activity in the Residential 2 zone are appropriate. While amendments and modifications are proposed to the standards within the Residential 2 zone to enable high density development, I note that other standards are in accordance with the MDRS, (for example yard setback requirements and building coverage) and these standards are intended to apply to the development of three residential units as a permitted activity,

8.1.6.3.2 Maximum Building Length

- 1.0 The rationale for the maximum building length standard is set out at Section 3.1 of the Urban Design Report (refer Appendix 9 of the Section 32 Report). The Report concludes that the predominant cadastral pattern seen across Rotorua includes sites which are longer than they are wide, and that these sites tend to generate buildings which extend a long way back from street frontages. The increased height enabled by the MDRS therefore has the potential to create a 'wall' of development running perpendicular to the street which can result in a visually dominant built form that can affect the outlook and privacy of neighbouring sites and the amenity of existing residents. Addressing these effects is necessary in my view to effectively achieve RESZ-O4 and O11, insofar as they relate to achieving quality living environments.
- 2.0 Submission 79.11 has been assessed by Mr Wallace in his statement of evidence. Mr Wallace considers that the maximum building length standard should be aligned with the yard standards, and agrees that the proposed standard may be overly restrictive for some building types. Mr Wallace recommends that the maximum building length is increased to 28m, which would enable the construction of a large apartment building at 50 per cent building coverage on a typical 1,000m² site in the Residential 2 Zone, while also allowing for runs of several terraced typologies in accordance with the expectations of both the Residential 1 and 2 Zone. Mr Wallace's analysis illustrates that amendments to the building length standard, in the manner he sets out, would enable land to be used more efficiently (RESZ-O1 & RESZ-O8), while achieving quality living environments (RESZ-O4 & RESZ-O11) and I therefore support them.
- 3.0 The submissions consider that the maximum building length standards do not align with the MDRS and will restrict development. I agree that the notified standard may be overly restrictive of development potential for the development of up to three residential units complying with other standards, which is a permitted activity under the MDRS. In this situation, the potential for visual dominance effects and for a high degree of overlooking to side boundaries is more limited and it is more efficient to target the standard to more intensive developments of four or more units. The example provided in Mr Wallace's evidence from Auckland provides a clear illustration of this. For this reason, I consider that the standard should be amended to exclude the development of up to three residential units.
- 4.0 Having regard to the expert evidence from Mr Wallace and for the reasons given above, I recommend the following amendments in response to the matters raised in the submissions:

- a. That the maximum building length standard excludes development for up to three residential units; and
- b. That the maximum allowable building length above ground level is increased from 22m to 28m, with a minimum building separation of 2m thereafter.

8.1.6.3.3 *Windows to Street*

- 1.0 The rationale for the amendments proposed to the windows to street standard is set out at Section 3.4 of the Urban Design Report (refer Appendix 9 of the Section 32 Report). The Report identifies that the standard under the MDRS has the potential to create unintended consequences, including:
 - a. The reference to doors to satisfy the standard may promote the use of a ranch-slider as a front door, creating potential privacy concerns with visibility to internal spaces;
 - b. Garage doors should be excluded from the glazing requirements of the standard. There are a number of modern plexi or laminate glass garage door configurations that could fulfil a large portion of the required glazing requirements but do not meet the purpose of the standard to promote interaction with the street and passive surveillance; and
 - c. The standard may encourage a proliferation of flat or hipped roofs fronting the street to reduce the area of façade and extent of glazing required. This could have impacts on the overall attractiveness of more intensive development.
- 2.0 I note that the intent of the amendments proposed under PC9 as notified are to:
 - a. Include solid front doors in the calculation of the 20 per cent of required glazing i.e. a solid front door can “count” as part of the 20% glazing;
 - b. Exclude all garage doors (including those that utilise glazing) in the calculation of the 20 per cent of required glazing. This will ensure that there is visibility to rooms within a residential unit, which promotes safer and more attractive building frontages; and
 - c. Exclude the area of roof space that is fully enclosed by a gable roof from the calculation of the total street-facing façade to enable variety in roof forms.
- 3.0 I agree that the wording of the standard can be amended to provide improved clarity and recommend a number of amendments and formatting changes to achieve this, as included at **Appendix 1**. No amendments are recommended to the requirements of the standard as notified under PC9.
- 4.0 Mr Wallace addresses submission 38.15 from Classic Group in his evidence, and I agree with his analysis that the exclusion of garage doors from the façade calculation has the potential to incentivise the proliferation of street facing garages, which would undermine the purpose of the standard.
- 5.0 Having regard to the expert evidence from Mr Wallace and for the reasons given above, I recommend amendments to improve the clarity of the windows to street standard, including a proposed additional diagram.

8.1.6.3.4 *Other Residential Zone Standards*

8.1.6.3.4.1 *Yard Requirements*

- 1.0 In relation to reduced side and rear yards in the Residential 2 Zone, I do not support the amendments sought by Kāinga Ora (86.69). The proposed standards for building height will enable up to six storeys in the Residential 2 zone. In my opinion, the location of a six storey

building with no setback from a side or rear boundary has the potential to create significant adverse effects on neighbouring sites and is not appropriate as a permitted activity.

- 2.0 No amendments are proposed to the yard requirements standard in response to this submission point.

8.1.6.3.4.2 Minimum Size of Residential Units

- 1.0 In relation to the inclusion of the minimum size of residential unit standard and the minimum requirements I agree with the analysis contained in the evidence of Mr Wallace and support the standard proposed under PC9 as notified. The purpose of the standard is to ensure appropriate levels of on-site amenity can be achieved. As smaller units require greater consideration to design and space planning, I consider that the inclusion of a minimum unit size will provide increased certainty to plan users. I note that reductions to residential unit size are assessed as a restricted discretionary activity, and that the matters of discretion and assessment criteria proposed under RESZ-MDA focus assessment matters to the quality and function of residential units.

- 2.0 In relation to submission 86.73 from Kāinga Ora, which seeks to reduce the minimum residential unit size requirements, I note that the minimum areas of 35m² for a studio unit and 45m² for a unit with one or more bedrooms are generally consistent with other district plans across New Zealand, including proximate territorial authorities. I agree with the Urban Design Report which concludes that alignment with other districts will provide greater certainty for the wider development community and increased efficiencies in delivering modular or standardised terraced and apartment typologies over a wider area.

- 3.0 In relation to submission 84.54 from Sigma Consultants, which seeks to include a minimum standard for units of more than one bedroom, I agree with the analysis contained in the evidence of Mr Wallace. In particular, I consider that a minimum size standard for units with more than one bedroom would result in inefficiencies in the development of residential units and enforcement, as the District Plan does not include requirements to identify or specify the number of bedrooms.

- 4.0 Having regard to the expert evidence from Mr Wallace and for the reasons given above, no amendments are recommended to the minimum size of residential unit standard.

8.1.6.3.4.3 Outdoor Living Space

- 1.0 Clause (iii) of the outdoor living space standard proposed under PC9 sets out additional requirement for outdoor living spaces located to the south of buildings on the same site. Submitters sought deletion of the standard as it is not included within the MDRS. Mr Wallace addresses clause (iii) of the outdoor living space standard in his evidence. The purpose of this clause is to ensure that south-facing outdoor living spaces receive adequate sunlight, as modelling indicates that south-facing spaces in multi-unit developments have the potential to receive no sunlight for over half the year. I agree with Mr Wallace's assessment that sunlight is important for the success of outdoor living spaces and contributes to its appearance and overall quality. In my view, ensuring adequate sunlight access to outdoor living spaces will contribute to achieving healthy, safe, and quality living environments for residents (RESZ-O4 & RESZ-O11).

- 2.0 Mr Wallace identifies that effects in relation to sunlight access to south facing outdoor living spaces are more likely to be relevant considerations for four or more residential units, where space is at a greater premium. Mr Wallace considers that it would be appropriate to amend clause (iii) to exclude the development of up to three residential units, and to allow communal outdoor living spaces to count towards meeting the requirements. Individual south-facing

outdoor living spaces would not be required to comply with the requirements in clause (iii) if communal open space that can satisfy the standard is also provided as part of the development.

- 3.0 I agree with Mr Wallace's analysis and support the amendments recommended in his evidence. I consider that effects in relation to sunlight access to south facing outdoor living spaces are more limited in developments containing up to three residential units, and it is more efficient to target the standard to more intensive developments of four or more residential units where there are likely to be greater space constraints. I also consider that the amendments to allow communal outdoor spaces will facilitate greater design flexibility and enable the efficient use of land (RESZ-O1 & RESZ-O8). For these reasons, I recommend that clause (iii) of the outdoor living space standard (RESZ-S6(2)(a)) is amended to exclude up to three residential units and to allow communal outdoor living space to count towards meeting the requirements.

8.1.6.3.4.4 Landscaped Area

- 1.0 Clause (c) of the landscaped area standard proposed under PC9, requires that at least 50 per cent of the area of the front yard must comprise landscaped area. I acknowledge that the proposed standard is additional to the requirements of the MDRS, however, as identified in the statement of evidence prepared by Mr Wallace, the purpose of this standard is to provide an acceptable level of streetscape amenity. In particular, the standard seeks to avoid fully concreted front yards in a residential environment.
- 2.0 Mr Wallace considers that the requirement to provide at least 50 per cent of landscaping within the front yard provides flexibility in design and acknowledges the potential for vehicle and pedestrian access. In addition, it is noted that the required 1.5m front yard provides sufficient room for well-designed and visually attractive low level plantings. I agree with Mr Wallace's analysis that fully concreted front yards in a residential environment would achieve poor quality outcomes for the design quality and attractiveness of public spaces and that this would be inconsistent with RESZ-O3 and RESZ-O10, which seek attractive and safe streets.
- 3.0 No amendments are proposed to the standard for front yard landscaping in response to submission points.

8.1.6.3.4.5 Fencing

- 1.0 Mr Wallace addresses the fencing standard in his evidence. I support the inclusion of the fencing standard and agree with the analysis of Mr Wallace that the purpose of the fencing standard ensures that front fencing maintains an appropriate level of passive surveillance to the street. I also note that the fencing standard would not impact the density of development achievable on a site, and is an additional method to ensure development contributes to attractive and safe streets (RESZ-O3 & RESZ-O10), which is a typical design response used in medium and high density environments across New Zealand.
- 2.0 No amendments are proposed to the fencing standard in response to submission points.

8.1.6.3.5 *Assessment of Four or More Dwellings and Specific Non-compliance Matters*

- 1.0 In relation to Kāinga Ora's submission points on simplifying the matters of discretion, I agree that the matters proposed under PC9 as notified can be simplified to concise matters to provide greater clarity and focus on the range of effects or matters that would be relevant to consider for multi-unit development and/or rule infringements.
- 2.0 In response to these submission points, I recommend amendments to RESZ-MDA and RESZ-MDB to include simplified matters of discretion supported by more detailed assessment

- criteria, as included at **Appendix 1**. The recommended matters of discretion and assessment criteria primarily retain the wording included under PC9 as notified. Formatting changes are also adopted to improve plan clarity.
- 3.0 In my opinion, it would also be beneficial to retain the more detailed assessment considerations as assessment criteria to provide greater clarity and certainty to plan users. This is because PC9 will enable significantly greater residential development potential, and at an increased scale and intensity, than the operative District Plan. Retaining detailed assessment criteria will provide additional clarity to all plan users on the anticipated design outcomes to be achieved through the resource consent process.
- 4.0 Further additions are recommended to the preamble text for RESZ-MDA (specific non-compliance matters). The purpose of this is to provide clarification on the relevant matters to be considered where resource consent is required for non-compliance with the standards. The amendment also seeks to recognise that the assessment criteria do not preclude other appropriate design responses. This will enable site specific design responses, design innovation, and improved efficiencies. It also provides an appropriate degree of design flexibility.
- 5.0 In relation to submission 79.14 from Cheal Consultants Limited, I note that parking and turning standards are included at Appendix APP1 of the District Plan. I consider that Appendix APP1 is an appropriate means to manage the safe and efficient functioning of the transport network and do not support the duplication of traffic considerations under RESZ-MDA.
- 8.1.6.4 Recommendation**
- 1.0 For the reasons given in the above assessment, I recommend the following amendments (also refer to **Appendix 1**) to the Residential Zones chapter:
- a. Amendments to the maximum building length standard to exclude development consisting up to three residential units and that the maximum allowable building length above ground level is increased from 22m to 28m with a 2m separation thereafter.
 - b. Amendments to the windows to street standard to improve clarity;
 - c. Amendments to clause (iii) of the outdoor living space standard to exclude development up to three residential units; and
 - d. Amendments to the matters of discretion to include simplified matters of discretion and associated assessment criteria, as well as preamble text to improve clarity.
- 2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.
- 8.1.7 Rest Homes / Retirement Villages**
- 8.1.7.1 Scope of Proposed Amendments**
- 1.0 Rest homes are a discretionary activity in the Residential 1 and 2 zones under the operative District Plan, and are defined under the Interpretation chapter as:
- A multi-unit housing facility intended for the elderly where additional facilities are provided which may include provision of meals, gathering spaces, recreation, and some form of wellness or medical facilities.*
- 2.0 The notified version of PC9 does not include amendments to the provisions for rest homes in the Residential zone chapter.

8.1.7.2 Background & Submissions

- 1.0 Submissions by RVA raised a number of matters in relation to the management of rest homes under PC9, including:
- a. The need for the residential policy framework to recognise and provide for retirement villages as a form of housing;
 - b. The appropriate activity status for retirement villages and the construction of retirement villages and associated matters of discretion for assessment;
 - c. The application of residential zone standards in relation to retirement villages.
- 1.0 A pre-hearing meeting was held with representatives of RVA on 5 May 2023 to discuss the above matters, and several subsequent discussions took place thereafter.
- 2.0 In response to the submissions by RVA, a number of amendments are recommended to the Residential 1 and 2 Zone provisions in relation to rest homes. These amendments are in accordance with Section 80E(1)(b)(iii)(A) as they are considered to be related provisions that support the application of the MDRS.
- 3.0 The submissions by RVA consider that rest homes play an important role in accommodating an ageing population, and that PC9 represents an opportunity to better enable the provision of a diverse range of housing, including retirement housing and care options. In summary, the submission makes the following key points in relation to rest homes across the District Plan and under the Residential zone chapter:
- a. Amend the terminology from ‘rest homes’ to retirement villages’;
 - b. Amend the objectives and policies to incorporate rest home specific considerations and enable the development of rest homes;
 - c. A new restricted discretionary rule for the construction of buildings for a retirement village in recognition that retirement villages are a form of four or more residential units, and because retirement villages require a focused set of assessment matters to provide for the differences between other residential activities;
 - d. Applications for residential activities that are anticipated in residential zones should not be publicly notified as it is a significant cause of cost and delay within the consenting process; and
 - e. Amend the residential zone standards to incorporate rest home specific considerations.

8.1.7.3 Evaluation

- 1.0 I consider that the amendments sought by RVA in relation to rest homes are not necessary for PC9 as they do not relate to the implementation of the MDRS or Policy 5 of the NPS-UD.
- 2.0 Notwithstanding, I provide an assessment on the merits of the submissions below.

8.1.7.3.1 Terminology and Definition

- 1.0 PC9 is not a full plan review, and includes amendments to implement the MDRS and intensification directions of the NPS-UD to enable additional housing capacity and choice within Rotorua. As set out in Section 32 Report, PC9 only applies the National Planning Standards to align to the zoning framework and descriptions for Medium and High Density Residential Zones, and relevant definitions where appropriate.

- 2.0 I consider it appropriate to retain the operative District Plan terminology and definition for rest homes to maintain consistency across the District Plan, as amendments across other chapters are outside of the scope of PC9.
- 3.0 I note that the operative definition for rest homes remains fit for purpose in terms of providing for multi-unit housing and accessory activities that meet the needs of an ageing population.
- 4.0 Notwithstanding, I consider that the inclusion of a new definition for 'rest home units' would be appropriate to provide clarity in terms of how a number of the Residential zone performance standards are to apply to rest homes. The following definition is recommended and would only apply in the Residential 1 and 2 zones:

Rest home unit:

A unit within a rest home that is designed to be used for a residential activity. A rest home unit is not a residential unit.

8.1.7.3.2 Framework for Rest Homes in the Residential 1 and 2 Zones

- 1.0 The request by RVA to include an additional rule for the construction of buildings for a rest home as a restricted discretionary activity is supported in part. I agree that rest homes are a residential activity and that the potential effects associated with building scale and intensity are comparable to the development of four or more residential units, particularly where development is compliant with the building bulk and location standards.
- 2.0 In relation to the activity status, I consider that the development of rest homes within the Residential 1 and 2 Zones is comparable to the development of four or more residential units, and that the range of potential effects associated with building scale and intensity can be readily identified. A restricted discretionary activity status, consistent with the development of four or more residential units, is therefore considered appropriate to address the relevant effects of rest homes through the resource consent process. Consequential amendments are also proposed to RESZ-P1 and RESZ-P10 to specifically reference rest homes as a type of housing enabled in the Residential 1 and 2 Zones.
- 3.0 However, the operative District Plan does not differentiate between an activity and the construction of new buildings in the Residential 1 and 2 Zones. Given the purpose and scope of PC9, maintaining the existing approach is considered to be the most effective and efficient means to manage the development of rest homes. Amendments are therefore recommended to RESZ-R11 to provide for rest homes within the Residential 1 and 2 Zones as a restricted discretionary activity where four or more rest home units are proposed.
- 4.0 This will provide a consistent approach between the development of rest homes and the MDRS, while also retaining the existing district plan structure, which is not proposed to be amended under PC9.
- 5.0 In relation to performance standards to be complied with for rest homes, I consider that all standards which manage building bulk and location are relevant to potential effects associated with residential character, amenity, and visual amenity. In terms of on-site amenity, I agree that rest homes have different functional requirements to residential units and that differing outcomes for on-site amenity may be appropriate.
- 6.0 **Table 9** below includes an assessment of the applicability of Residential 1 and 2 zone performance standards to rest homes and the recommended approach under PC9.

Table 9: Assessment of the applicability of the Residential 1 and 2 zone performance standards to rest homes.

Standard	Relevance to rest homes and assessment	Recommendation for rest homes
RESZ-S1 Maximum height and daylight envelope	This standard is relevant as it seeks to manage the scale, bulk, and location of buildings.	Apply the standard with no modifications.
RESZ-S2 Yard requirements	This standard is relevant as it seeks to manage the scale, bulk, and location of buildings.	Apply the standard with no modifications.
RESZ-S3 Site coverage	This standard is relevant as it seeks to manage the scale, bulk, and location of buildings and impermeable surfaces for stormwater management.	Apply the standard with no modifications.
RESZ-S4 Residential unit density	Under PC9, this standard does not apply to the Residential 1 and 2 zones.	Do not apply the standard. This is in accordance with the proposed deletion of this standard under PC9.
RESZ-S5A Servicing	This standard is relevant as it seeks to manage servicing for developments where there is no connection to the public reticulated water supply.	Apply the standard with no modifications.
RESZ-S5 Parking, access and turning	This standard is relevant as it seeks to manage the provision of parking, access and turning.	Amend the standard to include rest home units.
RESZ-S6A(1) Minimum size of residential units (Residential 1 and 2 zones)	This standard is not relevant as rest home units have separate functional requirements to residential units, and the minimum size required may not be fit for purpose.	Do not apply the standard to rest homes in the Residential 1 and 2 zones – no modifications are needed to the standard as the standard is only applicable to residential units. Address on-site amenity through the matters of discretion to provide design flexibility.
RESZ-S6A(2) Outdoor living space (per unit)	This standard is relevant as the provision of outdoor living space contributes to the quality of on-site living environments for residents. However, due to the functional requirements of rest homes, on-site amenity for rest home residents may be achieved through other design outcomes such as communal indoor living spaces.	Amend the standard to include specific considerations for rest homes and rest home units.
RESZ-S6A(3) Outlook Space (per unit) (Residential 1 and 2 Zones)	This standard is not relevant as rest home units have separate functional requirements to residential units such that the design requirements for outlook space within the site may not be applicable. However, this standard is relevant to the external	Amend the standard to only apply at the external boundaries of the site where a rest home is proposed. Address on-site amenity through the matters of discretion to provide design flexibility.

Standard	Relevance to rest homes and assessment	Recommendation for rest homes
	boundaries of the site as the requirement for outlook space at these boundaries also seeks to manage the privacy effects relative to neighbouring sites.	
RESZ-S6A(4) Windows to street (Residential 1 and 2 Zones)	This standard is relevant as it seeks to manage the interface between buildings and the street.	Apply the standard with no modifications.
RESZ-S6A(5) Maximum building length (Residential 1 and 2 Zones)	This standard is relevant as it seeks to manage the scale, bulk, and location of buildings.	Apply the standard with no modifications.
RES-S6A(6) Landscaped area (Residential 1 and 2 Zones)	This standard is relevant as it seeks to manage on-site amenity outcomes and the interface between buildings and the street.	Amend the standard to include rest home units.
RESZ-S6A(7) Fencing (Residential 1 and 2 Zones)	This standard is relevant as it seeks to manage the interface between buildings and public spaces.	Apply the standard with no modifications.

7.0 In relation to the applicable matters of discretion and assessment criteria, I consider the notified provisions within RESZ-MDB for four or more residential units are fit for purpose for the assessment of rest home developments, including effects associated with:

- a. The attractiveness of streets and open spaces;
- b. On-site amenity;
- c. Neighbouring sites;
- d. Parking, access, and servicing; and
- e. Infrastructure servicing.

8.0 Consequentially, the following amendments are recommended to RESZ-MDB, with associated assessment criteria, to manage additional effects associated with rest homes:

- a. **Whether the development has been designed to visually integrate with the planned residential character of the of the zone and manage effects on adjoining sites:** This provision seeks to recognise that rest homes may include larger buildings and more intensive access and parking arrangements compared to residential units, as well as non-residential activities and buildings; and
- b. **The quality of on-site amenity:** This provision seeks to recognise that privacy between residents and sunlight access are relevant considerations in multi-unit rest home developments and important factors in achieving a quality built environment, but does so in a way that provides greater flexibility and recognises functional requirements

9.0 An assessment of the options considered in response to submissions in accordance with Section 32AA is provided in **Table 10** below.

Table 10: Section 32AA assessment of recommended amendments to the management of rest homes in the Residential 1 and 2 Zones.

Description of Option	Option 1 Apply RESZ-R11 in the operative District Plan where rest homes require resource consent for a discretionary activity in all Residential zones, including the Residential 1 and 2 zones.	Option 2 <i>Amend RESZ-R11 where:</i> <i>Rest homes with no more than three rest home units per site complying with performance standards are a permitted activity in the Residential 1 and 2 zones.</i> <i>Rest homes with four or more rest home units per site complying with performance standards as a restricted discretionary activity in the Residential 1 and 2 zones.</i> <i>Rest homes in the Residential 3, 4, and 5 zones are a discretionary activity.</i>
Efficiency and Effectiveness in Achieving Objectives RESZ-O1: Land is used efficiently for medium density residential living that increases housing supply and choice. RESZ-O8: Land that has good accessibility ..., is efficiently used for high density urban living that increases housing supply and choice. RESZ-O3/10: Development contributes to attractive and safe streets and open spaces. RESZ-O4/11: Development provides healthy, safe and quality living environments that contribute to the well-being of residents.	This option is efficient in achieving the RESZ-O3, RESZ-10, RESZ-O4, and RESZ-O11 as requiring a resource consent for a discretionary activity will ensure that all relevant considerations for the design quality of the development can be assessed through the resource consent process. This option is less efficient than Option 2 in terms of enabling the efficient use of land within the Residential 1 and 2 zones to increase housing supply and choice as the discretionary activity status for rest homes may restrict or delay the development of rest homes and/or rest home units.	This option is efficient and effective at achieving the relevant objectives as the restricted discretionary activity status will ensure quality design outcomes for larger scale rest homes exceeding four or more rest home units can be assessed through the resource consent process. The restricted discretionary activity status will also provide improved efficiencies to the resource consent process by providing certainty to all plan users.
Costs and Benefits	This option ensure that all potential environmental effects of rest homes are assessed through the resource consent process, however may create increased consenting costs and reduced certainty for the development of rest homes. This option may also constrain or delay the development	This option provides an efficient framework to manage the development of larger scale rest homes and/or rest home units as a restricted discretionary activity through the resource consent process. Although decision makers have limited discretion to consider environmental effects, it is considered that the potential effects are comparable to that of four

	of rest home and/or rest homes units that contribute to housing choice within Rotorua.	or more residential units, and can be readily identified and assessed through the proposed matters of discretion and assessment criteria.
Risks	There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.	
Summary	Option 2 is the preferred option as it will: • In accordance with RESZ-O1 and RESZ-O8, enable the efficient use of land within the Residential 1 and 2 zone to increase housing supply and choice by providing a more enabling planning framework through a restricted discretionary assessment criteria. This is consistent with the assessment approach to four or more residential units on a site under the MDRS; • In accordance with RESZ-O3 and RESZ-10, ensure that effects of building scale and intensity on the attractiveness and safety of the street are assessed and managed through the resource consent process; and • In accordance with RESZ-O4 and RESZ-O11, ensure that developments achieve quality living environments that contribute to the well-being of residents through the resource consent process.	

8.1.7.3.3 Notification

- 1.0 The MDRS includes public and limited notification preclusions for the construction and use of four or more residential units that comply with the density standards. As discussed above, it is considered that rest homes are a residential activity and that the associated effects are comparable to that of four or more residential units. In my view their potential effects can be readily identified, and where compliance can be achieved with relevant performance standards, the Council is unlikely to obtain any additional information through notification. I also note that the additional recommended matters of discretion and assessment criteria above include consideration of additional effects specific to rest homes, including visual effects of accessory non-residential activities and the location and design of vehicle access, parking areas and main building entrances.
- 2.0 As such, I consider that it would be appropriate to apply the same notification preclusions to the development of rest home units where compliance can be achieved with the performance standards identified in **Table 9** above.

8.1.7.4 Recommendation

- 1.0 For the reasons given in the above assessment, I recommend the following amendments (also refer to **Appendix 1**) to the Residential Zones chapter in response to the submission points by RVA that relate to the management of rest homes under PC9:
- a. Amendments to RESZ-P1 and RESZ-P10 to recognise that rest homes are an anticipated housing typology within the Residential 1 and 2 zones;
 - b. Inclusion of a new policy that seeks to manage the design and layout of rest homes while recognising their functional requirements;
 - c. Amendments RESZ-R11 to include a restricted discretionary activity status for rest homes containing four or more rest home units in the Residential 1 and 2 zones;
 - d. Identification of relevant performance standards to be complied;
 - e. Amendments to RESZ-R11 to include notification preclusions for rest homes where all performance standards are complied with; and
 - f. Amendments to RESZ-S5, RESZ-S6A(2), and RESZ-S6A(3) to include rest home units and/or specific requirements for rest home units to recognise their functional requirements;
 - g. Amendments to the RESZ-MDB to include additional matters of discretion and assessment criteria in relation to the anticipated effects of rest homes; and
 - h. Amendments to the Interpretation chapter to include a new term and definition for 'rest home unit'.
- 2.0 Submissions to be accepted or rejected and individual responses to submission points are set out at **Appendix 3**.

8.1.8 Subdivision in Residential Zones

8.1.8.1 Scope of Proposed Amendments

- 1.0 Amendments are proposed to the Subdivision chapter of the District Plan to incorporate the MDRS and other related and consequential changes, which include:
- a. Amending the minimum net site area for vacant lots in the Residential 1 zone from 350m² to 250m²;

- b. Amending the minimum net site area for vacant lots in the Residential 2 Zone from 150m² to 250m²;
 - c. Requiring a design factor for vacant lots in the Residential 1 and 2 Zones and for these lots to accommodate a rectangle of 8m by 15m that can accommodate a compliant building; and
 - d. Amendments to specify that subdivision performance standards for minimum lot size and shape factors do not apply to subdivision in accordance with land use consents or existing development.
- 2.0 PC9 includes the above amendments to the Subdivision chapter to incorporate the MDRS and consequential changes to the provisions for residential subdivision. These amendments are made in accordance with sections 80E(1)(a) and 80E(1)(b)(iii) of the Act.
- 8.1.8.2 **Submissions**
 - 1.0 Three submissions were received in relation to the proposed minimum lot size requirements and design factor. In summary, the submissions requested:
 - a. Nelson, L (26.14) sought a 300m² minimum vacant lot size in the Residential 1 zone;
 - b. Classic Group (38.3, 38.4) sought to delete the minimum lot size requirement and site design factor requirements in the Residential 1 and 2 zones;
 - c. Kāinga Ora (86.35) sought to delete the minimum lot sizes for the Residential 2 zone and only apply a shape factor of an 8m by 15m rectangle.
 - d. Cheal Consultants Limited sought to amend the non-notification clause. They consider that it is ambiguous and not clear around where notification is required.
- 8.1.8.3 **Evaluation**
 - 1.0 Mr Wallace addresses submission 86.35 in his evidence and supports the removal of this standard on the basis of design testing undertaken. I acknowledge this evidence, while noting that further evidence from submitters would assist me to form a view on this matter.
- 8.1.9 **Relevant Definitions**
 - 8.1.9.1 **Scope of Proposed Amendments**
 - 1.0 PC9 includes limited amendments to definitions relevant to the residential zone in order to enable the implementation of the MDRS and to achieve consistency with the National Planning Standards where appropriate.
 - 1.0 As PC9 is not a full plan review and has a limited scope to the amendments needed to implement the intensification policies of the NPS-UD and the RMA as amended, alignment with other definitions under the National Planning Standards cannot occur as part of this process.
 - 2.0 The amendments to relevant residential definitions proposed under PC9 are related provisions which support or are consequential on the MDRS or Policy 5 in accordance with Section 80E(1)(b)(iii) of the Act.
 - 8.1.9.1.1 **Submissions**
 - 1.0 The following submissions were received in relation to definitions that are relevant to the Residential Zones chapter.
 - 2.0 Nelson, L (26.1) sought to delete the definitions for 'access site' and 'access way' to adopt the definition of 'nett site area' in accordance with Tauranga City Council. They consider that the purpose of these terms is in relation to net site area.

- 3.0 Nelson, L (26.4, 26.9) sought to amend the definitions for 'building footprint' and 'building coverage' and 'yard' to enable eaves to overhang.
- 4.0 Nelson, L (26.5) and Sigma Consultants (84.50, 84.58) sought to reinstate the definition of 'daylight envelope' as it is still applicable in the rural zone.
- 5.0 Nelson, L (26.6) sought to delete the definition for 'minor residential unit' (proposed to be amended from 'minor household unit' under PC9) as the rural chapter has an inconsistent performance standard to this definition.
- 6.0 Nelson, L (26.7, 26.8) sought to amend the definition for 'rear site' to align with the Tauranga City Council or Hamilton City Council.
- 7.0 Classic Group sought (38.2) sought to amend the definition of 'principal living room' to also include reference to a family room to acknowledge that a family room may be the principal living room.
- 8.0 Ministry of Education (52.2) sought to include a definition of 'additional infrastructure' in accordance with the NPS-UD.
- 9.0 Ara Poutama Aotearoa the Department of Corrections ('**Department of Corrections**') (71.3) sought to include a new definition of 'household', which is referred to under the definition of 'residential unit' as proposed under PC9. This was opposed by Kainga Ora and S Gifford. Kainga Ora stated clarity is needed about how this definition relates to other activities in the plan such as boarding houses and rehabilitation facilities. S Gifford said that this is not in the scope of PC9 and should be subject to a separate process so the whole community can be fully engaged. Such fundamental changes should not be allowed to slip through.
- 10.0 Glembrae Village Limited (81.2) sought to amend the definition of 'residential building' to include independent retirement units, apartments, or villas contained in a retirement village. They also sought amendments to the definition of 'rest home' to exclude independent retirement units, apartments, or villas established in addition to an existing rest home or retirement village.
- 11.0 Kāinga Ora (86.5) sought amendments to the definition of 'minor residential unit' in accordance with the National Planning Standards.
- 12.0 RVA (88.1) sought to amend the definition of 'comprehensive residential development' to exclude retirement villages.
- 13.0 Amendments sought by RVA in relation to the definition of rest homes are addressed in **Section 8.1.7**. In summary, no amendments are recommended to the definition of 'rest home'.

8.1.9.2 Evaluation

- 1.0 The evaluation of submissions received for key terms and definitions under PC9 is included at **Table 11** below.
- 2.0 In relation to amendments to the definition of 'residential building' and 'comprehensive residential development' sought by Glembrae Village Limited, I consider that the recommended definition of 'rest home unit' and amendments to RESZ-R11 as discussed in **Section 8.1.7** will provide an appropriate response and improve clarification on the applicable rules that apply to rest homes and rest home units.

Table 11: Evaluation of submissions received in relation to relevant Residential zone definitions.

Definition	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
Access site and access way	Inclusion of new term and definition access site and access way (or entrance strip)	Adopt related alternative definition of net site area of Tauranga City Council	I consider that the proposed definitions are provide greater clarity to delineation between an access and the net site for rear sites. I note that the term is relevant to the implementation of the height in relation to boundary plane in accordance with the MDRS.	Retain the definitions proposed under PC9
Building coverage (or site coverage for buildings)	Inclusion of new term and definition.	Amend the definition to be more enabling for overhanging eaves (Nelson, L 26.4).	The Operative district plan includes a definition of 'site coverage' and related standard under RESZ-S3 which manages the 'maximum site coverage for buildings'. PC9 includes amendments to RESZ-S3 to incorporate the MDRS in the Residential 1 and 2 zones, and therefore seeks to amend the definition for 'site coverage' to refer to 'building coverage', and include a definition for 'building coverage' to implement the MDRS and achieve consistency with the National Planning Standards.	Retain the term and definition as proposed under PC9 as notified.
Building footprint	Inclusion of new term and definition.	Amend the definition to be more enabling for overhanging eaves (Nelson, L 26.4).	The inclusion of this term is a consequential amendment to the inclusion of the term 'building coverage'. The term 'building footprint' is referred to in the term 'building coverage'. The proposed definition is also consistent with the National Planning Standards.	Retain the term and definition as proposed under PC9 as notified.
Household	No definition proposed but term is used in definition of residential unit	Include a definition of household (Ara Poutama, 71.3)	I consider that the plan and common meaning of the term 'household' is sufficient for implementation of the plan. I note that the National Planning Standards do not define 'household'.	Do not include a definition under PC9.
Yard	Consequential amendments to the definition in the	Amend the definition to be more enabling for	The proposed amendments to the 'yard' definition under PC9 are consequential to the inclusion of the MDRS yard standards under RESZ-S2 in the	Retain the term and definition as

Definition	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
	operative District Plan to delete exemptions for eaves up to 0.6m which intrude into the required yard setback.	overhanging eaves (Nelson, L 26.9).	Residential 1 and 2 zones, where required yard setbacks have been reduced to 1.5m for front yards and 1m for side and rear yards. Due to the reduced yard setback requirements, I consider that enabling eaves up to 0.6m to intrude into the required yard setback as a permitted activity has the potential to result in inappropriate built form and visual amenity outcomes.	proposed under PC9 as notified.
Daylight envelope	Deletion of term and definition.	Reinstate the term and definition (Nelson, L 26.5; Sigma Consultants (84.50, 84.58).	The operative District Plan includes a definition which defines the daylight envelope as a height of 3m above natural ground level that rises at a 45-degree angle. I agree that as this term is referred to in other chapters of the District Plan, for example RURZ-S1 which requires buildings to not extend outside of the daylight envelope, it would be more efficient to retain the term and definition under the Operative District Plan to avoid uncertainties for interpretation. Amendments are recommended to the definition to clarify the zones that it applies to.	Retain the term and definition under the operative District Plan.
Minor residential unit	Amend 'household' to 'residential' in the term and definition.	Amend the definition to be consistent with the National Planning Standards (Kāinga Ora 86.5). Delete the term and definition (Nelson, L 26.5).	The operative District Plan defines a 'minor household unit' as 'a household unit that does not exceed 72m ² excluding garaging'. However, as noted by L Nelson, the Rural Zones chapter has a different size limit of 72m ² gross floor area. PC9 seeks to introduce the term 'residential unit' in place of 'household unit' to achieve consistency with the MDRS and National Planning Standards, which I support. I consider that also including the national planning standards definition would improve clarity by expressing what I understand to be the interpretation in practice of a minor	Accept in part. Adopt the proposed change in terminology from minor household unit to minor residential unit and insert the national planning standard definition. Also retain existing intent with additional specification of size for Rural Zones (not

Definition	Summary of Amendments proposed under PC9	Summary of Relief Sought	Evaluation	Recommendation in Response to Submissions
			residential unit, that is, that it is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit. Clarity would be further improved by including the size limitations for the various zones.	exceed 72m ² gross floor area) and other zones (72m ² excluding garaging).
Principal living room	Inclusion of new term and definition.	Amend the definition to include reference to a 'family room' (Classic Group 38.2).	This term is relevant to the implementation of the outlook space standard in accordance with the MDRS. In my opinion, the definition as notified under PC9, which refers to the 'main living and dining room in a residential unit' is appropriate as the plain and common meaning will include a range of residential unit design and layout scenarios, and would include a family room.	Retain the definition as proposed under PC9 as notified.
Rear site	Amendments to the definition.	Amend the definition to be consistent with Tauranga City Council or Hamilton City Council (Nelson, L 26.7, 26.8).	I note that neither the Hamilton City Operative District Plan (operative April 2023) or proposed plan change 12 and Tauranga City Plan (operative April 2023) or proposed plan change 33 include a definition for 'rear site'. In the absence of clear relief sought by the submitter, I recommend that no amendments are made to the definition of 'rear site' proposed under PC9.	Retain the definition as proposed under PC9 as notified.

8.1.9.3 Recommendation

- 1.0 For the reasons given in the above assessment, I recommend Interpretation chapter is amended to reinstate the term and definition for 'daylight envelope' under the operative District Plan. Amendments are recommended to exclude the Residential 1 and 2 zones to ensure clarity as the performance standard under RESZ-S1 refers to a 'daylight envelope'.
- 2.0 No other amendments are proposed in response to the submission points.

8.2 Residential 3 Zone

- 3.0 This section has been prepared by Anna Bindon and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to the Residential 3 Zone.

8.2.1.1 Scope of Proposed Amendments

- 1.0 PC9 does not propose to include the Medium Density Residential Standards ('MDRS') in the Residential 3 zone on the basis that a qualifying matter applies under Section 77I(a) of the Resource Management Act 1991 ('RMA')— a matter of national importance under section 6(e): the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- 2.0 The Section 32 Report for the plan change provides an explanation for proposing to maintain the existing planning framework for the Residential 3 Zone. This recognition is attributed to the exceptional and distinct nature of the Ōhinemutu, Whakarewarewa, and Ngāpuna villages within the district and their significance to the hapū who reside in the villages. Additionally, the Section 32 Report outlines the evaluation requirements of Section 77J, which assesses the provisions proposed to be retained and applied to the Residential 3 Zone under PC9 in the District Plan.

8.2.1.2 Background & Statutory Context

- 1.0 The urban environment of Rotorua includes three Māori villages, Ōhinemutu, Whakarewarewa, and Ngāpuna. These villages are acknowledged through the distinct "Residential 3 Zone", which is specifically designed to uphold their cultural value within the district. The zoning framework includes specific provisions that aim to reflect the cultural significance of these villages.
- 2.0 This recognition and protection are achieved through separate standards that encompass reduced maximum building heights, increased density, smaller front yards, and reduced site coverage. Overall, the provisions for the Residential 3 Zone reflect a different character, where buildings are generally smaller in scale, no higher than marae, but can be clustered together with less separation.
- 3.0 Section 77I of the Amendment Act stipulates that a territorial authority may make the MDRS and the relevant building height or density requirements within a relevant residential zone less enabling of development only to the extent necessary to accommodate one or more qualifying matter. This includes a matter of national importance that decision makers are required to recognise and provide for under section 6 (Section 77I(a)).
- 4.0 Based on feedback received from the hapū of Ōhinemutu, Whakarewarewa and Ngāpuna through engagement in 2022 on PC9, and submissions received, in my view, the values and characteristics of villages are considered to be a s6(e) (RMA, 1991) matter of national importance and provides for the relationship of Maori and their culture and traditions with their ancestral, lands, water, sites, waahi tapu and other taonga. For this reason, in my view, the Residential 3 zone can be considered a qualifying matter under Section 77I RMA.

5.0 The Section 32 Report, along with Appendix 19 - Consultation Report, details the community engagement conducted with the landowners and occupiers of each village prior to notifying PC9. The engagement process included surveys to ascertain the values attributed to each village and to determine the suitability of applying the MDRS within the respective villages. Additionally, hui (community meetings) were organised to discuss the implications of the Amendment Act and to gain insight into the aspirations of each community. The surveys and hui revealed that the application of the MDRS was deemed inappropriate by each village community due to various cultural reasons. A summary of the specific reasons identified for each village is outlined below.

8.2.1.2.1 *Ōhinemutu*

1.0 Generations ago, Ōhinemutu was established as a vital hub for the expression of belonging, identity, kawa, and tikanga for Ngāti Whakaue. The cultural significance of Ōhinemutu is further enhanced by its three marae: Te Papaïouru, Paratehoata me Te Kohea, which foster a strong and vibrant hapū and iwi life both within and beyond Ōhinemutu. Within the pā, numerous other important community spaces can be found, such as the churches of St. Michaels and St. Faiths, Muruika urupā, Te Ao Mārama Hall, and the Tipu Ora medical centre. Surrounding Ōhinemutu, there are also many ancestral treasures and notable landmarks like Te Rotoruanui a Kahumatamomoe, ngāwhā, Tiki, te Ruapeka, te Utuhina, Te Kuirau, and Pukeroa, which extend to the broader wāhi tupuna of Ngāti Whakaue rohe. As the original township and birthplace of the wider Rotorua Lakes District, Ōhinemutu remains the heart of the modern city. The geothermal features that permeate the village are not only used for everyday activities but also contribute to the cultural significance of Ōhinemutu. Much of Ōhinemutu consists of Māori land, and homes within the pā are often passed down through extended whānau. The narrow roads, one-storey and two-storey homes, and the close proximity of buildings, compared to the rest of the district, foster a sense of a tightly-knit community.



Map 4: Showing an outline of Ōhinemutu Village – Residential 3 Zone



Figure 3: Showing character of Ōhinemutu Village



Figure 5: Showing character of Ōhinemutu Village



Figure 6: Showing character of Ōhinemutu Village

- 2.0 Ōhinemutu includes distinctive cultural and architectural attributes that set it apart from the rest of the Rotorua District. Engagement indicated that the existing built form and character of Ōhinemutu play a significant role in preserving its cultural heritage. Feedback received emphasised that any future development within Ōhinemutu should be situated in close proximity to the marae and geothermal features. The consulted Iwi and hapū expressed a general consensus that applying the Medium Density Residential Standards (MDRS) would be unsuitable due to the village's cultural significance.

8.2.1.2.2 *Whakarewarewa*

- 1.0 Whakarewarewa stands as an ancestral kāinga, deeply rooted in the heritage of Tūhourangi Ngāti Wahiao. The presence of the Puarenga River and an abundance of geothermal features throughout the village not only contribute to its unique historical and cultural significance but

also shape the very essence of its people's identity. At the heart of this community lies Te Pakira marae, a prominent symbol that embodies the spirit of belonging, identity, kawa, and tikanga for Tūhourangi Ngāti Wahiao. It serves as a focal point for a resilient and lively hapū and iwi life. Furthermore, Whakarewarewa holds a significant place in the historic guiding activities initiated by Tūhourangi Ngāti Wahiao in the late 1880s, which continue to be practiced to this day. These activities exemplify the values of manaakitanga (hospitality) and rangatiratanga (leadership). Presently, Whakarewarewa is characterized by its narrow streets and one-story buildings, constructed in close proximity to one another compared to the surrounding district. The majority of these structures are wooden, weatherboard dwellings that create a sense of community cohesion. As the Village is situated on Māori land, the passing down of homes within the Village reflects the ongoing whakapapa connections and intergenerational bonds of its residents.



Map 5: Showing an outline of Whakarewarewa Village – Residential 3 Zone



Figure 7: Showing character of Whakarewarewa Village



Figure 8: Showing character of Whakarewarewa Village



Figure 9: Showing character of Whakarewarewa Village

- 2.0 Whakarewarewa is a distinct village within Rotorua, renowned for its cultural significance. The built form of Whakarewarewa is characterized by narrow roads and modest single-storey houses of a variety of architectural styles, ensuring that they do not overshadow the marae. Overall, the survey responses strongly indicated that due to the cultural significance of Whakarewarewa, the application of the Medium Density Residential Standards (MDRS) would be deemed inappropriate.

8.2.1.2.3 Ngāpuna

- 1.0 Ngāpuna, an esteemed historic kāinga and village, holds a significant place for the three hapū of Ngāti Whakaue and Tūhourangi. It serves as a focal point for the ongoing expression of hapū belonging, identity, kawa, and tikanga. The presence of two marae, Hinemihi and Hurunga o te Rangi (along with their associated urupā), embodies the vitality of hapū life and symbolizes the enduring strength of mana whenua on this land. Surrounding Ngāpuna, there are precious taonga tuku iho such as the Puarenga River, numerous geothermal features, Te Papa a Ruamoa, historic wetlands and Rotorua Lake itself. Dwellings in the area typically consist of single-storey structures, many of which were constructed during the mid-1950s to 1970s. The land composition in the region comprises a mixture of general land and Māori freehold land, while homes are commonly passed down through families, reflecting the unbroken whakapapa connections maintained by the residents.



Map 6: Showing an outline of Ngāpuna Village – Residential 3 Zone



Figure 10: Showing character of Ngāpuna Village



Figure 11: Showing character of Ngāpuna Village



Figure 12: Showing character of Ngāpuna Village



Figure 13: Showing character of Ngāpuna Village

- 2.0 The Ngāpuna community possesses a distinctive Māori identity and expresses a collective desire for a built form that authentically reflects their cultural values. Feedback received underscored the importance of developing Ngāpuna in a manner that acknowledges and preserves its deep connections to its whakapapa (genealogy). The village status of Ngāpuna, which distinguishes it from the surrounding urban environment, is regarded as a crucial element that should be upheld in the future. Feedback has highlighted the adverse effects that previous decisions have had on both the community and the environment. It is evident that the industrial activities carried out on neighbouring lands have had, and still have, a detrimental impact on the cultural and historical significance of Ngāpuna village. In general, the community of Ngāpuna expressed the view that the application of the MDRS would not be suitable, considering both the cultural aspirations and significance of the village.

8.2.1.2.4 Marae Protection Area

- 1.0 Within the Rotorua District Plan there is also the Marae Protection Overlay. This overlay aims to ensure that marae remain a visually prominent feature within an area and manage activities so that they do not adversely affect the cultural historic heritage values associated with marae. The overlay has particular regard to the height, siting and orientation of buildings and structures adjacent to marae aiming to respect the tikanga of the marae and wharenui.
- 2.0 Alterations to existing buildings are restricted discretionary if the marae will be visible from proposed second floor windows or balconies and new buildings are discretionary (rules SASM-R5 and SASM-R6). There is also a reduced height limit of 5m RESZ(S2(4)).
- 3.0 The concentration of marae within the three cultural villages results in the marae protection zone applying to multiple sites. For the cases of Ōhinemutu and Whakarewarewa particularly,

The map displays the Lake Rotorua area with various roads and land parcels. Roads labeled include Panu Rd, Whittaker Rd, King St, Rangipapa St, Lake Rd, and others. Land parcels are outlined in brown. The Lake Rotorua coastline is visible on the right side. A scale bar at the bottom right indicates distances from 0 to 200 meters.

8.2.1.3

1.0

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No submissions opposed the retention of the Residential 3 Zone provisions. The key matters raised are summarised below:

- a. Heritage NZ Pouhere Toanga is supportive of the retention of the existing Residential 3 Zone provisions, as this approach will assist the plan to provide for the RMA matters of national importance (54.22).
- b. Bay of Plenty Regional Council is supportive of not locating incompatible activities near each other, including additional residential density adjacent to areas of industrial use within Ngāpuna (56.70).
- c. S Morrell, supports the retention of the Residential 3 Zone provisions as it was noted during consultation and is commensurate with kaitiakitanga (60.12).
- d. G Shekell supports the retention of the current framework for the Residential 3 Zone (83.13).

8.2.1.4 Evaluation

1.0 In terms of section 32 (s77J(2)) and the broader s74 requirements, in my view, the retention of the Residential 3 zone is the most effective and efficient way in which to achieve the objectives, and give effect to the higher order policy documents, for the following reasons:

- a. Informed by the views of affected iwi and hapū, this efficiently and effectively achieves the District Plan objectives RESZ-O4 and SDML-O1, in relation to cultural and historic values for the villages.
- b. For the same reason as above, gives effect to relevant Bay of Plenty Regional Policy Statements (“BOPRPS”) policies IW 2B, IW 5B, IW 6B and MN 8B.
- c. In relation to housing capacity:
 - i. the majority of the land within the villages is Māori land, where the hapū have expressed a desire to retain the current built form. The result of which is in practice housing capacity that would be enabled by MDRS is unlikely to be realized given the preferences of the landowners
 - ii. The land areas to which the villages apply is relatively minor compared with Rotorua as a whole and the lost capacity would not have a material impact on overall housing capacity
 - iii. The villages are also subject to multiple natural hazard constraints (flooding and geothermal) that in some cases are significant. In practice, this will further limit the development capacity that could potentially be realised in these locations.
 - iv. The Residential 3 zone enables medium density residential development, with sites up to 250m² up to two storeys in height allowed, albeit at lower levels of intensity than enabled by the MDRS.
- d. On balance, the benefits of retaining the Residential 3 zone in terms of cultural values and significance, outweigh the costs associated with the lost development capacity for the reasons given above.

2.0 I consider that the approach proposed for the Residential 3 Zone in PC9 should be adopted.

3.0 There have been no submissions received in opposition to the notified approach to the Residential 3 Zone. I therefore continue to support the identification of the Residential 3 Zone as a qualifying matter for the reasons given above.

8.2.1.4.1 Specific Section 77J(3)-(5) Analysis

1.0 I consider that the assessment pertaining to the requirements under section 77J of the Amendment Act as outlined in Appendix 4 of the Section 32 Report for PC9 is adequate and that the approach to exclude the Residential 3 zone from the MDRS is appropriate and consistent with the purpose of the RMA. This assessment is further demonstrated below in **Table 11**.

Table 12: Evaluation of new qualifying matter of Residential 3 Zone in accordance with Section 77L of the RMA.

Provision	Explanation of qualifying matter and where it applies	Why the qualifying matter is incompatible with the level of development permitted by the MDRS (s77J(3)(a))	Alternative provisions	Impact on development capacity (s77J(3)(b))	Cost and broader impacts of alternative provisions (s77J(3)(c))
Maximum building height	The current Residential 3 Zone provisions are proposed to be retained as a new qualifying matter for the purposes of managing the use, development and protection of the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, which is a matter of national importance under section 6(e) of the RMA. The new qualifying matter would apply over the full extent of the Residential 3 Zone.	The heights and daylight envelope of the current residential 3 zone provisions achieve the purpose of RESZ-O4 (Whakarewarewa and Ohinemutu) to maintain the characteristics of single storey housing which contribute to the cultural significance of the villages. The height restrictions reflect the values that the villages are centered around marae being the focal point, and that development around the marae should not overshadow marae and culturally significant features.	Maximum building height of 5m.	The M.E. report found that the exclusion of the MDRS provisions from the Residential 3 Zone areas decreases the total plan enabled capacity only marginally by between 0.6% and 0.8%, which amounts a difference of only a 1,000 fewer net additional dwellings across the modelled scenarios. It was further determined that when considering different intensification scenarios that the difference in capacity is greater with respect to horizontally attached redevelopment as opposed to horizontally attached infill. In this regard, it was found that there were 1,500 fewer additional dwellings, which is a slightly larger	Although the retention of the current zoning has the potential to limit development capacity in the district, it is considered that the benefits outweigh the costs. Retaining the current zoning provisions and framework would result in the character and values of the villages being retained and protected from inappropriate use and development. It is also considered that the impact on development capacity is small.
Daylight envelope/height in relation to boundary			3m + 45 degrees		
Density		The density of the current residential 3 zone provisions achieve the purpose of RESZ-O4 to have housing grouped in clusters, and	1 house per 250m ²		

		represents the community character of the villages.		decrease in additional capacity of 1.4%. This is because the maximum yields on many of these parcels are likely to still be exceeded by higher density development options (i.e. vertically attached apartments). The exclusion of the MDRS provisions from the Residential 3 Zone area is therefore unlikely to have any significant effect on plan enabled capacity the longer -	
Minimum distance from house to front yard Minimum distance from house side and rear		The yards of the current residential 3 zone provisions achieve the purpose of RESZ-04 to have housing grouped in clusters, have a more limited space around buildings and represents the community character of the villages.	Front Yard: 3m Side Yard: 2.5m 2.5m	term growth patterns of Rotorua's urban area at a city level	
Maximum amount of site that covered by buildings		Not more restrictive than the MDRS	Not more restrictive than the MDRS		Not more restrictive than the MDRS
Glazing, landscaping, outlook space		Not more restrictive than the MDRS	Not more restrictive than the MDRS		Not more restrictive than the MDRS

2.0 It is also worth noting that, while the existing Residential 3 Zoning framework contains provisions which are less enabling than those of the proposed MDRS, the provisions are generally more enabling than those of the previously operative Residential 1 Zone. The current Residential 3 Zone provisions are summarised below in comparison to the MDRS, and the previously operative Residential 1 Zone.

Table 13: Table comparing provisions in the Residential 3 Zone.

	Residential 3 Zone Standards	Previously operative Residential 1 Zone Standards	Medium Density Residential Standards
Maximum building height	5m	7.5m	11m with an allowance for the peak of the roof to extend an additional 1m.
Density	1 house per 250m ²	1 house per 350m ² , provided that the average net site area for all household units on a site is at least 450m ²	3 houses per site
Minimum distance from house to front yard	3m	5m	1.5m
Minimum distance from house side and rear	2.5m	2.5m	1m
Height envelope	3m + 45 degrees	3m + 45 degrees	4m + 60 degrees
Maximum amount of site that covered by buildings	50%	40%	50%
Glazing, landscaping, outlook space	No controls	No controls	Controls

3.0 The above table (**Table 13**) demonstrates the level of development enabled in the Residential 3 Zone compared to the previously operative district plan. Furthermore, the Section 32 Report is supported by the Market Economics Economic ('M.E') Assessment (Appendix 8 of the Section 32 Report, page 27-28).

4.0 According to the M.E. report, the exclusion of the MDRS provisions from the Residential 3 Zone areas has a minimal impact on the overall plan enabled capacity, ranging between 0.6% and 0.8%. This translates to only 1,000 fewer net additional dwellings across the modelled scenarios. The report also indicates that the difference in capacity is more significant when comparing horizontally attached redevelopment with horizontally attached infill. Specifically, there are 1,500 fewer additional dwellings in the case of horizontally attached redevelopment, representing a slightly larger decrease in capacity of 1.4%. This is because higher density development options such as vertically attached apartments are likely to exceed the maximum yields on many of these parcels. Overall, the exclusion of the MDRS provisions from the Residential 3 Zone area is unlikely to have a significant effect on the long-term growth patterns of Rotorua's urban area at a city level.

5.0 It is also worth mentioning the natural hazard development limitations that are present in each of the villages. These hazards include geothermal and flood risk, and much of the villages have

overlays pertaining to hazard management which may also limit the potential of the MDRS to occur on sites.

8.2.1.5 Recommendation

- 1.0 I recommend that the existing provisions and zoning framework for the Residential 3 Zone should be retained as a new qualifying matter for the purposes of managing the use, development and protection of the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, which is a matter of national importance under section 6(e) of the RMA, under section 77I of the Amendment Act.

8.3 City Centre & Commercial Zones

- 1.0 This section includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to the City Centre and Commercial zones, as well as recommendations on the changes to be made to these chapters under PC9. This section of the report has been prepared by Rachel Morgan.
- 2.0 These recommendations are informed by the technical evidence provided by Cam Wallace (urban design), which builds on the Urban Design Report and Accessibility and Demand Analysis which informed PC9 as notified (refer Appendix 7 and Appendix 9), and further evaluation. It is also informed by the economic evidence of Ms Fairgray.
- 3.0 Due to the number of submission points, this evaluation discusses the key themes and issues raised generally in accordance with Clause 10(2), as opposed to making specific recommendations on each submission point.
- 4.0 The City Centre and Commercial Zone submissions have been evaluated in accordance with the following themes and issues:
- a. Objectives and Policies
 - b. Appropriate height limits;
 - c. Building design and site layout;
 - d. Residential use;
 - e. Rest homes; and
 - f. Appropriate built form along Fenton Street (including heights).
- 5.0 In accordance with Clause 10(3) of the First Schedule of Resource Management Act 1991 ('RMA'), the evaluation and recommendations for the City Centre and Commercial Zones section of this report has been undertaken based on the matters to which they relate, as opposed to addressing each submission individually.
- 6.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.
- 7.0 The sections below address the key themes identified above.
- #### 8.3.1 Objectives and Policies
- ##### 8.3.1.1 Scope of Proposed Amendments
- 1.0 PC9 proposed to amend COMZ-O2 and COMZ-O3, which relate to the design and appearance of buildings and effects on adjoining residential properties. PC9 also proposed to introduce an objective in relation to on-site residential amenity (COMZ-O3A). Corresponding amendments

are proposed to policy CCZ-P5 to achieve consistency with management of building height, residential activities, and new buildings and building design under PC9.

8.3.1.2 Submissions

- 1.0 Several submissions requesting amendments to the Introduction, Issues, and objectives and policies contained in the City Centre and Commercial Zone chapters were received in relation to the provision of increased height and densities, the provision of residential activities, and the location of residential activities on the ground floor in City Centre and Commercial Zones (for example Sigma Consultants 84.34, 84.37 and RVA 88.83 and 88.102).
- 2.0 Other submitters requested minor wording amendments to objectives and policies proposed under PC9 or additional amendments to other objectives and policies in the operative District Plan that they consider to be necessary in response to PC9 (for example Sigma Consultants 84.39, Kāinga Ora 86.82 and Heritage New Zealand Pouhere Taonga ('HNZPT') 55.5, 55.6, 55.10, 55.100).
- 3.0 Submissions received in relation to relevant Introduction sections, objectives, and policies that apply to Fenton Street are discussed at Section 7.4.6.

8.3.1.3 Evaluation

- 4.0 The recommended responses to submissions received on objectives and policies in relation to building heights, residential use, and the location of residential activities are consequential to the evaluation of these matters, which is detailed below in sections below at Section 7.4.2 and 7.4.4.
- 5.0 As no amendments are recommended to the relevant rules proposed under PC9 as notified, I do not consider that any amendments are required to the corresponding Introduction, Issues, or objectives and policies in relation to building height within the City Centre and Commercial Zones or the provision of residential activities in the City Centre 2 and Commercial 6 Zones.
- 6.0 Amendments are recommended to manage the provision of residential activities on ground floor, and consequential amendments are therefore recommended to CCZ-P4 to recognise the appropriate locations where residential activities may locate on the ground floor in the City Centre (refer Section 7.4.4.3).
- 7.0 In relation to other amendments sought to the objectives and policies contained in the District Plan, I consider that the amendments proposed under PC9 are appropriate as they will give effect to Policy 5 of the NPS-UD and the relevant Strategic Direction objectives, including amendments proposed under PC9:

SDUD-O1 A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

SDUD-O3 There is at all times at least sufficient development capacity and land supply to meet expected demand for housing and business land over the short term, medium term and long term.

SDUD-O4 The primary focus for residential intensification and additional business or community services, include areas:

a) within and adjacent to centres or employment opportunities;

b) well-served by existing or planned public transport;

c) where there is high demand for housing or for business land in the area, relative to other areas within the urban environment.

8.0 As such, I do not recommend additional amendments to the City Centre or Commercial Zone objectives and policies in response to these submissions.

8.3.1.4 Recommendation

1.0 For the reasons given in the above assessment, I recommend amendments to CCZ-P4 to recognise the appropriate locations where residential activities may locate on the ground floor in the City Centre. Recommended amendments are included at **Appendix 1**.

2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.3.2 Appropriate Height Limits

8.3.2.1 Scope of Proposed Amendments

1.0 In accordance with Policy 5 of the National Policy Statement on Urban Development ('NPS-UD'), PC9 proposes the following amendments to height limits within the City Centre and Commercial Zones to enable greater residential and commercial densities:

- a. Amending the City Centre 1 Zone height limit from 20m to 32m.
- b. Amending the City Centre 3 Zone height limit from 20m to 24m.
- c. Introducing a 24m height limit for the City Centre 2 Zone.
- d. Amending the Commercial 1 and 2 Zone height limits from 12m to 20m.
- e. Amending the Commercial 4 Zone height limit from 12m to 24m.
- f. Amending the Commercial 6 Zone height limit from 20m to 24m.

2.0 The amendments are made in accordance with 80E(1)(a)(ii) of the RMA.

3.0 The location of City Centre 1-3 and Commercial 4 & 6 Zones and their corresponding height limit is shown in the figure below for context. The operative District Plan heights are shown in black text and the height limits proposed in PC9 are shown in red text.

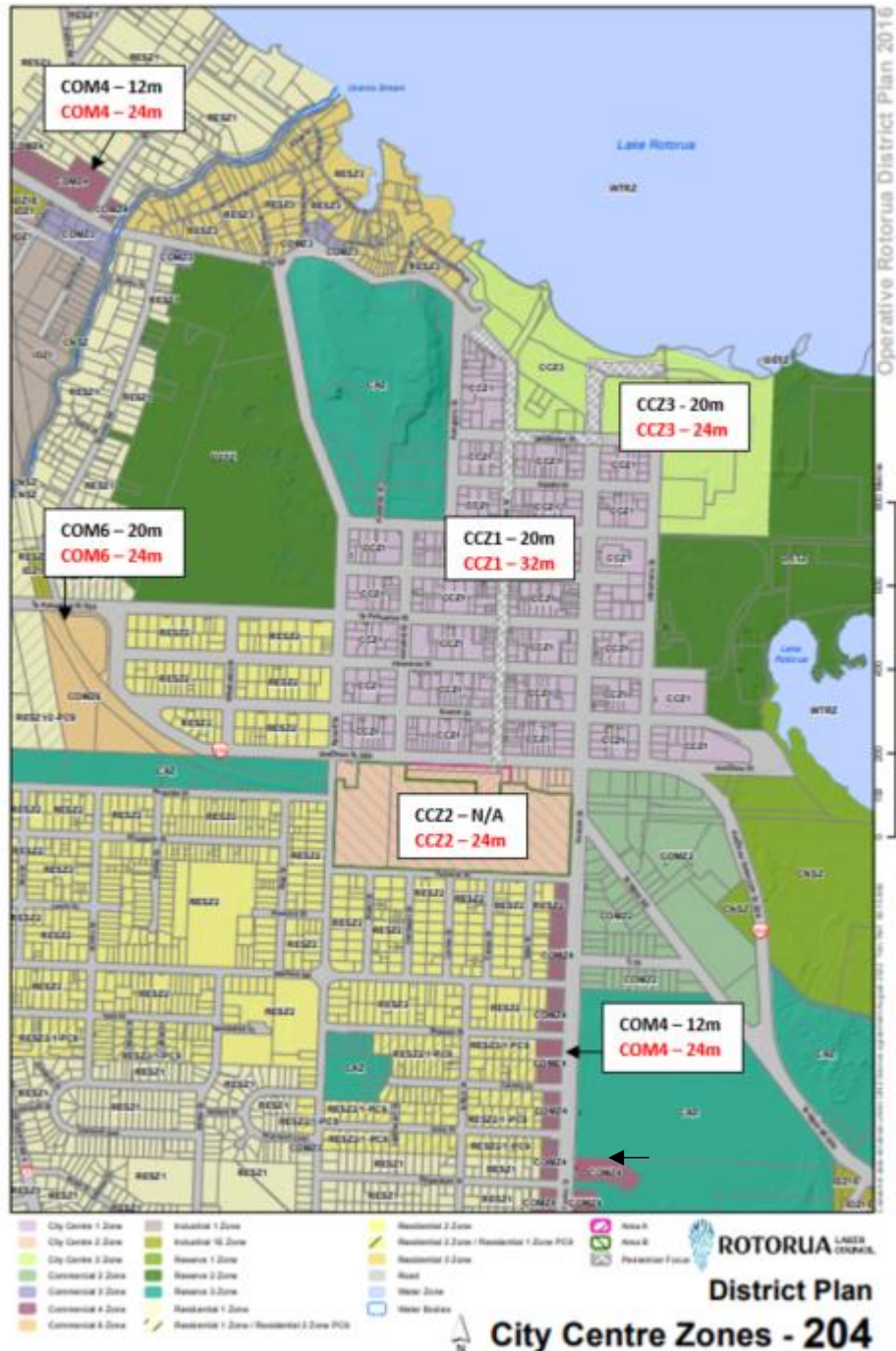


Figure 14: Showing the location of the City Centre and Commercial 4 zone (operative heights are shown in black text and PC9 heights are shown in red text).

8.3.2.2

1.0

Submissions

Several submissions to PC9 sought to reduce the building heights within the City Centre and Commercial Zones as notified and/or retain the building height limits within the operative District Plan. The submissions raise the following key points:

- a. A more refined approach to height is needed in relation to the City Centre 1 and 3 Zones, taking into consideration the tourism focus of Rotorua, sunlight access at street level, the orientation of streets, impacts on viewshafts, a stepped height limit to maximise the potential for views from buildings further into the city centre, and implications on the lakefront. The Submitter identifies that activities within the Rotorua city centre are likely

to be dominated by tourist accommodation, residential activities, retail and hospitality along with offices (Sigma Consultants 84.2);

- b. Oppose the proposed height limits in the Commercial 1 and 2 Zones due to character effects, including those related to noise, traffic and parking, daylight and sunlight access, views, privacy and safety, quality of life, visual effects, land stability, geothermal activity, and insufficient infrastructure (Body Corporate of Lakeview Villas 36.5);
- c. The heights proposed in the Ngongotahā Commercial 1 zone Ngongotahā population (~5,000) and are more consistent with an Auckland zoning. There is limited demand for apartment living, limited range of services and activities, and that the location would not provide a good environment for high density residential development. The existing provisions which enable a maximum height of 12m are considered appropriate in the context of both Ngongotahā and Policy 5 of the NPS-UD (Sigma Consultants 84.6);
- d. The heights proposed in the Commercial 2 Zone are significantly greater than the current standard and those of other Tier 2 Councils for town or suburban centres, and it is not considered that the height proposed reflects the current or future Rotorua environment (Sigma Consultants 84.8);
- e. The Lake Road Commercial 4 Zone is surrounded by a range of other zones, is subject to natural hazards, is too small to be an entranceway, and is not suitable as a high-density environment (Sigma Consultants 84.33, 84.47); and
- f. The proposed height limit for the Mountain Road Commercial 4 Zone has the potential to have significant effects on the landscape values associated with Mount Ngongotahā, and the existing zoning of this area as Commercial 4 zone is an existing anomaly in the District Plan (Sigma Consultants 84.12, 84.47).

- 2.0 Conversely, Pukeroa Orauwhata Group support the increase to building heights in the City Centre Zones, however consider that there should be no height limits in the City Centre Zones to allow for buildings to be designed for their purpose and also provide for the opportunity for an iconic taller building/feature to be established in the city centre (37.5).

8.3.2.3 Evaluation

- 1.0 As discussed in **Section 8.3.2.1**, PC9 proposes to increase building heights in the City Centre and Commercial zones to give effect to Policy 5 of the NPS-UD. The height strategy has been informed by the Urban Design Report and the Accessibility and Demand Analysis, included at Appendix 7 and Appendix 9.

- 2.0 Overall, the height strategy for the City Centre and Commercial Zones in PC9 seeks to:
 - a. Within the Rotorua context, enable the greatest heights and densities within the City Centre 1 Zone (32m), which is the core part of the centre and contains the main retail street (Tutanekai Street) and has the greatest range of commercial activities and community services in the city;
 - b. Relative to the City Centre 1 Zone, provide for moderately lower building heights in the City Centre 2 and Commercial 6 Zones (24m) reflecting their location on the periphery of the core city centre, and the more sensitivity lakefront setting of the City Centre 3 Zone.
 - c. Within the Commercial 4 Zones on Lake Road and Fenton Street, enable moderately lower building heights (24m) than the City Centre 1 zone reflecting their location on the periphery of the core city centre, while also recognising that these locations are located

on key corridors and have a good degree of access to commercial activities and community services.

- d. Within the Commercial 1 and 2 Zones enabling moderately lower height limits again (20m), recognising that these areas are located further away from the city centre, but still offer a wide range of commercial activities and community services.

3.0 These height limits are also proposed in the context of the heights enabled within the Residential 1 and Residential 2 Zones, being 12m and 22m respectively (for further discussion on the proposed amendment to the Residential 2 zone height refer to **Section 8.1.5** of the report above). The Residential 1 zone in particular, which includes building heights up to 11m in accordance with the MDRS, sets a baseline against which greater height limits in more accessible or higher demand locations can be understood, as directed by Policy 5 of the NPS-UD. This is also important, in ensuring that the height strategy across the city is integrated and coherent.

4.0 In supporting the height limits in the City Centre and Commercial Zones, I have turned my mind to the latest information on development feasibility, with Ms Fairgray outlining that the construction costs are higher for three and four storey development, noting that greater building heights and densities provides the opportunity to spread these costs across a greater number of units. Taking feasibility into account in this way acknowledges market realities, and assists to better enable development capacity to be realised in locations consistent with Policy 5. This in turn, assists to achieve the strategic objectives of the District Plan and PC9 (SD-04 in particular) and more efficiently gives effect to the relevant policies of the operative Bay of Plenty Regional Policy Statement as they relate to accommodating urban growth, the efficient use of land and travel demand management (see policies UG 7Ax, UG 6A and UG3A as proposed to be amended through Change 6).

5.0 As a broader theme, a number of submissions on the height strategy for the centres and commercial areas have stated that there is not sufficient demand for development of this scale in Rotorua, with some suggesting that the proposed heights are more akin to what might be proposed in Auckland. As outlined in **Section 8.1.5** of the report above on the Residential 2 zone height, in my view, while the overall demand for more intensive forms of development is relevant, so too is the need to provide choices for people to live and to work. Further, within a commercial context, Rotorua's centres and commercial zones will need to accommodate a wide range of uses over time including new retail, tourist accommodation, offices, residential and the like, as detailed in the 2021 HBA³. Enabling greater heights to a level that is broadly feasible, provides the opportunity for this demand to be met within Rotorua's existing centres and commercial areas, which will in turn better support an increase in the diversity, vibrancy and quality of built form in these areas. In my view, these positive effects are consistent with, and effectively achieve the relevant objectives of those zones as they relate to vibrancy and vitality (CCZ-01 and COMZ-O1) and the quality and attractiveness of these areas (CCZ-O5 and COMZ-O2).

6.0 With this broader context in mind, the evaluation below now considers the above submission points in relation to the following zones:

- a. City Centre 1, 2 and 3 zones and Commercial 1 and 2 zones;

1.0

³ See Table 11.2 on page 212 and Table 11.3 of the 2021 HBA for a breakdown of the projected job growth by sector to 2050 and how this translates to land area requirements in hectares. Note that the land area requirements could equally be expressed as additional floorspace.

- b. Lake Road Commercial 4 zone; and
 - c. Mountain Road Commercial 4 zone.
- 7.0 The height limits within the Fenton Street Commercial 4 Zone are addressed in **Section 8.3.6.4.2** of the report below.
- 8.3.2.3.1 City Centre 1, 2 and 3 and Commercial 1 and 2 Zones*
- 1.0 The analysis informing the proposed height limits in these zones is set out in Section 10.5.1 of the Section 32 report.
- 2.0 The proposed building height of 32m within the City Centre 1 Zone will facilitate 8-10 storey development, and corresponds to the Hinemoa Tower (9-storeys with an architectural height of 36m).
- 3.0 As discussed above, the height strategy for PC9 as notified will enable the greatest building heights within the city centre as the location with the highest levels of accessibility in Rotorua, which also visually reinforces the importance of the city centre in the wider urban environment.
- 4.0 The City Centre 1 Zone height, and the transition to lesser building heights includes the proposed building height of 24m within the City Centre 2 and 3 Zones, providing for up to 'mid-rise' typologies generally 5/6 storeys. The Urban Design Report (refer Appendix 9 of the Section 32 Report) identifies that this would retain the feel of a 'human scaled' environment, albeit at the upper end of this concept. This human scale, combined with other methods in the zones and additional methods proposed through PC9, including the proposed restricted discretionary framework for new buildings that focus on the design and appearance of buildings, in my view, contributes to the visual quality and attractiveness of the street environment for people, in a manner consistent with the objectives of the zone, including CCZ-O5 in particular.
- 5.0 The proposed height limits within the city centre are addressed in the statement of evidence prepared by Mr Wallace and I agree with his analysis. In relation to buildings heights of up to 32m in the City Centre 1 Zone, Mr Wallace identifies that the proposed height limit takes into account the typical road widths of 30m. This results in the Rotorua city centre being particularly well suited for the building height proposed under PC9 as notified, as the 32m will facilitate street enclosure ratios of approximately 1:1. In terms of urban design considerations, this is regarded as being a human scaled environment.
- 6.0 Mr Wallace has considered shading impacts in the city centre, and I agree with his analysis. Modelling of a typical 30m wide, east-west street in Rotorua indicates that the current permitted building height of 20m would cast shade over the full width of road corridor during the winter solstice, as shown in **Figure 15** below. Mr Wallace considers that additional shading generated from a 32m high building would generally fall across the roofscape of existing buildings in localised areas. The modelling also indicates that a footpath on the southern side of an east-west street would be able to receive sunshine throughout the day with the proposed 32m building heights, as shown in **Figure 16** below.

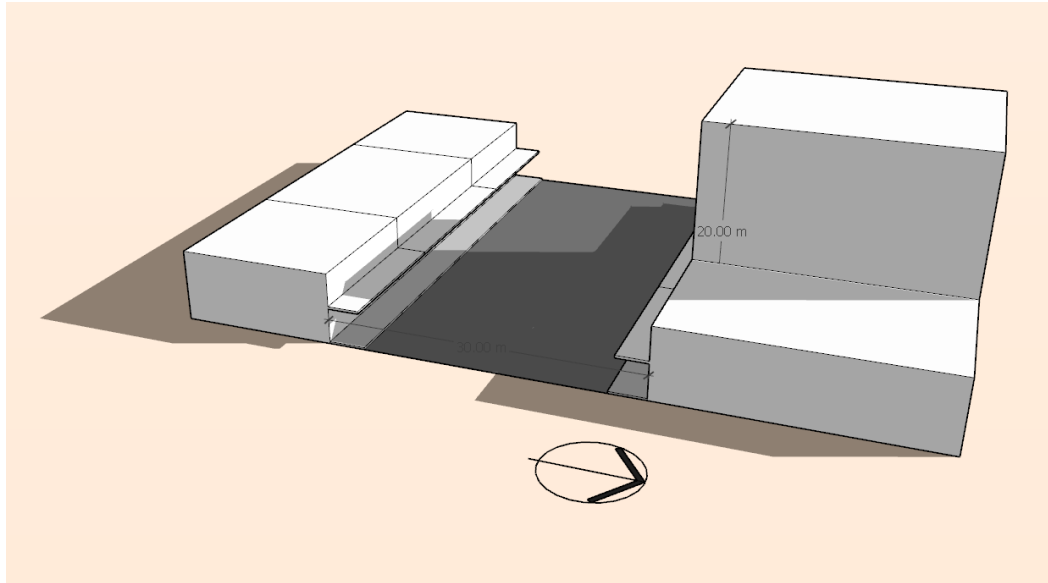


Figure 15: Shading generated from a 20m high building on a typical 30m wide east-west street at 1.30pm on 21 June.

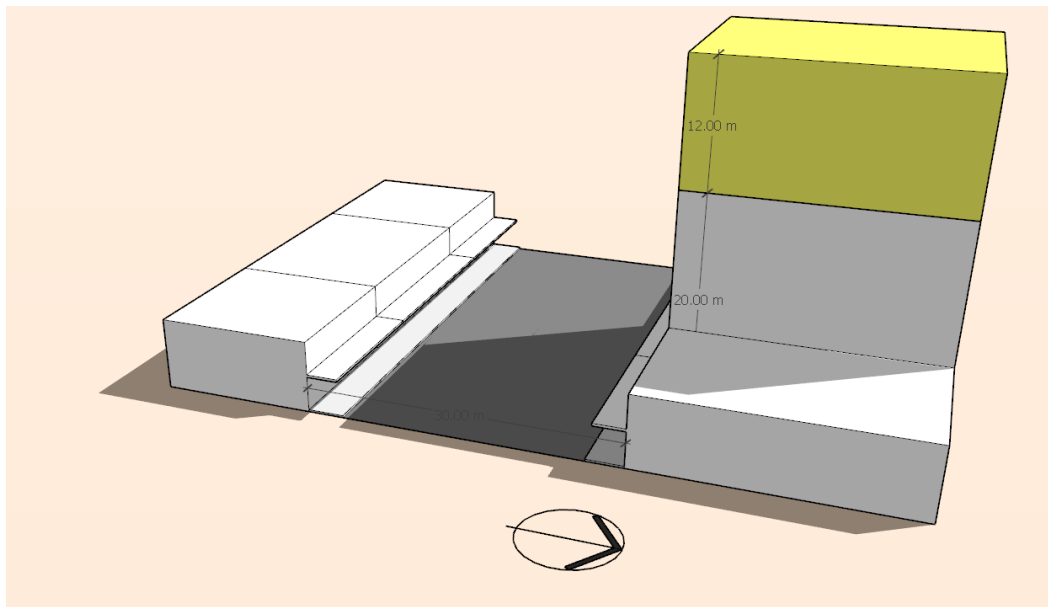


Figure 16: Shading generated from a 32m high building on a typical 30m wide east-west street at 1.30pm on 21 September.

- 7.0 It is further noted that due to the dynamic nature of shadowing associated with larger buildings where shading will vary throughout the course of the day and throughout the year, most areas of the city centre will retain sunshine at various points throughout the day. While increases in shading will be observed where taller buildings are proposed, it is unlikely that height limits proposed under PC9 will result in widespread development of 32m high buildings in the city centre.
- 8.0 In relation to character and visual effects, including effects on daylight and sunlight access, views, and privacy, I acknowledge that increased building heights will result in changes to character and visual amenity. However, these effects would be apparent with the current height limit in the operative City Centre 1-3 zones, and in my view, these effects are anticipated within a centre environment where higher density forms of development are contemplated. This is also balanced with the need to use land efficiently in these accessible

locations and better facilitate a more diverse, vibrant and attractive environment, as discussed above. Further, in my view, these changes are anticipated under the intensification directives of the NPS-UD, and cannot be described as unacceptable or unreasonable in the context of Objective 4 and Policy 6. Collectively, these provisions under the NPS-UD recognise that urban environments, including the planned urban built form and amenity values, will develop and change over time and are not, of themselves, an adverse effect.

- 9.0 In relation to submission 37.5 from Pukeroa Orauwhata Group, which expressed support for unlimited height in the City Centre 1 and 2 Zones, I acknowledge that PC9 proposes to reduce the building height in the City Centre 2 from what is unlimited currently, to 24m, which reduces development capacity currently enabled. However, as discussed above, this assists to provide a transition from the City Centre 1 Zone, while enabling a broadly feasible level of development to occur that is consistent with its edge location.
- 10.0 In my view, unlimited height is not warranted in the City Centre 1 and 2 Zones, taking into account the overall level of demand, as addressed in the evidence of Ms Fairgray, and the need to manage the scale and form of taller buildings on the amenity values of the centre, with respect to the street environment, shading, wind conditions and visual dominance. Enabling unlimited height would require further consideration as to the range of performance standards that would be necessary to manage those effects, which are not in place at this time. This would require further analysis and evaluation that has not been undertaken. I accept that buildings greater than 32m in height may be appropriate, however, careful consideration of the building design and its effects would be required. The City Centre 1-3 Zones provide for this assessment to occur as a restricted discretionary activity via rule CCZ-R3, which provides a consenting pathway for buildings greater than 32m to be considered.
- 11.0 In relation to the Commercial 1 and 2 Zones, as identified in Section 5.1 of the Urban Design Report, the proposed building height of 20m recognises that these zones relate to larger secondary centres within Rotorua (Ōwhata, Ngogotahā, and Westend), and that an increase in building height would help signify these centres within the urban environment and assist with wayfinding and legibility. In relation to Ngogotahā, the Accessibility and Demand Analysis (refer Appendix 7 of the Section 32 Report) finds that increased heights and densities within this centre would be appropriate given its levels of accessibility to a concentration of services and amenities in and around the city centre, including a direct and separated cycling route to the city centre. Further, the 20m height limit would enable approximately five storeys, which as discussed above, is a level at which more intensive forms of development start to become more feasible. For these reasons, I continue to support the 20m height limit proposed in these locations.
- 12.0 Having regard to the expert evidence from Mr Wallace, the Urban Design Report which has informed the height strategy proposed under PC9, in my view, the proposed heights in the City Centre 1-3 and Commercial 1 and 2 Zones give effect to Policy 5 and 6 of the NPS-UD, and efficiently and effectively achieves the relevant objectives of the zones.
- 13.0 On this basis, no amendments are recommended to the building heights proposed under PC9 in the City Centre 1-3 Zones and the Commercial 1 and 2 Zones in response to the above submission points.

8.3.2.3.2 Lake Road Commercial 4 Zone

- 1.0 The Lake Road Commercial 4 Zone is located to the north of Lake Road and at the intersection with Whittaker Road, approximately 2.5m kilometres from the city centre. The existing land use includes visitor accommodation. Sigma Consultants has stated that the proposed 24m height limit is not appropriate given it is surrounded by a range of other zones, is subject to

natural hazards, is too small to be an entranceway, and is not suitable as a high-density environment.

- 2.0 The Accessibility and Demand Analysis (refer Appendix 7 of the Section 32 Report) finds that this area, which is located at the city fringe, provides for moderate to high levels of accessibility, particularly in relation to proximity to the city centre, employment opportunities, and public open spaces. Consistent with Policy 5(a) of the NPS-UD and the overall height strategy for PC9 set out above, in my view, this makes the area suitable for greater height, noting that the height increase is reasonably modest.
- 3.0 In terms of the zone's relationship with the surrounding area, I note that the zone adjoins Lake Road on the southern side, which is a busy four-lane arterial road connecting to the city centre, which in my view, can absorb the effects of additional height to this frontage. On the other side of Lake Road is the Industrial 1E Zone that provides for 15m buildings, and the Commercial 3 Zone that takes on the height of the immediately adjoining zone, neither of which is proposed to change through PC9. On the northern side, is the Residential 1 zone, where the height in relation to boundary control of that zone would apply at the interface. In my view, these factors will ensure that development within the zone is well integrated with the surrounding context, while enabling more efficient use of land in this accessible location.
- 4.0 In terms of natural hazard risks, I note that there are other District Plan provisions which manage potential effects of development capacity enabled under PC9. Amendments to related provisions are also proposed under PC9, and are further detailed in **Section 8.5**.
- 5.0 For these reasons, I do not consider that any amendments are required in response to these submission points.

8.3.2.3.3 Mountain Road Commercial 4 Zone

- 1.0 The Mountain Road Commercial 4 zone accommodates the Aorangi Peak Retreat Centre and Aorangi Peak Restaurant, located over 10 kilometres to the north west of the city centre, at an elevation and adjacent to Skyline Rotorua. The location of the zone is shown in **Figure 17** below. Sigma Consultants has stated that the increased height proposed has the potential to have significant effects on the landscape values associated with Mount Ngongotahā, and that the existing zoning of this area as Commercial 4 zone is an existing anomaly in the District Plan.



Figure 17: Showing the location of the Mountain Road Commercial 4 Zone.

- 2.0 Having discussed this issue with Sigma, I agree that enabling 24m on this site, together with the other changes to the performance standard proposed in PC9 in the Commercial 4 zone would not appropriately apply to this site, given its limited accessibility and challenging topography. It may also give rise to adverse effects on the landscape values of the surrounding area, noting that it does sit within the Caldera Rim Sensitive Landscape Area. I therefore support retaining the operative height limit of 12m for this site, together with the other performance standards of the Commercial 4 Zone that relate to building bulk and location, and I recommend changes in the provisions to that effect.

8.3.2.4 Recommendation

- 1.0 For the reasons given in the above assessment, I recommend that the building heights within the City Centre 1-3 Zones and Commercial 1 and 2 Zones proposed under PC9 are retained.
- 2.0 For the reasons given in the above assessment, I recommend that the building height within the Lake Road Commercial 4 zone proposed under PC9 is retained.
- 3.0 For the reasons given in the above assessment, I recommend that the operative District Plan building heights and related performance standards (COMZ-S3 site coverage and COMZ-S5(5) landscaped area) within the Mountain Road Commercial 4 Zone are retained.
- 4.0 Associated amendments to the Commercial 4 Zone chapter are included at **Appendix 1**.
- 5.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.3.3 Building Design and Site Layout

8.3.3.1 Scope of Proposed Amendments

- 1.0 The operative District Plan currently provides for new buildings within the City Centre 1 zone as a controlled activity, new buildings within the Commercial 1 zone as a restricted discretionary activity, and new buildings and external alterations in the City Centre 2 zone and all other commercial zones as permitted activities.
- 2.0 As PC9 proposed to increase the height of buildings throughout the City Centre and Commercial zones, it was also proposed to introduce a resource consent requirement for new buildings and external alterations to buildings greater than 25m². The resource consent requirement will enable a qualitative assessment of development proposals and ensure that high-quality design outcomes are achieved, particularly at the interface with streets and public places. Applications for resource consent are proposed to be non-notified, if compliance with performance standards is achieved. Related to this, PC9 as notified also introduces amendments to the matters of discretion and assessment criteria to ensure the assessment considers the relevant matters in relation to achieving the anticipated design outcomes.

8.3.3.2 Background & Statutory Context

- 1.0 As discussed above, amendments to the activity status of new buildings (including car park buildings) and alterations are proposed to ensure increased building heights throughout the City Centre and Commercial zones achieve high-quality design outcomes.
- 2.0 The amendments are therefore consequential to giving effect to Policy 5 of the NPS-UD and are in accordance with Section 80E(1)(b)(iii).

8.3.3.3 Submissions

- 1.0 Submissions on PC9 in relation to the design and layout of building raised the following key matters:

- a. The activity status for new buildings and external alterations to buildings; and
- b. The matters of discretion for new buildings and alterations to existing buildings.

2.0 In summary, the submissions sought the following:

- a. Pukeroa Oruawhata Group (37.1, 37.2, 37.6 & 37.7) oppose the amendments to the activity status for new buildings and external alterations in the City Centre and Commercial zones. They consider that the district planning framework should be relaxed to encourage development or redevelopment. Removing the resource consenting process would assist towards this, while also reducing time and costs associated with the process.
- b. Cheal Consultants (79.30) oppose the amendments to the activity status for car parking buildings in the City Centre 1 and 2 zones as this will introduce greater complexity and uncertainty at the consenting stage. They also note that following the removal of minimum on-site car parking standards in accordance with the NPS-UD, the onus should be on providing more public car parking.
- c. Kāinga Ora Homes and Communities ('Kāinga Ora') (86.97 & 86.131) oppose the matters of discretion proposed under CCZ-MDA and COMZ-MD1, and consider that the matters can be further simplified and clarified.

8.3.3.4 Evaluation

8.3.3.4.1 Rules for new buildings

1.0 The proposed amendments to the activity status for new buildings is discussed in detail in Section 10.5.3 of the Section 32 report. In summary the purpose of the restricted discretionary activity status for new buildings and larger scale alterations is to ensure that high quality design outcomes can be achieved in the context of increased building heights enabled under PC9. This is in accordance with the Urban Design Report (refer Appendix 7), which identifies at Section 5.1 that:

In addition to generally enabling increased building heights, it is important to consider the impact larger buildings can have on public realm and wider impressions of an urban area. In this regard, there would be benefit in including additional matters of discretion and/ or assessment criteria relating to the design of new buildings – particularly the interface with the public realm.

2.0 I support this reasoning and consider that the amendments to the activity status for new buildings and significant alterations are necessary to ensure that new development at increased building heights achieves quality design outcomes. While the performance standards in these zones go some way to achieving the objectives of the zone with respect to the amenity, safety, vibrancy and attractiveness of these areas (CCZ-O5 and COMZ-O2), particularly in the City Centre 1 Zone, where there are requirements for verandahs, glazing and buildings to align with the street on identified streets, the proposed matters of discretion and criteria enable the qualitative aspects of building design to be considered, that cannot otherwise be addressed by rules. I note that this is a common and accepted planning method in higher density zones throughout New Zealand and within Tier 2 cities, including Queenstown and New Plymouth.

3.0 In terms of associated costs, complexities, and uncertainties associated with the resource consent process, PC9 as notified proposes that applications for consent are processed on a non-notified basis, where compliance is achieved with performance standards, in recognition that this is a technical design assessment and the Council is unlikely to obtain any additional

information through notification. Together, with clearly worded matters of discretion and criteria, this provides a reasonable degree of certainty for applicants.

- 4.0 On balance, I consider that the proposed restricted discretionary framework for new buildings and alterations to buildings, provide an appropriate balance between ensuring that development is able to achieve quality design outcomes, while reducing consenting risks and uncertainty to applicants, and would therefore more effectively achieve the design related objectives of the zones.
- 5.0 For these reasons, I do not consider that any amendments are required to the relevant rules for new buildings in response to these submission points.

8.3.3.4.2 Rules for Building Alterations

- 1.0 PC9 sought to amend the rules for alterations to buildings to require restricted discretionary consent for external alterations greater than 25m². Pukeroa Oruawhata Group (37.1, 37.6) opposed this change on the basis that permitted activity status would better encourage development and reduce associated time and costs.
- 2.0 I agree that it would be appropriate to provide greater flexibility for alterations/additions to existing buildings to target the assessment to those locations that would potentially affect the quality and amenity of streets and public places, which is the intent of the rule. I therefore propose amendments to the notified rule that would broaden the permitted level of development, and these changes would in my view more efficiently achieve the design related objectives of the City Centre and Commercial Zones (CCZ-O5 and COMZ-O2) and assist to reduce consenting time and costs. The proposed amendments are as follows:
- a. Permit external alterations up to 25m² of the building facade;
 - b. Permit external alterations to buildings up to 100m² that are not on a street facing building façade; and
 - c. Permit additions to buildings that are not on a street facing building façade up to 100m².
 - d. Note: Alterations/additions to buildings not complying with these rules would be a non-notified restricted discretionary activity and assessed against the design related matters of discretion and related criteria.
 - e. Note: PC9 proposes to define street facing building facades to support the interpretation of the Windows to the Street rule in the Residential 1 and 2 Zones, which would equally apply in this instance.
- 3.0 No changes are recommended to the performance standard to be complied with, noting that the conversion of existing buildings to residential units are proposed to be a restricted discretionary activity.
- 4.0 I consider the above amendments, together with the performance standards, will provide for a more enabling framework for the redevelopment of buildings, including external alterations and additions. This will contribute to achieving a vibrant city centre and the efficient development of centres (CCZ-O1, COMZ-O1 and COMZ-O2). Requiring detailed design assessment to larger scale alterations and additions visible from the public realm will ensure quality design outcomes can be achieved (CCZ-O5 and OMZ-O2).

8.3.3.4.3 Matters of Discretion

- 1.0 In relation to Kāinga Ora's submission points on simplifying the matters of discretion, I agree that the matters proposed under PC9 as notified can be simplified to concise matters to

- provide greater clarity. However, similar to considerations for the Residential 1 and 2 Zone, I consider it would be beneficial to retain detailed considerations as related assessment criteria.
- 2.0 As PC9 will enable significantly greater development potential than the operative District Plan. Retaining detailed assessment criteria will provide increased certainty to all plan users on the anticipated design outcomes for new buildings and building alterations/additions to be achieved through the resource consent process.
- 3.0 In response to these submission points, I recommend amendments to CCZ-MDA, COMZ-MDA, COMZ-MD1, and COMZ-MD3 to include simplified matters of discretion supported by detailed assessment criteria. Formatting changes are adopted to improve plan clarity.
- 4.0 Further additions are recommended to the preamble text for COMZ-MDA (specific non-compliance matters). The purpose of the preamble text is to provide clarification to the assessment approach for any non-compliance with specific standards and that the assessment criteria does not preclude other appropriate design responses. This will enable site specific design responses, design innovation, and improved efficiencies.
- 5.0 This addition is in accordance with the approach to the equivalent matters of discretion in the Residential 1 and 2 Zones (RESZ-MDA) as discussed with a number of submitters during the pre-hearing meeting held on 9th June 2023.
- 8.3.3.5 Recommendation**
- 6.0 For the reasons given in the above assessment, I recommend that the activity status for new buildings within the relevant City Centre and Commercial zones proposed under PC9 is retained.
- 7.0 For the reasons given in the above assessment, I recommend the following amendments (also refer to **Appendix 1**) to the City Centre zone and Commercial zone chapters:
- a. Amendments to the rules to provide greater flexibility to alterations and additions to buildings; and
 - b. Amendments to the matters of discretion to include simplified matters of discretion and associated assessment criteria, as well as preamble text to improve clarity.
- 8.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.
- 8.3.4 Residential Use in the City Centre and Commercial Zones**
- 8.3.4.1 Scope of Proposed Amendments**
- 1.0 PC9 as notified sought to enable residential use within the City Centre 2 Zone and Commercial 6 Zone recognising that residential activity can be an appropriate use within commercial environments and to support the efficient use of land in a highly accessible location. Under the operative District Plan, residential units within these zones are a non-complying activity.
- 2.0 The City Centre 2 Zone provides for a range of retail and commercial outlets with a focus on large format and vehicle oriented retail, and smaller retail stores and food and beverage outlets within the Rotorua Central shopping mall.
- 3.0 The Commercial 6 Zone provides for light industrial and commercial activities located on the southern edge of the city centre at Pukuatua Street. This area currently contains a mix of uses, including Mitre 10 Mega, K-Mart and a range of food and beverage outlets.

- 4.0 PC9 also proposes the following amendments to the standards in the City Centre and Commercial zones to support residential amenity, both on-site and to neighbouring sites:
- a. Minimum residential unit sizes consistent with the Residential 1 and 2 zones;
 - b. A reduction to the minimum balcony dimensions consistent with the Residential 2 zones to recognise that the City Centre and Commercial zones offer a range of amenities that serve to reduce the requirement for on-site outdoor living spaces;
 - c. An outlook standard supported by specific matters of discretion and assessment criteria related to on-site amenity considerations, consistent with the Residential 2 zone;
 - d. Deletion of the Storage standard from the City Centre and Commercial zones and the inclusion of relevant matters of discretion to provide greater flexibility for the provision of onsite storage;
 - e. Commercial zones that border residential zones should meet the adjacent HIRB standards that apply to the Residential 1 or Residential 2 zone on the applicable boundary; and
 - f. A 3m yard setback on a boundary with a residential zone.

5.0 The above amendments are made in accordance with Sections 80E(1)(a)(ii) and 80E(1)(b)(iii) of the Act.

8.3.4.2 Submissions

1.0 Submissions in relation to the provision of residential activities in the City Centre and Commercial zones raised the following key matters:

- a. The provision of residential units in the City Centre 2 and Commercial 6 zones;
- b. The conversion of existing buildings to residential units;
- c. Residential units on the ground floor; and
- d. Performance standards for residential units.

8.3.4.2.1 Residential Units in the City Centre and Commercial 6 Zones

1.0 Sigma Consultants oppose the provision of residential units in the City Centre and Commercial zones in whole or in part. The submissions raise the following key points:

- a. Enabling residential development within the City Centre 2 and Commercial 6 zones has the potential to create reverse sensitivity between large format business and residential activities and poor-quality residential environments. Given the limited demand for vertically stacked apartments within Rotorua, it is considered more appropriate that these be located in the City Centre 1 and 3 zones (84.3);
- b. Enabling residential development within the Commercial 6 zone creates additional issues in terms of limited site accessibility and established land uses within the zone. There is also the potential for the displacement of existing large format retail activities (85.15);

2.0 Pukeroa Oruawhata Group support the proposed amendments to enable residential units in the City Centre and Commercial 6 zone (37.4, 37.8).

8.3.4.2.2 Conversion of Existing Buildings to Residential Units

1.0 Cheal Consultants (79.34) sought a non-complying activity status for the conversion of existing buildings to residential units where residential unit design standards cannot be complied with. In particular, they consider that existing motels along Fenton Street Commercial 4 zone are not

fit for purpose to be converted to permanent residential units as many conversions will not be able to comply with the relevant performance standards. They consider that this should be discouraged and new residential units should be promoted as there is a greater opportunity to achieve and ensure quality building and urban design outcomes.

- 2.0 Kāinga Ora (86.118) sought for the conversion of buildings to residential units in the Commercial 1, 2, 3, 4, and 6 Zones as a permitted activity.

8.3.4.2.3 Residential Units on Ground Floor

- 1.0 Cheal Consultants (79.28) sought further restrictions on residential units on the ground floor on any street in the City Centre 1 and 2 zones to ensure an appropriate and efficient use of commercially zoned land for prime retail, commercial, and business activities.

- 2.0 Retirement Villages Association('RVA') sought to enable residential activities on the ground floor within the City Centre 2 Zone and Commercial 1, 2, 3, 4, and 6 Zones (88.83, 88.94).

8.3.4.2.4 Standards for Residential Units

- 1.0 A number of submissions from Kāinga Ora relate to the relevant standards for residential units, where they sought to:

- a. Reduce the minimum size of residential units (86.90, 86.123);
- b. Delete the outdoor living space standard as it may be appropriate to develop residential units without outdoor living space given the access to public places and facilities (86.91, 86.124); and.
- c. Delete the outlook space standard as it sets a standard that may not be possible to meet for residential units that would otherwise provide a good standard of living (86.92, 86.127).

8.3.4.3 Evaluation

8.3.4.3.1 Residential Units in the City Centre 2 and Commercial 6 Zones

- 1.0 The provision of residential units in the City Centre 2 and Commercial 6 Zones are discussed in detail in Section 10.5.2 of the Section 32 Report. In summary, the amendments to the activity status for residential units within the City Centre 2 and Commercial 6 Zones under PC9 recognised that this use can be appropriate within commercial environments with appropriate design, and would better support the efficient use of land in a highly accessible location.

- 2.0 As set out in **Section 8.3**, PC9 has been informed by the Accessibility and Demand Analysis (refer Appendix 7 of the Section 32 Report). In summary, this assessment finds that the City Centre 2 and Commercial 6 zones are centrally located and in areas subject to the highest levels of accessibility within Rotorua. PC9 therefore, rightly in my view, proposes to enable residential development within these zones to enable the opportunity for increased housing variety in choice (Policy 1(a) NPS-UD) in locations with good accessibility to jobs, community services and open spaces (Policy 1(c) NPS-UD). Further, in my view, increasing the potential for more people to live within and close to the City Centre, increases the potential for increases in the number of people accessing services and amenities within it, which in turn would more effectively support increased vitality and vibrancy (CCZ -O1) and the efficient use of infrastructure and investment.

- 3.0 The location of residential units in the City Centre 2 and Commercial 6 Zones have been assessed by Mr Wallace in his statement of evidence. Mr Wallace considers that the proposed amendment under PC9 is appropriate in urban design terms. Both the City Centre 2 and Commercial 6 Zones are characterised by a fairly low-density of use with large expanses of

carparking with a mix of large format retail, a shopping centre, supermarket, and convenience retail. In terms of built form outcomes, residential uses may be accommodated above existing outdoor parking areas, helping to improve amenity and better utilise scarce urban land close to the city centre. There are also emerging examples of residential uses being co-located with large format retail as opposed to displacing these activities, including Sylvia Park in Auckland and Five Mile in Queenstown. I agree with this analysis, in the context of how this fits with the objectives of the NPS-UD and the City Centre zone, as discussed above.

- 4.0 In relation to the displacement of existing large format retail activities within the Commercial 6 zone, the Economic Assessment undertaken to inform PC9 prepared by Ms Fairgray has identified the importance of retaining the viability of existing commercial areas as a location for large format retail and to reduce the pressure for these activities to locate in other areas within the urban environment which may be less efficient. I accept this view, however, observe that PC9 proposes to enable residential activity above ground floor only, and therefore protects the ground floor in these zones for the continuation of larger format activities. I also note the recent examples Mr Wallace has provided in his evidence, where residential and large format retail can successfully co-locate as part of a modern development. In the longer term, I also observe that the draft Rotorua FDS, while given limited weight at this time, does identify alternative locations for commercial activities close to the City Centre, including at Ngāpuna.
- 5.0 Regarding the potential for reverse sensitivity effects, taking into account the existing retail uses within the City Centre 2 and Commercial 6 Zones, in my view residential activities occurring above ground level is unlikely to unduly constrain the operation of commercial activities. This is particularly the case in a mixed use environment where the amenity expectations of residents living in a city centre type environment is reduced and a higher level of noise and general activity can be expected. The co-location of these types of activities is commonplace throughout mixed use environments throughout New Zealand, including within zones/areas that enable light industrial activities of the type enabled in the Commercial 6 zone. I further note that standards contained in the Noise chapter require noise sensitive activities within City Centre and Commercial zones to be designed and constructed to achieve acoustic attenuation and mechanical ventilation. This performance standard would extend to the City Centre 2 and Commercial 6 zones and would assist to mitigate potential reverse sensitivity effects and amenity effects for residents.
- 6.0 For the reasons given above, I do not consider that any amendments are required to the activity status for residential units within the City Centre 2 and Commercial 6 zones in response to these submission points.

8.3.4.3.2 Conversion of Existing Buildings to Residential Units

- 1.0 In relation to the conversion of existing buildings to residential in the Commercial zones, Cheal Consultants raised concerns about the appropriateness of this activity status given the quality of existing building stock, particularly in relation to Fenton Street, and the need to more actively encourage redevelopment (79.34).
- 2.0 The provisions notified under PC9 require a restricted discretionary activity resource consent for the conversion of existing buildings to residential units. The relevant matters of discretion are set out under COMZ-MD1, which also apply to new buildings and allow for a comprehensive and qualitative assessment of proposals. Performance standards are also proposed that must be complied with under COMZ-S5, which include minimum size of residential units, minimum outdoor living space, minimum outlook space and landscaped area. Non-compliance with one or more standards requires additional resource consent as a restricted discretionary activity and would be subject to the normal tests for notification. This

approach gives effect to proposed objective COMZ-O3A, which seeks to achieve quality built outcomes for residential activities.

- 3.0 I agree with Cheal that new development for residential is generally preferable to the conversion of existing buildings given that it provides the opportunity to design the building specifically for that use, which assists to provide a good standard of amenity. However, subject to compliance with the proposed performance standards for residential, and taking into account the restricted discretionary activity framework for the conversion, in my view, the potential effects on residential amenity values associated with the conversion of buildings to residential can be appropriately managed via the PC9 approach. Where compliance is not achieved with the standards then there would be an additional reason for consent and the proposal would be subject to the normal tests for notification, with the ability for the Council to decline the application if that is warranted. For these reasons, further changes to the rule framework for the conversion of buildings are not required in my view.

8.3.4.3.3 Residential Units on Ground Floor

- 1.0 The City Centre 1 Zone currently only restricts residential activity on the ground floor of Tutanekai Street. Other performance standards in the City Centre 1 zone, including ground floor glazing and verandahs work to encourage active uses at ground floor, rather than residential. Submitters sought to more clearly restrict residential at ground floor in the City Centre 1 zone to better protect the ground floor for commercial activities. I broadly agree with this, and consider that residential at ground floor in a city centre environment has the potential to compromise the vitality and amenity of the street for people and erode the commercial function of the zone at street level. It may also result in compromised privacy and amenity outcomes for residents given the greater number of pedestrians on the street in this environment. I agree with the analysis of Mr Wallace on this issue in his evidence.
- 2.0 Mr Wallace recommends that the ability for ground floor residential use is retained in certain areas (refer **Figure 18**) within concentrated areas within the city centre located away from the primary retail streets and towards the periphery at the interface with other residential zones and areas of open space. I agree with this analysis, and consider that residential at the ground floor in these peripheral locations may be appropriate and would continue to support the vibrancy and vitality of the City Centre within the core retail and commercial area. However, I note that any new development with residential at ground floor would require resource consent as a restricted discretionary activity as discussed above, and this would include consideration of the appropriateness of residential at ground floor in terms of the design and level of amenity provided for residents and the street. This is specifically addressed in the assessment criteria at CCZ-MDA, which provides examples of appropriate design solutions in a centre environment.



Figure 18: Frontages where ground floor residential uses are recommended to be retained as a permitted activity, noting that this would be subject to a restricted discretionary activity consent for new buildings or alterations/additions to an existing building.

3.0 In response to the submission by Kainga Ora (79.28), it is recommended that the relevant rules relating to residential activities in the City Centre 1 and 2 Zones are amended to restrict residential on the ground floor, except within the frontages identified in **Figure 18** above. Consequential amendments are also recommended for CCZ-P4.

4.0 Consequentially, no amendments are proposed to the submissions by RVA (88.83, 88.94).

8.3.4.3.4 Standards for Residential Units

8.3.4.3.4.1 Minimum Size of Residential Units

1.0 In their submission Kāinga Ora sought to reduce the minimum size of residential units (86.90, 86.123). Sigma Consultants also sought to introduce a minimum unit size for units with more than one bedroom.

2.0 The minimum required unit size is addressed in the statement of evidence prepared by Mr Wallace and at Section 7.2.5 of this report. In summary, I do not support amendments to the minimum unit sizes proposed across the Residential, City Centre, and Commercial Zones under PC9 as notified as the proposed requirements are generally consistent with other district plans, including proximate territorial authorities. I agree with the Urban Design Report which concludes that alignment with other districts will provide greater certainty for the wider development community and increased efficiencies in delivering modular or standardised terraced and apartment typologies over a wider area. A consenting pathway is available for development that infringes the performance standards as a restricted discretionary activity,

with clear matters of discretion and related assessment criteria that provide guidance on the circumstances in which smaller unit sizes would be appropriate.

- 3.0 I also agree with the analysis of Mr Wallace regarding minimum unit sizes for more than one bedroom, particularly as it relates to potential inefficiencies and consenting practice. I do not recommend any changes in response to this submission point.

8.3.4.3.4.2 Outdoor Living Space

- 1.0 In their submission Kāinga Ora sought to delete the outdoor living space standard as it may be appropriate to develop residential units without outdoor living space given the access to public places and facilities (86.91, 86.124).
- 2.0 Mr Wallace addresses the outdoor living space standard in the City Centre Zones in his evidence, and identifies that there is a greater risk that the provision of balconies within the city centre results in residents being within direct eyesight of passing pedestrians or neighbouring buildings, resulting in a loss of privacy. This in turn may result in residents keeping curtains or blinds drawn to maintain privacy, reducing the connection with the outdoor environment. Due to the street and parcel layout of the city centre, balconies may also be south facing, which would compromise their functionality due to limited or no sunlight access. For these reasons, and the proximity of the city centre to a range of high quality outdoor open spaces, including the lakefront, Kuirau Park and Government Gardens, Mr Wallace considers that the removal of outdoor living space standards within the city centre is appropriate in urban design terms.
- 3.0 I agree with Mr Wallace's analysis and I consider that further amendments to the relevant provisions under PC9 would be appropriate to provide greater flexibility in the delivery of opportunities for outdoor living space in the city centre. This would enable the efficient use and development of highly accessible city centre sites while recognising the accessibility of these areas to existing high quality public open space.
- 4.0 I therefore recommend deletion of the outdoor living space standard, proposed to apply to the City Centre 1 and 2 Zones, however, I do support the inclusion of additional matters of discretion and assessment criteria to assess outdoor living space and related on-site amenity outcomes. The additional provisions recognise that public open space and increased internal space can be acceptable alternatives to private outdoor living space in the city centre. This will also provide greater ability for residential units to respond to the specific features and characteristics of a site and surrounding area. This would more efficiently achieve the design related objectives of these zones (CCZ-O1 and O5).
- 5.0 I recommend that the outdoor living space standard in the Commercial Zones is retained due to generally lower levels of accessibility to public open space. I note that the standard as notified enables outdoor living space to be substituted with additional indoor space, and this enables a degree of flexibility. Non-compliance with this standard would require resource consent for a restricted discretionary activity. In my opinion, this is the most appropriate method as it will enable a site specific assessment. Specific matters of discretion and assessment criteria will apply, and will provide greater certainty to applicants. Amendments are proposed to achieve consistency with the City Centre zones.

8.3.4.3.4.3 Outlook Space

1.0 In their submission Kāinga Ora sought to delete the outlook space standard as it sets a standard that may not be possible to meet for residential units that would otherwise provide a good standard of living (86.92, 86.127)

2.0 In relation to outlook space, the Urban Design Report which informed PC9 considers the purpose of this standard in the commercial zones at section 5.4.3:

Increased residential uses within commercial zones, coupled with increased building heights and limited setbacks creates a risk of adverse amenity outcomes in residential dwellings in these areas. This risk is primarily in the form of adjacent sites being built out to their maximum extent, reducing or removing access to sunlight, daylight or outlook of existing dwellings over side boundaries if this has previously been relied upon. To address this, dwellings should generally be encouraged to orientate themselves over the street but where this is not possible the inclusion of an outlook space control would be beneficial as this provides some degree of guaranteed separation for residential units at upper levels in the event adjacent buildings are constructed.

3.0 Mr Wallace also identifies within his evidence that the deletion of the outlook space standard has the potential to give rise to significant adverse amenity effects in terms of sunlight, daylight, and outlook in the event that neighbouring sites are redeveloped where standards for side and rear yards and building coverage do not apply.

4.0 I agree with this analysis, and consider that the outlook space standard has an important purpose in managing built form and on-site amenity outcomes for residential amenity in the City Centre and Commercial zones, particularly as it relates to neighbouring sites. In the absence of an outlook standard, residential development could result in habitable room windows directly on the boundary of a neighbouring site. In the event that the neighbouring site is developed, daylight access and privacy could therefore be significantly compromised, resulting in adverse residential amenity effects that would be contrary to the zone objectives addressing residential amenity (CCZ-O5 and COMZ-O3A). As such, I do not consider that any amendments are required to the outlook space standard in response to these submission points.

8.3.4.4 Recommendation

1.0 For the reasons given in the above assessment, I recommend the following amendments (also refer to **Appendix 1**) to the City Centre zone chapter:

- a. Amendments to the rules to restrict the location of residential activities on the ground floor in the City Centre 1 and 2 zones, except for those frontages identified in **Figure 18** above. Consequential amendments are also recommended to CCZ-P4.
- b. Deletion of the outdoor living space standard in the City Centre 1 and 2 Zones and inclusion of consequential matters of discretion and assessment criteria for new buildings accommodating residential units.

2.0 I also recommend amendments to the Commercial Zone assessment criteria for non-compliance with the outdoor living space standard to align with the above recommended amendments to the City Centre Zone.

3.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.3.5 Rest Homes / Retirement Villages

8.3.5.1 Scope of Proposed Amendments

- 1.0 The operative District Plan provides for rest homes as a discretionary activity in the Commercial 4 zone and a non-complying activity in the Commercial 1, 2, 3, 5, and 6 Zones. Rest homes are not identified under the Rules Tables in the City Centre Zones, and are a permitted activity in the City Centre 1 and 2 zones, and are a discretionary activity in the City Centre 3 zone.
- 2.0 The notified version of PC9 does not include amendments to the provisions for rest homes in the City Centre or Commercial Zone chapters.

8.3.5.2 Background & Statutory Context

- 1.0 The submission by RVA raised a number of matters in relation to the management of rest homes under PC9, including the management and appropriate activity status for retirement villages and the construction of retirement villages in the City Centre and Commercial Zones.
- 2.0 As discussed in **Section 8.1**, several pre-hearing meetings were held with representatives of RVA to discuss the consideration of rest homes in the Residential Zones, and a number of amendments are recommended to the Residential Chapter. Similar recommendations are made to the City Centre and Commercial Zone chapters to ensure PC9 adopts a consistent approach to the management of rest homes.

8.3.5.3 Submissions

- 1.0 As discussed in **Section 8.1.7**, RVA consider that rest homes play an important role in accommodating an ageing population, and that PC9 represents an opportunity to better enable the provision of a diverse range of housing, including retirement housing and care options. In summary, the submission requests the following key changes in relation to rest homes under the City Centre and Commercial Zones chapters:
- a. A new restricted discretionary rule for the construction of retirement village buildings (including additions and alterations) as a restricted discretionary activity in the City Centre 1 and 2 Zones within the Residential Rules at CCZ-R15-17, and in the City Centre 3 Zone.
 - b. The deletion of COMZ-R31 and a new restricted discretionary rule (or within the Residential group of rules (COMZ-R32 – R33) for the construction of retirement village buildings (including additions and alterations) in the Commercial 1, 2, 3, 4, and 6 Zones
 - c. Amend the relevant standards to incorporate rest home specific considerations; and
 - d. Provide matters of discretion specific to the consideration of retirement villages.
- 2.0 Submissions in relation to the management of rest homes within the Strategic Direction and Interpretation chapters are assessed in Section 7.2.6, and are not repeated. In summary, it is recommended that the Issues Section of the Strategic Direction chapter is amended to recognise that rest homes can provide housing and care options that are suitable for an aging population. No recommendations are made the term and definition of ‘rest home’.

8.3.5.4 Evaluation

- 1.0 I consider that the amendments sought by RVA in relation to rest homes are not necessary for PC9 as they do not relate to the implementation of the MDRS or Policy 5 of the NPS-UD.
- 2.0 Notwithstanding, I provide an assessment on the merits of the submissions below if the commissioners are minded to accept RVA’s submission regarding scope.

- 3.0 The general approach to rest homes considered under PC9 is detailed at Section 7.2.6. In summary, I agree that rest homes are a residential activity and that the potential effects associated with building scale and intensity are comparable to the development of four or more residential units, particularly where development is compliant with the building bulk and location standards. Additional amendments are recommended to the standards for residential unit design and landscaping (CCZ-S4 & COMZ-S5) to include rest home units and recognise the functional requirements of rest homes.
- 4.0 **Table 14** below sets out the evaluation and recommended approach within the City Centre and Commercial Zones. Overall, I consider that it would be appropriate to apply a similar approach between the management of residential units and rest homes.

Table14: Evaluation of the recommended approach to rest homes within the City Centre and Commercial Zones.

Zone	Evaluation	Recommended approach to assessment	Summary of recommended rules
City Centre 1 and 2	Rest homes are a permitted activity under CCZ-R1 as an activity not listed in the Rules Table, and new buildings are proposed to be a restricted discretionary activity under PC9 as notified. I note that the performance standards to be complied with under CCZ-R1 exclude the standards which manage the design of residential units. I consider that these standards are relevant to rest home units, albeit with modifications, and therefore recommend a new rule for the management of rest homes as this would enable the relevant performance standards to be complied with to be identified. I consider a permitted activity status is appropriate as it would recognise that rest homes are a residential activity, which are anticipated within the City Centre 1 and 2 zones. I consider that the provisions proposed under PC9 as notified for the assessment of new buildings are fit for purpose to assess the potential effects of rest home developments. This includes the design and appearance of the building, provisions for parking, access, and servicing, and amenity outcomes for residents. Amendments are proposed to include additional assessment criteria which recognise the operational requirements of rest homes.	Apply a new rule which provides for rest homes as a permitted activity (subject to performance standards) in the City Centre 1 and 2 Zones. Amend the matters of discretion and assessment criteria for new buildings under CCZ-MDA to include specific considerations for the design and layout of rest home units.	Rest homes: permitted activity Construction of new buildings: restricted discretionary activity, including specific matters specific to the consideration of the design and layout of rest home units.
City Centre 3	Rest homes are a discretionary activity under CCZ-R28 as an activity not listed in the Rules Table, and new buildings are a permitted activity under CCZ-R29. No amendments were proposed to the land use activities in the City Centre 3 Zone through PC9 given that the area is subject to a bespoke structure plan.	Retain the operative rule framework.	Retain the operative rule framework.
Commercial 1, 2, 3, 4, and 6	Rest homes are a discretionary activity in the Commercial 4 Zone and a non-complying activity in the Commercial 1, 2, 3, and 6 Zones under COMZ-R31. New buildings are proposed to be a restricted discretionary activity under PC9 as notified.	Amend COMZ-R31 to provide for rest homes as a permitted activity (subject to performance	Rest homes: permitted activity Construction of new buildings: restricted

	I consider that a permitted activity status is appropriate as it would recognise that rest homes are a residential activity, which are anticipated within the Commercial 1, 2, 3, 4, and 6 Zones under PC9. I consider that the provisions proposed under PC9 as notified for the assessment of new buildings are fit for purpose to assess the potential effects of rest home developments. This includes the design and appearance of the building, provisions for parking, access, and servicing, and amenity outcomes for residents. Amendments are proposed to include additional assessment criteria which recognise the operational requirements of rest homes.	standards) in the Commercial 1, 2, 3, 4, and 6 Zones. Amend the matters of discretion and assessment criteria for new buildings under COMZ-MD1 to include specific considerations for the design and layout of rest home units.	discretionary activity, including specific matters specific to the consideration of the design and layout of rest home units.
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8.3.5.5 Recommendation

- 1.0 For the reasons given in the above assessment and further detailed in **Section 8.1.7**, and on the basis of the merits of the relevant submissions in relation to rest homes identified above, I recommend the following amendments (also refer to **Appendix 1**) to the City Centre and Commercial Zone chapters in response to submission points by RVA that relate to the management of rest homes under PC9:
- a. Inclusion of a new rule which provides for rest homes as a permitted activity in the City Centre 1 and 2 Zones;
 - b. Amendments to COMZ-R31 to include a permitted activity status for rest homes where all performance standards are complied with;
 - c. Amendments to CCZ-S4(1), CCZ-S4(2), CCZ-S4(3), COMZ-S5(1), COMZ-S5(2), COMZ-S5(3) to include specific requirements for rest home units to recognise their functional requirements; and
 - d. Amendments to CCZ-MDA and COMZ-MD1 to include matters of discretion and assessment criteria in relation to the design and layout of rest homes and rest home units.
- 2.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.3.6 Appropriate Built form along Fenton Street

8.3.6.1 Scope of Proposed Amendments

- 1.0 PC9 as notified proposes to increase building height along Fenton Street from 12m to 24m and require a restricted discretionary resource consent for new buildings and external alterations as well as the conversion of existing buildings to residential units, with matters of discretion and assessment criteria proposed to guide this assessment. PC9 removed the residential density standards but otherwise retained the mix of permitted activities, which includes residential.
- 2.0 PC9 also proposed additional standards to manage the height and bulk of buildings at residential zone boundaries, including applying the residential zone daylight envelope standard and applying a 3m yard at the interface. The 40% site coverage control is proposed to be deleted to enable more efficient use of land consistent with a commercial zone. A range of additional standards are proposed to apply to residential units as outlined in the sections above, to ensure that a good standard of residential amenity is achieved.
- 3.0 As a package, the provisions applying along Fenton Street in PC9 are intended to be more enabling of development in an accessible location, while ensuring that quality design outcomes are achieved. PC9 recognises that the latter is an outcome that is currently lacking in the operative planning framework. A comparison of the relevant provisions under the Operative District Plan and PC9 is included at **Table 15** below to illustrate the difference in the provisions.

8.3.6.2 Background & Statutory Context

- 1.0 The Fenton Street Commercial 4 zone is located to the south of the City Centre and provides a city entranceway to Rotorua from Taupō.
- 2.0 As detailed below, submissions by Sigma Consultants sought to recognise the importance of Fenton Street as the tourism gateway to Rotorua through the development of specific controls.

- 3.0 A pre-hearing meeting with Sigma Consultants was held on 8th June 2023 to further discuss the appropriate design considerations and controls for Fenton Street.
- 4.0 The key matters of discussion included the location of tourist accommodation being a key focus of Fenton Street and the presence of cultural, geothermal, and heritage features that contribute to Fenton Street providing a city entranceway to Rotorua.
- 5.0 A number of amendments are proposed to the Commercial Chapter in relation to the Fenton Street Commercial 4 zone in response to the submissions from Sigma Consultants. These amendments are in accordance with Section 80E(1)(b)(iii)(A) as they are considered to be related provisions that are consequential on the proposed amendments under PC9 which give effect to Policy 5.

8.3.6.3 Submissions

- 1.0 Sigma Consultants raise the following key points in their submission (84.10, 84.11):
 - a. Tourist accommodation needs to be the primary activity enabled along Fenton Street;
 - b. The cumulative effect of generic building controls and an increase in the range of activities that occur along Fenton Street will change the character and potentially the 'tourist gateway' concept. This needs to be properly thought through, especially in the context of Rotorua; and
 - c. Greater height may be appropriate but this needs to be carefully considered in light of the surrounding environment/gateway;
 - d. The proposed design controls do not adequately recognise the importance of Fenton Street as the tourism gateway to Rotorua;
 - e. The height in relation to boundary controls, especially in relation to the Residential 2 Zone, have the potential to enable development that will have significant adverse effects on adjoining properties. As such, these standards are opposed.
- 2.0 These submissions are supported by Rotorua Planning Consultants (FS 104.32), Joseph, W (FS 93.1), and Murphy, G and R (FS 112.2) and opposed by RVA (FS 109.41) and Ryman Healthcare Limited (FS 111.41).
- 3.0 A number of other submitters also generally opposed the greater density enabled by PC9, and in particular along Fenton Street as it is a city entranceway (For example Edwards, J (335.1), Morrison, A (85.1), Macpherson, L (89.1).

8.3.6.4 Evaluation

8.3.6.4.1 Tourism Activities

- 1.0 I do not support amendments to the Commercial 4 Zone that would limit residential activities establishing in the zone in order to preserve the area for tourist accommodation for the following reasons:
 - a. The majority of the buildings along Fenton Street are older building stock, which would benefit from redevelopment in order to achieve a more attractive environment for people entering the city from the south i.e. an improved gateway experience. Enabling a range of activities at greater heights and densities provides a greater incentive for this to occur by enabling more feasible development opportunities. This issue is discussed in the evidence of Ms Fairgray.
 - b. Tourism activities including hotels and supporting activities can occur in many locations in Rotorua, including within the City Centre and other commercial zones. This is a

responsive approach that provides the greatest opportunity for the market to support Rotorua's tourist economy in locations that best suit the needs of that sector.

- c. Residential is already a permitted activity in the Commercial 4 Zone, albeit at lower levels of density than that enabled by PC9.
- d. Well designed residential development can positively contribute to the visual quality and amenity of Fenton Street, and PC9 proposes to achieve this through the restricted discretionary activity framework for new buildings and alterations/additions.

8.3.6.4.2 Height and Residential Interface

- 1.0 I support the proposed height limit of 24m in the Commercial 4 Zone on Fenton Street. This reflects the moderate level of accessibility the area has as identified in the Accessibility and Demand Analysis (refer Appendix 7 of the Section 32 report) and is consistent with the overall height strategy for the City Centre and Commercial Zones that I have set out above. In addition to the matters set out in **Section 8.3.2** above, in my view, a 24m height limit has the potential to improve the amenity values of Fenton Street by encouraging redevelopment to occur. Buildings constructed to this height would also be consistent with a human scale, a concept described by Mr Wallace in his evidence, given that the Fenton Street corridor is approximately 30m wide.
- 2.0 However, following discussions with Sigma, I do support amendments to the assessment criteria for new buildings, conversion to residential and alterations/additions that would address the design quality of any fencing proposed in the front yard, and to encourage development to consider the context of the site of the surrounding area in the design response. In my view, these changes would be more consistent with COMZ-P8 which seeks to encourage high quality development that positively contributes to the attractiveness of the street and public open spaces (COMZ-P7).
- 3.0 In relation to the interface with adjoining residential zones, I support the application of the daylight envelope standard in the Residential 1 and 2 Zones at the boundary of the Commercial 4 Zone. This would provide for a transition in building height down to the adjoining residential boundary and achieve a complementary building scale consistent with the planned urban built character of those zones. This is further reinforced by a 3m side yard which would provide an additional measure of building separation to manage effects on the residential amenity of lower density residential zones.

8.3.6.4.3 Summary

- 1.0 For the reasons given above, in my view, the proposed package of provisions that apply to the Fenton Street Commercial 4 Zone, including the additional assessment criteria I have proposed, would more efficiently and effectively achieve the objectives of the zone (as proposed to be amended) which seek to positively contribute to the street and entranceways to Rotorua and achieve healthy, safe and quality living environments for residents (COMZ-O2 and CMZ-O3A). This is particularly the case, when compared with the operative provisions, which in my view would constrain the potential for redevelopment to occur, and would not allow the design quality and amenity of development to be considered.

Table 15: Comparison of provisions relevant to the design quality of buildings in the Fenton Street Commercial 4 Zone under the operative District Plan and PC9.

	Operative District Plan	Plan Change 9
Objectives and Policies		
	COMZ-O1: a hierarchy of vibrant commercial and tourism centres COMZ-O2: commercial activities do not adversely effect character, safety and efficiency of commercial areas	COMZ-O1: no change COMZ-O2: commercial buildings and activities positively contribute to mixed use character, safety and efficiency, and attractiveness of commercial centres and entranceways to Rotorua Addition of COMZ-O3: healthy, safe, and quality living environments Addition of COMZ-P5: enable a mix of high density residential uses, accommodation activities, supporting commercial activities
Rules		
New buildings	Permitted	Restricted discretionary
Residential units	Permitted	Permitted
Change in use to residential units	Change in use from tourist accommodation to permanent residence within an existing building: Controlled	Conversion of buildings to residential units: Restricted discretionary
Standards	Building height: 12m Front yard: N/A Side/rear yard: 2.5m Density: 1 household unit per 450m ² Coverage: maximum 40% Amenity controls for residential units	Building height: 24m Front yard: N/A Side/rear yard: 3m when adjoining Res 1 & Res 2 Coverage: N/A Amenity controls for residential units:

		General amenity heating and ventilation	Heating and ventilation for 3+ units			Outlook space	Principal living room: 4m x 4m Other rooms: 1m x 1m	
						Landscape area	Minimum 20%	
Relevant matters of control or discretion	Matters of control for change in use to residential units: Access to private outdoor living area Provision of storage Reverse sensitivity Amenity to the streetscape and neighbouring sites COMZ-MC1 Building design, site layout and amenity: CPTED, including passive surveillance Amenity of the streetscape and where relevant, the City Entranceway is maintained and enhanced				Matters of discretion for new buildings and conversion of buildings to residential units: Building design quality, including frontages to public spaces Screening of mechanical parts/units CPTED, including passive surveillance Waste management On-site amenity Cumulative effects on neighbouring sites			

8.3.6.5 Recommendation

- 1.0 For the reasons given in the above assessment, I recommend minor amendments to the introduction and COMZ-MD1 to pull through the reference to Fenton Street as an entranceway consistent with COMZ-O2, as well as amendments to the assessment criteria to allow consideration of any fencing proposed in the front yard, and to encourage development to consider the context of the site and surrounding area in the design response.
- 2.0 No other amendments are recommended in response to submissions.
- 3.0 Submissions to be accepted or rejected and individual responses to submissions points are set out at **Appendix 3**.

8.4 Development Areas

- 4.0 This section has been prepared by Anna Bindon and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to the Pukehangi Heights and Wharenuī Development Areas.
- 5.0 Pukehangi Heights Development Area was inserted into the Rotorua District Plan in a recent plan change (Plan Change 2) to enable development at the western fringe of Rotorua city, while managing issues and integrating development with respect to stormwater, cultural values, traffic, infrastructure, neighbouring landuses and the landscape values of the caldera rim. It is comprised of several zones, a structure plan and specific place-specific principles, objectives, policies and rules.
- 6.0 Wharenuī Development Area is intended to enable development at the city's eastern fringe. It is also comprised of several zones, includes provisions to manage infrastructure issues and has a strong focus on quality design.
- 7.0 PC9 proposes amendments to both the Wharenuī and Pukehangi Heights development areas. The purpose of these changes is primarily to incorporate the Medium Density Residential Standards ('MDRS') into the Residential 1 Zone and align policies as outlined in the Section 32 Report.
- 8.0 Certain aspects of the current planning framework for both Wharenuī and Pukehangi heights were preserved, with modifications that may limit the height and density that can be achieved under the MDRS. These existing qualifying matters were assessed in the Section 32 Report under Section 77I(j) of the Resource Management Act 1991 ('RMA') as there are site specific matters which are incompatible with the level of development enabled by the MDRS. These site specific matters are discussed below.

8.4.1 Pukehangi Development Area

8.4.1.1 Scope of Proposed Amendments

- 9.0 PC9 proposed amendments to the place-specific principles, policies and rules for development within the Pukehangi Heights Development Area in Part 3 of the District Plan.
- 10.0 In summary, the proposed changes comprise:
- a. Aligning the activity status, density and site coverage standards for residential units in the Residential 1 Zone parts of the development area with the MDRS. The exception is that a reduced height standard of 9m for the upper terrace is proposed as part of the management of landscape values, which is identified as a qualifying matter.

- b. Removing the specific areas identified for medium density development in the structure plan to acknowledge that medium density development is now enabled throughout the Residential 1 Zone parts of the development area.
 - c. Amending the place-specific principles for the lower terrace and upper terrace to be consistent with the enablement of medium density residential development, but with a reduced height and open built character to provide visually coherent transition between the upper terrace and the upper escarpment.
 - d. Amendments to policy PHDA-P1 and deletion of policies PHDA-P2, PHDA-P6, and PHDA-P10 to clarify the intention that the development would be consistent with the objectives and policies of the Residential 1 Zone.
 - e. Amendments to policy PHDA-P7 to clarify the intent of allowing development on the upper terrace while maintaining and enhancing the landscape values.
 - f. Deleting rules PHDA-R6 and PHDA-R8 for subdivision within the medium density residential development area and within the storm water/recreation areas to simplify existing qualifying matters, acknowledging that subdivision rule PHDA-R5 is sufficient.
 - g. Moving the outdoor service area requirements from specific standards for medium density development (which are deleted with the incorporation of MDRS across the Residential 1 Zone) to its own performance standard PHDA-SL
- 11.0 The proposed changes to the policy and height standards for the upper terrace were informed by specialist landscape advice from Boffa Miskell on the impact of the MDRS on protection of the landscape values of the Rotorua Caldera Rim (Appendix 10 to the Section 32 Report). The policy is intended to influence the design of development through subdivision and consent notices. Avoidance of a uniform pattern of development and integration of the built form against the upper escarpment is sought, using taller planting and building separation. The reduced height is also intended to address the transition from development on the Upper Terrace to the adjoining more sensitive Upper Escarpment in the upper slopes of the Caldera Rim.
- 12.0 Existing provisions that are less enabling than the MDRS relating to landscape values, flooding and stormwater management, cultural values, infrastructure and traffic and adjacent forestry were also retained and assessed as qualifying matters in the Section 32 Report, which is provided again in **Appendix 4**.
- 8.4.1.2 Background & Statutory Context**
- 1.0 Section 77G of the RMA states that every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone. The upper and lower terraces of Pukehangi Heights Development Area are zoned Residential 1 Zone. Therefore, Council is required to incorporate the MDRS standards into the Pukehangi Heights Development Area.
- 2.0 Section 77I of the RMA states that the inclusion of MDRS provisions can only be modified to limit development opportunities if it is necessary to address specific qualifying matters. The criteria for determining these matters and the evaluation process are detailed in sections 77I-L of the Act.
- 8.4.1.3 Submissions**
- 1.0 The below outlines the submission points that were raised in relation to the Pukehangi Heights Development Area:

- 2.0 Classic Group opposed the retention of standard PHDA-SL8 (Outdoor storage and service space), which requires a minimum of 5m² of open space per residential unit, which can accommodate a 2m diameter circle, to accommodate storage and services (38.18). The submitter states that it is not supported by MDRS provisions and is inconsistent with the NPS-UD; and that it is the only area in the plan subject to this rule.
- 3.0 Classic Group opposed the retention of PHDA-SS1 (Minimum lot width for solar access), which states that the minimum width of any property where the front boundary faces north, and access is from the north, or is within 25 degrees of north, shall be 18m (38.19). The submitter considered that the standard will undermine the ability of medium density development to be undertaken.
- 4.0 D Witehira and J Mitchell supported the retention of the 30m yards from boundaries adjacent to forestry (PHDA-SL2), which was identified as a qualifying matter in the Section 32 Report (43.1). The submitter also supported the proposed amendments to PHDA-P7 with regards to the escarpment and caldera landscape (43.2)
- 5.0 G Shekell sought that the standards remain unchanged and supports further subdivision if necessary (83.18).
- 6.0 Kainga Ora Homes and Communities ('**Kainga Ora**') supported the approach to integrate the requirements of the Housing Supply Act and sought to retain the proposed amendments to the Pukehangi Heights Development Area (86.134).

8.4.1.4 **Evaluation**

- 1.0 I support the approach taken of aligning the Residential 1 Zone parts of the development area with the MDRS, while retaining existing qualifying matters with some modification. These qualifying matters are assessed in **Appendix 4** and manage the constraints and values of the development area.
- 2.0 I note that no submitters have sought to delete any performance standards other than those stated below in **Paragraph 8.4.1.4 – 3.0**.
- 3.0 With regards to the submission points raised by Classic Group relating to PHDA-SL8 and PHDA-SS1 I consider that neither of these standards are related to density. The approach taken with the Pukehangi Heights Development Area was to only modify or remove any standards which were defined as “density standards” and would be less enabling as the MDRS. In the case of outdoor storage space and storage space, it does overlap with the outdoor living space performance standard, but it is not more restrictive than the MDRS and I therefore do not consider it to be inconsistent. I therefore do not consider that these standards should be deleted on the basis that they were inserted into the Pukehangi Heights Development Area standards to manage effects not relating to density.

8.4.1.5 **Recommendation**

- 1.0 I recommend that the changes sought to the Pukehangi Heights Development Area are rejected and that the provisions are retained as in the notified PC9 chapter.
- 2.0 Submissions be accepted or rejected as set out in **Appendix 3**.

8.4.2 **Wharenui Development Area**

8.4.2.1 **Scope of Proposed Amendments**

- 1.0 PC9 proposed amendments to the rules in the Wharenui Development Area to align the activity status and density standards for residential units with the MDRS. The effect is that

- much of the bespoke framework for addressing quality design is removed in the Residential 1 Zone part of the development area.
- 2.0 A requirement to comply with staging and minimum yields as a performance standard on subdivision to ensure the efficient provision and use of infrastructure is retained as a qualifying matter under s77I(j) (WHDA-S1 and associated rule WHDA-R1).
 - 3.0 PC9 also proposes to delete or amend rules that restrict development with respect to completion of upgrades to the state highway network and traffic calming (standard WHDA-S2, rule WHDA-R2, WHDA-S3, WHDA-S4) on the basis that such works have already been completed or are no longer planned. The qualifying matter is retained in respect to a reduced list of feeder road upgrades/traffic calming.
- 8.4.2.2 Background & Statutory Context**
- 1.0 As in the Pukehangi Heights Development Area, the MDRS must be integrated into the Residential 1 Zone parts of the Wharenui Development Area (section 77G). Provisions can only be less enabling than the MDRS to address specific qualifying matters and any qualifying matter must be assessed against criteria (sections 77I to 77L).
- 8.4.2.3 Submissions**
- 1.0 The below outlines the submission points that were raised in relation to the Wharenui Development Area:
 - 2.0 L Nelson sought clarification around WHDA-SA3 and whether the yards should be aligned with the Residential 1 Zone standards (26.45).
 - 3.0 G Shekell sought that the standards remain unchanged and supports further subdivision if necessary (Submission 83.18). The submitter supports the approach for restricting building within the vicinity of the caldera rim (83.19)
 - 4.0 Kainga Ora Homes supported the approach to integrate the requirements of the Housing Supply Act and seeks to retain the proposed amendments to the Wharenui Development Area (86.134).
 - 5.0 A letter was received by R Morrison on behalf of Ngāti Whakaue Tribal Lands (landowner of Wharenui Development Area) on 31 May 2022, stating that the approach to incorporate the MDRS was not desirable for their aspiration on their whenua Māori, and they do not support its application. Furthermore, they consider the performance standards proposed (the additional performance standards for the Wharenui Development Area) will add minimal value from the specific design features incorporated into the Wharenui Development Area. I note that this was not received as a submission so has not been addressed below.
- 8.4.2.4 Evaluation**
- 1.0 I consider that the changes to the Wharenui Development Area proposed in PC9 should be adopted.
 - 2.0 The proposed changes to the provisions within the Wharenui Development Area allow alignment with the MDRS and give effect to Policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD'). This facilitates the expansion of size and design options, such as detached homes, terrace housing, and low-rise apartments. This will enhance the ability to accommodate population growth while remaining within the current urban boundaries, promoting the creation of an efficient urban environment. These provisions will enable medium-density housing to be built across the Wharenui Development Area.

- 3.0 I support the qualifying matters identified for the Wharenui Development Area, which address infrastructure and traffic related concerns, as proposed to be amended to reduce their impact on development. These are detailed and assessed in **Appendix 4**.
- 4.0 I have considered submission 26.45 and note that the rule table for WHDA-R6 states that development shall comply with the standards for Residential 1 Zone for a list of standards including yards (RESZ-S2).
- 5.0 In the absence of evidence of a qualifying matter I do not agree with submission 83.19, on the basis that in adopting the relief sought Council would not meet the requirement to adopt the MDRS in all relevant residential zones.

8.4.2.5 Recommendation

- 1.0 I recommend that the changes proposed to the Wharenui Development Area be adopted as notified in PC9.
- 2.0 Submissions be accepted or rejected as set out in **Appendix 3**.

8.5 Natural Hazards

- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to natural hazards. Changes are recommended to the Natural Hazards and Subdivision chapters, as well as a number of zone chapters in response to the matters raised in submissions.

8.5.1 Objectives

8.5.1.1 Scope of proposed amendments

- 1.0 PCP focused on the policies and methods for the hazards that were considered to present challenges for intensification: geothermal and flooding. No changes were proposed to the objectives for natural hazards.

8.5.1.2 Background & Statutory Context

- 1.0 The objectives for Natural Hazards sit in the Strategic Direction chapter of the District Plan. The exception is an objective specific to flooding and the Waikato Catchment, which sits in the Natural Hazards chapter and is not relevant to this plan change. The Strategic Direction chapter also contains two broad policies. The Strategic Direction objectives and policies are set out below.

***SDNH-01:** Minimise or reduce the level of risk to life, property and the environment from the subdivision, use and development of land in areas subject to a natural hazard.*

***SDNH-P1:** Require the design and location of activities to avoid or mitigate natural hazards to an acceptable level of risk to life, property and the environment.*

***SDNH-P2:** Recognise that the risk of natural hazards will continue to influence the nature and location of urban development*

8.5.1.3 Submissions

- 1.0 L Nelson sought that objectives be included to sit above the policies included with PC9 (26.11). This is supported by the Bay of Plenty Regional Council ('BOPRC'), which suggested the following wording:

***NH-02:** Subdivision, use and development in the Rotorua District in areas susceptible to natural hazards, including flooding, geothermal and fault line hazards, is managed to minimise risk to people, property and the environment.*

8.5.1.4 Evaluation

- 1.0 I am not aware of any issue with the natural hazard policies and methods implementing objectives in the Strategic Direction section rather than in the Natural Hazards section. The latter already contains a note to refer readers to the former. The proposed policy would essentially only restate the existing objective in a slightly different way, which I do not consider necessary or efficient. Therefore, I consider that the most appropriate way to achieve the purpose of the Resource Management Act 1991 ('RMA') in the context of the confined scope of this plan change is to reject these submissions and make no changes.

8.5.1.5 Recommendation

- 1.0 I recommend that:
- a. No changes be made to the objectives; and
 - b. The submissions and further submissions be accepted, partially accepted or rejected as set out in Appendix 3.

8.5.2 Flooding

8.5.2.1 Scope of proposed amendments

- 1.0 PC9 proposes changes to assist in managing stormwater and flooding issues as outlined below.

8.5.2.1.1 *Stricter Standards for Impervious/Impermeable Surfaces in Residential Zones (RESZ-S3)*

- 1.0 The following changes are proposed:
- a. Reduction in the standards for maximum site coverage for impervious surfaces in the Residential 1 Zone and Residential 2 Zone (RESZ-S3) from 80% and 100% to 70% and 80% respectively;
 - b. A new policy (NH-PC) in the Natural Hazards section to 'Restrict impervious surfaces to reduce the cumulative effect of stormwater run-off on flooding'; and
 - c. A new matter of discretion for residential units that do not comply with site coverage standards for impervious surfaces in Residential 1 Zone and Residential 2 Zone : 'effects, including cumulative effects, on the capacity of infrastructure networks and flooding'.
- 2.0 These changes were based on the memorandum ('**Flood Hazard Memo**') of Mark Pennington of Tonkin and Taylor Limited ('**Tonkin + Taylor**') that explained that in most cases increasing impervious surfaces in a catchment increases downstream flooding and that restricting impervious surfaces is one method that the Council can use to assist manage the impact of the infill development facilitated by PC9 (Appendix 13 to the Section 32 Report).

8.5.2.1.2 *Clarification of the Requirements for Minimum Building Floor Levels*

- 1.0 PC9 also proposes changes to clarify the rule and policy framework for minimum building levels in flood prone areas (previously rule NH-R4 and NH-R5 but combined into NH-R4(2)), involving:
- a. Alignment of the design standard for levels to that used in subdivision and considered in relation to sections 71-74 of the Building Act, that is, 1% annual exceedance probability ('AEP') event with an allowance for climate change;
 - b. Removal of the 2%AEP lake flooding maps from the District Plan on the basis that they no longer represent the design standard and are based on outdated information;
 - c. Wording changes to remove the expectation that whole sites need be filled to minimum levels, which could exacerbate flooding on other sites;

- d. Removing the gap in minimum floor level rules for new buildings outside the Waikato River catchment (under the current provisions, outside the Waikato River Catchment, only habitable additions and replacement buildings are subject to minimum floor levels but not new buildings);
- e. New matters of discretion for assessing buildings that do not comply with the minimum floor level standards (NH-MD1(1));
- f. A new policy (NH-PA) essentially stating that in areas where anticipated flood levels are low minimum floor levels will be required using the 1% AEP event with an allowance for climate change and freeboard; and
- g. Provision of an exception from the need to meet minimum floor levels for buildings of low importance and amendments to the related definition. A definition of 'building' consistent with the national planning standards is also proposed for clarity but limited to the natural hazards chapter.

8.5.2.1.3 A new requirement for a flood assessment for buildings

1.0 To allow consideration of the appropriateness of the development and how it mitigates flood risk and its potential impact on other sites in areas where risks are potentially higher PC9 also proposes:

- a. A new restricted discretionary activity rule (NH-R4(3)) for new buildings and additions (over 20m²) where the maximum anticipated flood level at the site is more than 300mm in a 1%AEP event, taking into account climate change, based on RCP 8.5 (or most recent national or regional guidance), to 2130.
- b. Matters of discretion for assessment of resource consents under NH-R4(3) (NH-MD1(2) and(3)).
- c. A corresponding policy (NH-PA) referring to the above approaches of requiring minimum floor levels where anticipated flood levels are less than 300mm in the design event and for a flood risk assessment where flood levels are anticipated to be higher.

2.0 The choice of the threshold for the proposed rule was also based on the aforementioned Flood Hazard Memo, which explained that lesser degrees of building management may be justified in some areas; that the proposed threshold is consistent with an approach used elsewhere (Tauranga City Council); and overland flowpaths (using the parameters tested) are likely to lie inside the 300mm depth threshold.

8.5.2.1.4 Protection of overland flowpaths

1.0 Changes were also proposed to strengthen the management of overland flowpaths through the District Plan:

- a. A new policy to maintain the function of overland flowpaths (NH-PB), which can be considered through the proposed matters of discretion for the flood assessment proposed at building stage under NH-R4(3), as well as at subdivision.
- b. A new definition of overland flowpath to assist with implementation of the policy.

8.5.2.1.5 Streamlining of subdivision rules

1.0 Changes were also proposed to improve the efficiency of the subdivision rules:

- a. Amendments to performance standard requiring filling of whole lots above the inundation level and that building platforms be free of inundation (SUB-S8(1) and (2) and SUB-S9);

- b. Narrowing of the situations where subdivision triggers a stricter activity status to where the building platforms identified include land subject to flooding in the design event (rather than where any part of the site is affected by the design event) and changing this status from discretionary to restricted discretionary (SUB-R43); and
- c. Insertion of matters of discretion for assessment under SUB-R43 (SUB-MD1) similar to those proposed for the flood assessment above.

8.5.2.2 Background & Statutory Context

8.5.2.2.1 Hazard Context

- 1.0 Flood hazard information/models and hazard mapping has been developed by Rotorua Lakes Council ('RLC') and/or BOPRC for:
 - a. High lake levels in lake Rotorua (awaiting an update for the impact of climate change);
 - b. Stormwater catchment modelling for 7 out of 19 urban catchments in Rotorua (excluding Ngongotahā); and
 - c. Fluvial flooding (rivers or streams exceeding capacity) in the greater Utuhina catchment.
- 2.0 This provides a picture of many of the key areas subject to flooding in Rotorua. RLC has also commissioned a detailed flood model of the area from Ngongotahā to Awahou for release this year. A rapid flood model has already been completed to provide an indication of areas subject to flooding and is available on the Council's website. Hazard mapping for catchment 4 is underway planned for release later this year. RLC also plans to explore options to address gaps in the pluvial hazard mapping (flooding from rainfall and stormwater system surcharge) in the western part of the city, potentially using the model currently in development for investigating priorities for IAF funding.
- 3.0 In 2021 NIWA completed a case study of assessing the flood risk using RLC's flood hazard mapping for four urban catchments (covering Lynmore to west Owata and near Kawaha Point) and the risk assessment methodology in Appendix L of the Bay of Plenty Regional Policy Statement⁴. This assessment found that:
 - a. All four catchments assessed met the high-risk category because several social/cultural or critical buildings were identified as potentially functionally compromised due to their location in flood prone areas; and
 - b. In catchments 5 and 6 (Lynmore) high risk was also triggered by the percentage of miscellaneous buildings potentially functionally compromised in a 2% event due to their location in flood prone areas if one assumes buildings are functionally compromised if flood levels are 100mm at the building footprint. When a more conservative assumption was used high risk was not triggered.
- 4.0 K Thiel Lardon (BOPRC) provided a description of the flood hazard and risk (using the regional policy statement methodology) in the Utuhina Catchment in the evidence for the hearing on Plan Change 2 (Pukehangi Heights). Points noted included:
 - a. For the 1% AEP 2130 event (with climate change) significant spilling into the floodplain is evident throughout the urban extent. A number of roads including State Highway 5 are inundated by floodwaters, some greater than 500mm deep. The flood protection assets in the Lower Utuhina are ineffective; and

1.0

⁴ B Popovich and R Paulik, 'Flood Risk Assessment for Rotorua Lakes District Urban Catchments', NIWA Client Report 2021003WN for Rotorua Lakes Council, January 2021.

- b. In a 1% AEP 2130 event approximately 250 buildings were identified as potentially functionally compromised assuming this occurs where depth at the building footprint equals or exceeds 500mm (giving a medium risk category under the regional policy statement methodology). However, this was identified as likely to undercount the buildings, especially in industrial areas. Using the secondary analysis of a 0.2% AEP event the risk category is high.

8.5.2.2.2 *Status in the Intensification Planning Instrument ('IPI')*

- 1.0 The proposed PC9 changes outlined above are 'related provisions' under section 80E that support or are consequential to the Medium Density Residential Standards ('MDRS') and/or implementation of policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD'). They seek to:
 - a. Manage the increased risk to the development, other sites and the wider community because of the additional development enabled by the MDRS (stricter impervious surface standards, flood assessment requirement, clarification of minimum floor level requirements).
 - b. Improve the efficiency of provisions to achieve the density intended by the MDRS and Policy 5 (through clarification of minimum building floor level requirements and streamlining of subdivision rules).
- 2.0 The requirement for a flood assessment for buildings and additions where anticipated flood depths are deeper (NH-R4(3)) could potentially result in less enabling density than the MDRS because it may identify the need to avoid areas of land subject to flood hazards and maintain separation between buildings and other structures. Therefore, this rule was also identified and assessed in the section 32 report as a qualifying matter under s77I(a) a matter of national importance (specifically section 6(h) 'the management of significant risks of natural hazards').
- 3.0 The existing discretionary rule for subdivision that PC9 proposes to amend (SUB-R43) is an existing qualifying matter and is assessed in **Appendix 4**.

8.5.2.2.3 *Statutory Planning Context*

- 1.0 In terms of the broader policy framework the management of natural hazards (which is defined as including flooding) is a matter of national importance under section 6 of the RMA.
- 2.0 The Bay of Plenty Regional Policy Statement seeks a risk management approach to managing natural hazards (Policy NH 1B). A framework is prescribed for assessing the level of risk ('high', 'medium' or 'low') at the time of plan development and intensification of land use (Policy NH 2B, NH 8A and NH 9B); and risk is to be reduced in areas subject to a high level of risk, and in medium risk areas risk is to be decreased to as low as reasonably practicable (Policy NH 3B). The effects of climate change are to be incorporated in risk assessment, using authoritative up-to-date projections rainfall, etc. as updated scientific data become available (Policy NH 11B).
- 3.0 However, as an IPI, any changes proposed in PC9 that may make the MDRS less enabling of development in relation to an area within a relevant residential zone can apply only to the extent necessary to accommodate a qualifying matter, which includes 'the management of the significant risks of natural hazards' as a matter of national importance (section 77I).

8.5.2.2.4 *Expert Reports and Evidence*

- 1.0 In addition to the Flood Hazard Memo commissioned to support the development of PC9 mentioned above, Mr Pennington has also provided further evidence in response to submissions.

2.0 Paula Meredith, Council's Land Development Engineering Manager, has also provided evidence to explain how she envisages the proposed flood hazard requirement would be implemented.

3.0 Greg Manzano, Council's Infrastructure Growth and Planning Manager, has provided evidence giving an outline of major planned stormwater infrastructure improvements.

8.5.2.3 Evaluation of Submissions

8.5.2.3.1 Impervious Surfaces

8.5.2.3.1.1 Submissions

1.0 Waikato Regional Council ('WRC') sought that terminology across the plan be aligned by changing 'impermeable surfaces' to 'impervious surfaces' (64.3), which was supported by Kāinga Ora Homes and Communities ('Kāinga Ora') (FS 97.58).

2.0 Submitters such as Kāinga Ora and WRC supported the proposed policy NH-PC and its explicit recognition of the cumulative effects of increased impervious surfaces (submissions 86.22 and 64.7).

3.0 Submitters had a range of views on the changes to the maximum impervious site coverage standards. Several submitters (such as BOPRC and L Nelson FS 84.4, 26.28) supported the proposed reductions; one sought stricter standards (G Shekell, 2.23); several (including the Retirement Villages Association ('RVA') and Ryman Healthcare Limited- 88.72) opposed the changes and one sought that the standard not be reduced for the Residential 1 Zone (A Morrell 60.16).

4.0 Cheal Consultants Limited, while supporting the reduction in the maximum impervious surfaces standards, opposed the reference to cumulative effects in the matters of discretion for non-compliance with impervious surface standards (RESZ-MDA), stating that it would be impossible for an applicant to assess (79.15). This was opposed by the BOPRC, stating that consideration of cumulative effects is supported by the regional policy statement and that this information can be sought from Council (FS 84.12).

5.0 Classic Group sought changes in the definition of impervious surfaces to exclude swimming pools (as they provide storage volume) and engineered soil layers (as they will be impossible to assess/monitor and are therefore uncertain) from the definition of impervious surface (38.12). BOPRC opposed the submission (FS 84.2).

8.5.2.3.1.2 Evaluation

1.0 I agree that the terminology should be aligned throughout the plan. I prefer the term impervious surfaces to impermeable surfaces for alignment with the Tauranga City Plan.

2.0 I continue to support the proposed amendments to the performance standards for maximum site coverage for [impervious] surfaces in RESZ-S3 and do not support those submissions that seek to reduce the standard. As explained in the Flood Hazard Memo, the reduction in this standard is one method that will assist to reduce the impact of the intensification facilitated by PC9 on flooding. While further reductions could be considered as sought by G Shekell, the proposed standard seeks to also implement objectives and policies relating to enabling a variety of housing types and a mix of densities (SPUD-02, SPUD-P1).

3.0 I acknowledge the concerns of Cheal Consultants Limited about the difficulty for applicants to assess cumulative effects. However, as the related policy is to manage cumulative effects of impervious surfaces through the impervious surfaces performance standards, the implications on implementation of this policy should be considered when the performance standards are breached. I agree that it would be difficult for an applicant to assess cumulative effects but

they may, for example, be able argue that the issue is not relevant for development immediately adjacent to the lake at the bottom of the catchment.

- 4.0 I agree with the further submission of the BOPRC that the submission of Classic Group should be rejected and impervious surfaces should include swimming pools, because swimming pools offer minimal storage, as well as soil layers engineered to be impervious. Monitoring the extent of impervious surfaces presents a challenge in general but I consider there is capacity for RLC to account for soil layers engineered to be impervious when considering compliance at the time of building consent applications.

8.5.2.3.2 Approach to Building - Minimum Floor Levels and Flood Risk Assessment over a Threshold

8.5.2.3.2.1 Submissions

- 1.0 Submitters including the BOPRC and Kāinga Ora broadly supported the introduction of a flood risk assessment with only minimum floor levels required below a threshold; as embodied in proposed policy NH-PA and the amendments to Rule NH-R4 and proposed matters of discretion NH-MD1 (56.27, 56.28 & 86.25).
- 2.0 However, several submitters sought clarification in the terminology by changing the term flood 'level' with flood 'depth' (BOPRC 56.27, RLC 61.9 and 61.10, Kāinga Ora FS 97.53 & 97.54, WRC 64.9). RLC also sought change in terminology from '1%AEP lake flood level' to '1%AEP maximum lake level'.
- 3.0 J Kilpatrick opposed the proposed design flood for minimum floor levels, expressing concern about lack of mapping and stating it hinges on climate change theory, leaves open potential sweeping changes and is adequately covered by the exiting 1 in 50 year event (96.5 & 96.6). This is opposed by the BOPRC (FS 84.19 & 84.20) but supported by Rotorua Districts Residents and Ratepayers Association ('RDRR')(FS 91.36). Kāinga Ora sought no specific reference to the International Panel of Climate Change's representative concentration pathway ('RCP') 8.5 and 2130 as these references would change over time (FS 97.34).
- 4.0 BOPRC also sought (56.27 & 56.28):
- a. Various word changes to the policy NH-PA to:
 - i. 'manage' rather than 'minimise' the risks
 - ii. amend the terminology to a 'flood risk assessment',
 - iii. amend the extent to which flood risks are 'mitigated' to 'managed to an acceptable level'
 - iv. require the various matters outlined to be 'ensured' rather than 'considered'
 - v. ensure 'provision of safe evacuation routes and refuges' rather than consideration of 'whether there is a need for safe evacuation routes or refuges'.
 - b. Wording changes to the matter of discretion NH-MD1 to:
 - i. achieve 'an acceptable level of risk' rather than 'minimises the risks';
 - ii. refer to the extent to which the development 'does not increase risks' rather than 'will increase risks' and delete 'that extent to which the proposal mitigates this effect'.
 - iii. refer to safe evacuation routes *and* (not *or*) refuge. It also seeks that the matter of discretion set a threshold for provision of evacuation and refuge of flood depth >500mm.
 - c. Inclusion of an advice note in the matters of discretion regarding what constitutes an acceptable level of risk: "an 'acceptable' level of risk in relation to flooding means buildings are not functionally compromised and there is no risk to life in a 1% AEP flood event allowing for climate change to 2130 using the RCP 8.5 median projection".

- 5.0 Kāinga Ora also sought wording changes to policy NH-PA to the effect of restricting minimum floor level requirements to habitable buildings and requiring 'assessment' rather than 'consideration' of the appropriateness of the proposed development (86.20). Kāinga Ora also questioned why the national planning standards definition of building (which it supports) was applied only in relation to natural hazards and sought that it be applied more generally (86.3)
- 6.0 WRC sought that:
- a. instead of 'minimising risks' in policy NH-PA risks should be identified as low, medium or high and that intolerable risk be 'avoided' (64.5). This is supported by Kāinga Ora (FS 97.59);
 - b. risks considered under the matter of discretion are not just to people and property, but also to the environment (64.10);
 - c. a new matter be added to the matters of discretion to cover residual risk (64.10); and
 - d. the amended definition for 'buildings of low importance', which refers to buildings 'posing low risk to human life or the environment, or a low economic cost, should the building fail' require all three criteria to be met to be considered a building of low importance (64.2).
- 7.0 L Nelson stated the reworked rule NH-R4 is generally good but questions why NH-R4(4) is needed because it appears to be covered by the other clauses (26.12). He also sought that the definition of building for the purpose of natural hazards address the inconsistency between motorhomes and caravans.

8.5.2.3.2.2 Evaluation

- 1.0 I continue to support the approach proposed by PC9 (as expressed through proposed policy NH-PA and the amendments to rule NH-R4 and matters of discretion NH-MD1) of clarifying minimum floor level requirements and introducing a flood risk assessment where flooding is anticipated to be more significant. This was not challenged by submitters.
- 2.0 I agree that the terminology throughout the proposed changes should be clarified by changing the term flood 'level' with flood 'depth' and changing '1%AEP lake flood level' to '1%AEP maximum lake level'.
- 3.0 I also support the design flood of a 1%AEP event with an allowance for climate change (specified as RCP8.5 (or recent national and regional guidance) in the year 2130 for the setting of minimum floor levels and the threshold for a flood risk assessment. While Kāinga Ora was concerned that specifying RCP8.5 2130 would result in the need to update the plan through plan changes, I consider appropriate flexibility is provided by the alternative of recent national or regional guidance. Their concerns could also be further addressed by amending the words in brackets to the end of the clause to acknowledge that the timeframe for referencing climate change may also change in response to guidance.
- 4.0 I consider that this design flood and the proposed policies and rules will, over time, assist to give effect to the policy in the regional policy statement (NH-3B) to reduce risk by encouraging buildings to be designed to avoid compromising their function in a flood event.
- 5.0 In response to L Nelson, clauses (1) to (4) of NH-R4 cover different situations, as explained below, and therefore all need to be retained:
- a. NH-R4(1) covers permitted building 'exceptions' (buildings in the Electricity Generation Core Site, buildings of low importance, small extensions) that are permitted regardless of their floor level or whether they are in an area subject to more significant flood depths

- where a flood assessment would normally be required. These will continue to be managed under the Building Act;
- b. NH-R4(2) covers permitted buildings in areas subject to less significant flood depths, requiring minimum floor levels to be met (with exceptions in clause (1));
 - c. NH-R4(3) covers buildings that would be permitted under NH-R4(2) but do not meet the minimum floor levels; and
 - d. NH-R4(4) covers buildings in areas subject to more significant flood depths, requiring a flood risk assessment for buildings (with the exceptions in clause (1)).
- 6.0 I agree with the WRC that the definition of 'buildings of low importance' should require all three criteria (posing low risk to human life, low risk to the environment and low economic cost should the building fail). The proposed definition of building comes from the National Planning Standards; so, I am reluctant to recommend any amendments. In response to Kāinga Ora's question, PC9 proposed the definition only in relation to natural hazards because the term 'building' is used throughout the plan and the plan change only considered the implications of changing the definition in relation to Natural Hazards.
- 7.0 I have no issue with amending the wording of policy NH-PA, as sought by Kāinga Ora, to require 'assessment' rather than 'consideration' of the appropriateness of the proposed development.
- 8.0 I support the reference to risks to the environment in the matter of discretion (NH-MD1) as sought by WRC in relation to the flood assessment. However, in the case of buildings that do not meet minimum floor levels I consider the risk of wider environmental issues is less and adding the matter of discretion would reduce efficiency. For consistency, reference to the environment should also be added to policy NH-PA.
- 9.0 I do not agree that policy NH-PA should be restricted to habitable buildings as sought by Kāinga Ora because the economic and social risks are not limited to when habitable buildings are constructed. I consider that an exemption for buildings of low importance is more effective and efficient for achieving the objectives because it will more effectively focus on exemptions to assets of lower value.
- 10.0 I support the relief sought by BOPRC and supported by Kāinga Ora to amend the wording of policy NH-PA to 'manage' rather than 'minimise' risk and to achieving an 'acceptable level of risk'. I note that the 'minimise' wording is consistent with the language of the strategic direction objective SDNH-O1 'minimise or reduce the level of risk'. However, the Bay of Plenty and Waikato Regional Policy Statements and accepted risk management terminology (e.g. AS/NZS ISO 31000:2009) refer instead to seeking that risk be 'as low as reasonably practicable', 'tolerable' or 'acceptable'. The continued use of the 'minimise' terminology in the strategic objectives is something that should be considered in the future hazards plan change. In the meantime, I consider that 'managing' the risk will continue to 'minimise or reduce' the level of risk consistent with the objective. 'Manage' is also consistent with section 6(h) of the RMA, 'Manage the significant risks of natural hazards'.
- 11.0 I do not support the amendments that imply risks to other people, property and infrastructure are to be completely avoided. I prefer that the policy requires assessment of such risks and that the matter of discretion seek to manage those risks.
- 12.0 I also do not support the relief sought by WRC to rework the policy around categories of low, medium and high risk. While risk categories may be acceptable as a concept in the objectives, I consider that because these categories are not defined in a way that can be applied to assess

individual developments, it is more effective for the policy to describe the approach to manage risk (that is minimum floor levels and a flood risk assessment).

- 13.0 I am hesitant to include the advice note sought by BOPRC that would define what constitutes an acceptable level of risk as meaning buildings are not functionally compromised and there is no risk to life in a 1% AEP flood event allowing for climate change to 2130 using the RCP 8.5 median projection. While guidance as to what constitutes acceptable risk would be helpful, I do not consider that it can be stated in such an absolute way. It is unrealistic to completely avoid (0% probability) all risk to life; and some degree of compromise of buildings in the community is likely to be acceptable in a 1% AEP event with an allowance for climate change.
- 14.0 I consider that residual effects can be recognised by inserting a reference in NH-PA(i) and (ii) and NH-MD1(2)(a) and (b).
- 15.0 I do not, at this stage, support defining a trigger for consideration of evacuation because I consider further guidance is needed on this issue. However, I consider that the concerns of BOPRC could be partially addressed by providing a separate point on evacuation routes and refuge in the policy and matter of discretion to highlight this as potentially an important matter, rather than listing it merely as an example of measures to manage risk.
- 16.0 As noted above, the requirement for a flood assessment could potentially result in less enabling density requirements than the MDRS. An updated evaluation of this as a 'new qualifying matter' is provided at the end of this section.

8.5.2.3.3 Overland Flowpaths

8.5.2.3.3.1 Submissions

- 1.0 Kāinga Ora supported the proposed policy addressing overland flowpaths (NH-PB) but sought a minor change in wording from 'considering' to 'assessing' the impact of any changes to the entry or exit points (86.21).
- 2.0 Kāinga Ora also sought that the definition of overland flowpath be amended to effectively limit overland flowpaths to those with upstream contributing catchments exceeding 4,000m² (86.7). This was opposed by BOPRC, which stated that oversight is needed of development in overland flowpaths (FS 84.14).
- 3.0 BOPRC sought that an additional clause be added to the proposed fencing standard for residential units in Residential 1 and 2 Zones requiring no solid fences or walls within a flood hazard area or overland flowpath to ensure flood flow is not obstructed (56.24). This was supported by Kāinga Ora (FS 97.33).

8.5.2.3.3.2 Evaluation

- 1.0 I support the minor change in wording sought by Kāinga Ora to policy (NH-PB) to replace 'considering' to 'assessing' the impact of any changes to the entry or exit points.
- 2.0 However, I do not support limiting the definition of overland flowpaths to those with upstream contributing catchments exceeding 4,000m². I agree with BOPRC that oversight is needed with respect to overland flowpaths that do not meet this definition. As noted in the evidence of Damon Mathfield, the future hazards plan change is intended to consider additional controls for overland flowpaths. At that time, it may be appropriate to categorise and define flowpaths by, for example, catchment size and other factors such as velocity and depth. For now, it is more effective to retain a broad definition. Overland flowpaths are not used to define the location of any specific control, but only apply as matters of discretion at subdivision and for buildings that trigger the flood risk assessment.

- 3.0 I do not support adding an additional standard to restrict solid fencing in flood hazard areas or overland flowpaths as sought by BOPRC. I would be supportive of considering more targeted fencing controls to overland flowpaths. However, I consider this more appropriately addressed in the future plan change, once the Council has further considered where the control should apply. In the meantime, I recommend that matter of discretion NH-MD1 be amended to reference 'site works such as fences and walls' to clarify that this is part of the development that should be considered when resource consent is triggered under proposed NH-R4(4).

8.5.2.3.4 *Subdivision*

8.5.2.3.4.1 **Submissions**

- 1.0 Submitters, such as the WRC, sought that the terminology in the heading of matters of discretion title be changed from 'inundation' to 'flooding' to align with the rest of the plan (64.12).
- 2.0 L Nelson sought that the subdivision rule line-up with the land use rules regarding a threshold of 0.3m before an activity status change (26.13).
- 3.0 Kāinga Ora supported the change in activity status from discretionary to restricted discretionary in rule SUB-R43 (86.34). However, it opposed the proposed matters of discretion in SUB-MD2 (which would apply to subdivisions assessed under the amended restricted discretionary rule SUB-R43), stating that the matters are addressed under the land use rules (86.43).
- 4.0 WRC sought that risks considered under the matter of discretion not just be to people and property, but also the environment (64.12).
- 5.0 WRC also sought that a new matter be added to the matters of discretion to cover residual risk (64.12).

8.5.2.3.4.2 **Evaluation**

- 1.0 I support the change in the heading of SUB-MD2 from 'inundation' to 'flooding' to align with the rest of the plan, as well as inclusion of reference to residual risks and risks to the environment, as sought by the WRC.
- 2.0 Contrary to the views of Kāinga Ora, I do not consider it an issue that similar matters of discretion are provided at subdivision to land use (under the flood risk assessment for building). Subdivision provides opportunity to influence land use patterns, while land use provides opportunity to consider the detail that could not be considered at subdivision.
- 3.0 PC9 seeks to make SUB-R43 (an existing qualifying matter) more targeted and effective by focusing on subdivision with building sites affected by flooding (not any part of the site affected) and changing the status from discretionary to restricted discretionary. L Nelson seeks to further target the activity status change for subdivision by using a threshold of 300mm. I consider that there could be merit in using this approach for residential and city centre zoned sites if the threshold were applied to the whole site rather than the building platform, as this would increase the potential to consider risks associated with site works and evacuation. For larger sites represented by other zones I favour the notified proposal of a threshold of flooding on the building platform.
- 4.0 An assessment of the [amended] qualifying matter is provided in **Appendix 4**.

8.5.2.3.5 *Setback from Streams*

8.5.2.3.5.1 **Submissions**

- 1.0 BOPRC sought that additional clauses be added to rule NH-R4(1) and (2) requiring 10m building setbacks from rivers and streams for buildings and additions (of any type or size) in areas susceptible to flooding to qualifying as permitted activities (56.12).
- 2.0 The Rotorua Planning Consultants opposed the relief, stating it is an unreasonable restriction on residential properties, many of which are only 17m to 20m wide (FS 104.6).

8.5.2.3.5.2 **Evaluation**

- 1.0 The relief sought by BOPRC to add clauses to rule NH-R4(1) and (2) to require 10m building setbacks from rivers and streams would be less enabling than the MDRS (potentially requiring larger setbacks from boundaries and affecting building density). Therefore, it would need to be assessed as a qualifying matter under section 77J, in terms of why the level of development permitted by the MDRS is incompatible with the qualifying matter and the costs and impacts on development capacity, etc.
- 2.0 Rule PA-R1 already sets a 25m setback for buildings adjacent to the lake or priority rivers and streams for esplanade acquisition. This includes key urban waterways of the Puarenga stream, Utuhina River, Waingaehe Stream, Waiowhiro Stream, Ngongotahā Stream and Waitetī Stream. However, some waterways such as those in Lynmore and the upper reaches of the Mangakakahi are not covered by this standard. There are also esplanade reserve requirements at subdivision for rivers over 3m in width under Rule SUB-R44.
- 3.0 The recommended flood risk assessment also provides potential to assess the appropriateness of the location of buildings and structures in areas adjacent to waterways that are anticipated to meet the threshold for the assessment. The proposed matters of discretion include 'impact on river corridors'. However, because this rule is focused on the risks to buildings and occupants (and not protecting the function of the waterways) it provides exemptions for buildings of low importance that may still compromise the function of waterways despite their low economic and functional importance.
- 4.0 While I do consider that separate rules focusing on river corridors (as well as overland flowpaths) could potentially be appropriate, I consider that this would be better addressed in the future hazards plan change. I agree with the Rotorua Planning Consultants that the effect of introducing the performance standard may be fairly significant for residential properties, at least those not already covered by rule PA-R1 and I am concerned about the lack of consultation on this issue.

8.5.2.3.6 *Other*

8.5.2.3.6.1 **Submissions**

- 1.0 G Shekell sought that flood maps be left in the plan (83.22). Kāinga Ora, in response to a different submission point about the mapping of qualifying matters, noted that flood maps must sit outside the District Plan to allow for updates (FS 97.26).
- 2.0 L Nelson sought that the definition of AEP be updated to reflect proposed changes in the natural hazards chapter (26.2).
- 3.0 BOPRC sought that an advice note be added after NH-R4- (56.13):

[Advice note: Any buildings and construction activities within Flood Protection and Drainage Applicable areas require Flood Protection and Drainage Bylaw authority from Bay of Plenty Regional Council to ensure flood protection and drainage infrastructure](#)

assets are not damaged or compromised. Regional Council's interactive map shows which properties the Bylaws cover.

8.5.2.3.6.2 Evaluation

- 1.0 I agree with Kāinga Ora that flood maps best sit outside the District Plan to allow for updates for multiple reasons such as changes in topographical information (digital elevation model), advice on the impact of climate change on rainfall assumptions.
- 2.0 I agree that the definition of AEP requires updating. References to 2%AEP maps should be deleted.
- 3.0 I have no issue with adding the advice note sought by BOPRC to alert plan users to the requirement for authority from BORPC for building and construction in the Flood Protection and Drainage Applicable areas. However, I consider it need only be inserted once at the end of rule NH-R4 and not after each clause.
- 4.0 I also note an error that the advice note relating to building extensions and the Building Act is repeated twice and should only sit under NH-R4(1).

8.5.2.3.7 General concern about flooding

8.5.2.3.7.1 Submissions

- 1.0 There were also submissions that expressed concern about the impact of development on stormwater and flooding. Some sought that the plan change be deleted. Others sought no specific relief but questioned what was being done and whether further development was appropriate. For example:
 - a. J France-Goss asked about developing medium density housing in the Hannah's Bay area - what does this plan offer to manage the flooding problem this area already faces (5.2)?
 - b. S Jones sought that [the plan change] be deleted, stating that currently Rotorua's infrastructure including storm water and sewerage cannot handle the current demands and improvements will require significant rate payer contribution which is already significant burden (6.3);
 - c. J Percival stated that parts of Rotorua, including Glenholme, are basically built on a lakebed. Dense building appears to go against the grain when viewing from a hazard perspective. Intense building on a site under rez1 with 3 to 6 buildings, either as apartments and definitely as three storeys would appear to place more people in the way of hazards (78.3); and
 - d. Mitchell, J, submitting for Nataria and Zealand Mitchell Lands Trust, which owns industrial lands located in the industrial zone between 74 Clayton Road and 9 Old Taupo Road that has experienced flooding in the rear low-lying area, expressed concern about additional runoff from development and drainage already at capacity. The submitter sought that financial contributions be collected towards the upgrade of site-specific infrastructure and that an allocation of peak run off rate and runoff volume is reserved for future permitted development on the lands (preference). Alternatively, that the status quo is maintained by permitting no further intensification by adopting a buffer around locations of overland flow and discharge to the drainage and stormwater system (44.1).

8.5.2.3.7.2 Evaluation

- 1.0 I note the concerns submitters have about flooding and stormwater management in the context of intensification, but recommend no specific amendments in response to these submissions. Addressing flooding risk and managing the potential impact of development on flood risk to others, while also seeking to enable housing is complex and, I consider, must be addressed in multiple ways.

- 2.0 A range of activities are already underway or proposed to manage flood risk in the context of intensification, many of which are discussed in this report and the associated evidence, including:
- a. Flood hazard modelling mapping and monitoring to support modelling assumptions;
 - b. Restrictions on impervious surfaces;
 - c. Assessment and management of flood risk through building consents, land use consents for buildings and subdivision, including the flood risk assessment for buildings proposed in this report;
 - d. Stormwater infrastructure with significant improvements funded by the Infrastructure Acceleration Fund and development contributions;
 - e. The Kaituna Catchment Control Scheme; and
 - f. Provision of information through Land Information Memoranda and mapping tools.
- 3.0 Based on my experience, the submissions and evidence, further actions that I consider could assist include:
- a. Continuing to progress and update flood hazard mapping
 - b. Greater clarity around the role (if any) of attenuation and infiltration at the site-specific scale to manage flooding, which could also be considered in the above plan change and/or through the conditions and catchment planning required under the comprehensive stormwater resource consent for the Rotorua urban catchment.
 - c. A further hazards plan change to consider rules to protect the function of overland flowpaths and river corridors and potentially the role of attenuation and infiltration at the site-specific scale.
 - d. Consideration of options to encourage land use change to reduce risk in the areas most affected.

8.5.2.4 Evaluation of New Qualifying Matter

- 1.0 As noted above, the introduction of a flood risk assessment may result in development that cannot achieve the density of the MDRS because, for example, the need to avoid the worst affected areas and maintain overland flowpaths. This is considered less enabling than the MDRS and assessment is, therefore, required under section 77J of the RMA. The relevant category of qualifying matter is a matter of national importance under section 6 (section 77I(a)), that is, management of the significant risks of natural hazards (section 6(h)).
- 2.0 Under this section, Council is required to:
- a. Demonstrate why it considers that the area is subject to a qualifying matter and that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A of the RMA) (s77J(3)(a));
 - b. Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity (s77J(3)(b)); and
 - c. Assess the costs and broader impacts of imposing those limits (s77J((3)(c)).

8.5.2.4.1 Area Affected

- 1.0 The area affected is that subject to the amended rule NH-R4(4), that is, the areas where flood levels are anticipated to be more than 300mm in the design event. The extent of areas affected is identified in the maps attached in **Appendix 5**. This is based on hazard mapping available to the Council, including the recent rapid flood assessment for Ngongotahā. By the time the plan change is operative the more detailed Ngongotahā hazard mapping should be available.

8.5.2.4.2 *Reasons for the Qualifying Matter*

- 1.0 The reason why the areas are considered subject to a qualifying matter and why the area is incompatible with the level of development anticipated by the MDRS is that there may potentially be significant risks from flooding to people and/or property associated with new buildings or additions to buildings permitted by the MDRS due to:
- a. Increased cumulative value of assets that could potentially be damaged in a flood event;
 - b. Increased number of occupants in areas that may be hazardous to life due to deep and/or fast flows; and
 - c. The impact of development on flooding through compromise of overland flowpaths and diversion of flood waters.
- 2.0 This is addressed to some extent through minimum floor levels, administration of the Building Act, surfaces and subdivision assessments; but the flood risk assessment provides broader scope to consider the effects and potential options to minimise the risk through consent conditions.

8.5.2.4.3 *Impact on Development Capacity*

- 1.0 Given the variability of flood hazards, it is not possible to determine the exact impact on development capacity. On some sites, flood hazards are likely to be managed through site design, including the implementation of minimum floor levels with little overall impact on capacity. In areas where development is more constrained, it is likely that these areas would also be subject to restrictions under the Building Act that reduce development capacity notwithstanding the requirement for a flood risk assessment.

8.5.2.4.4 *Costs and Broader Implications*

- 1.0 While the introduction of this rule will have increased consenting costs, it will mean development is more responsive to flooding and the site-specific risks to ultimately create greater resilience. This should reduce losses during a flood event.

8.5.2.5 **Recommendation**

- 1.0 I recommend the following changes:
- a. Replace the term impermeable surfaces with impervious surfaces throughout the plan.
 - b. Amend flood depth to flood level in the rules and policies with reference to the thresholds for flood risk assessment.
 - c. Amend definitions, policies NH-PA and NH-PB, matters of discretion NH-MD1 and SUB-MD2 as follows:

AEP	Annual Exceedance Probability A 1% AEP identifies a 1% (1 in 100) chance of there being a flood event of this size or larger in any given year. Also known as 100 year return period event or primary risk zone. A 2% AEP identifies a 2% (1 in 50) chance of there being a flood event of this size or larger in any given year. This is also known as a 50 year return period event or secondary risk zone. ~~The 2% AEP is shown on Planning Maps 208 for Lake Rotorua and Lake Rotoiti.~~
buildings of low importance	in relation to buildings within ~~fault avoidance areas~~ <u>NH Natural Hazards</u> , ~~non-habitable buildings and structures presenting a low degree of hazard to life and other property: examples are structures with a total floor area of less than 30m², farm buildings, isolated structures, towers in rural situation, fences, masts, walls~~

	and in-ground swimming pools, means buildings posing low risk to human life ~~or~~ and the environment, ~~or~~ a and a low economic cost, should the building fail. These are typically small (less than 30m ²) non-habitable buildings, such as sheds, barns, and the like, that are not normally occupied, though they may have occupants from time to time.
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NH-PA	~~Minimise~~Manage the risks to people, ~~and~~ property and the environment associated with development in areas susceptible to flooding by: - In areas where the anticipated flood ~~levels~~depths are low and, therefore, the likely risks to people and property are less, requiring new buildings and larger additions to existing buildings to have floor levels above the flood level for the 1% AEP event with an allowance for climate change and freeboard. - In areas where anticipated flood ~~levels~~depths are higher and, therefore the potential risks to people and property are greater, requiring a ~~broad~~flood risk assessment for new buildings and larger additions to existing buildings and their associated site works that corresponds to the nature and scale of the anticipated flooding on site, including ~~consideration~~assessment of: - The appropriateness of the proposed development, and the extent to which the flood risks (including residual risks) on site are ~~mitigated~~managed to an acceptable level; - Whether the development will increase risks (including residual risks) to other people, property, ~~or~~ infrastructure or the environment; - Whether there is a need for safe evacuation routes ~~or~~ and refuges; and - Impacts on overland flowpaths and river corridors.
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Overland flowpaths and river corridors

NH-PB	Maintain the function of overland flowpaths and river corridors to safely convey flood water and reduce risk to life, property and infrastructure by: - Maintaining the water carrying capacity of overland flowpaths and river corridors; - Maintaining the water storage capacity of major overland flowpaths and river corridors; - Restricting activities that may obstruct an overland flowpath; and ~~Considering~~Assessing the impact of any changes to the entry or exit points of overland flowpaths on a site and the impact on other sites and infrastructure.
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NH-MD1 Building in areas susceptible to flooding

- Where new buildings or building additions do not meet the minimum floor levels for permitted activities: ~~the extent to which the proposal minimises~~ management of the risks to people and property on site from flooding;
- Where new buildings or additions are proposed in areas where the anticipated flood ~~levels~~ depths during the 1%AEP event with an allowance for climate change are greater than 300mm:
 - The appropriateness of the proposed development (including the associated site works) ~~and the extent to which the proposal minimises the measures to achieve an acceptable level of risks to people, and property and the environment on site from~~

- ~~flooding through measures such as building design and provision of safe evacuation routes or refuge;~~
- ~~b. Provision of safe evacuation from the property during a flood event;+~~
- ~~c. The extent to which the development will increase risks (including residual risks) from flooding to people and property on other sites or to infrastructure or the environment; and the extent to which the proposal minimises this effect; and~~
- ~~d. Whether the proposal will affect the carrying capacity and storage capacity of any river corridor or major overland flowpath.~~
- 3. Where overland flowpaths affect the site:
 - a. the extent to which the development, including potential siteworks such as fences and walls, provides for the conveyance of water;
 - b. whether the development will change the entry and/or exit points of the overland flowpaths on the site and the impact other sites and infrastructure;
 - c. management of any potential erosion caused by any overland flowpaths; and
 - d. provision for access and maintenance to the overland flowpaths.

SUB-MD2 Areas susceptible to ~~inundation~~ flooding

- 1. ~~The appropriateness of the proposed building locations and the extent to which the proposal minimises the risks (including residual risks) to people, and property and the environment on the site from flooding;~~
- 2. ~~The extent to which development of the site will increase risks (including residual risks) from flooding to people and property on other sites, or infrastructure or the environment; and the extent to which the proposal mitigates this effect;~~
- 3. ~~Whether the development of the site will reduce the carrying capacity and storage capacity of any river corridor or major overland flowpath; and~~
- 4. ~~Where overland flowpaths affect the site:~~
 - ~~a. the extent to which the development of the site, including potential siteworks such as fences and walls, will provide for the continued conveyance of water;~~
 - ~~b. whether the development of the site will change the entry and/or exit points of the overland flowpaths and the impact on other sites and infrastructure;~~
 - ~~c. management of any potential erosion caused by any overland flowpaths; and~~
 - ~~d. provision for access and maintenance to the overland flowpaths.~~
- d. Amend the allowance for climate change in rules NH-R4(2) and (4) and SUB-R43 to read:
taking into account climate change, based on RCP8.5 (or most recent national or regional guidance), to the year 2130 (or most recent national or regional guidance).
- e. Delete the repeated advice note at the end of NH-R4(4) and add the following advice note to the end of rule NH-R4

Advice note: Any buildings and construction activities within Flood Protection and Drainage Applicable areas require Flood Protection and Drainage Bylaw authority from Bay of Plenty Regional Council to ensure flood protection and drainage infrastructure assets are not damaged or compromised. Regional Council's interactive map shows which properties the Bylaws cover.

- f. Amend the threshold for subdivision consent as a restricted discretionary activity in rule NH-R43 as follows:
 - a. Residential and City Centre Zones: The maximum anticipated flood depth for land in the site is more than 300mm from:
 - i. the 1% AEP flood level from rivers or overland flows and/or the 1% AEP lake flood level; and

- ii. Taking into account the effects of climate change, using RCP8.5 median scenario to the year 2130 (or most recent national or regional guidance).
- b. Other Zones: The building platform identified for the subdivision includes land anticipated to be flooded by:
 - I. the 1% AEP flood level from rivers or overland flows and/or the 1% AEP lake flood level; and
 - II. Taking into account the effects of climate change, using RCP8.5 median scenario (or most recent national or regional guidance), to the year 2130 (or most recent national or regional guidance).

3.0 Accept and reject submissions as set out in **Appendix 3**.

8.5.3 Geothermal

8.5.3.1 Scope of Proposed Amendments

1.0 PC9 proposes amendments to the provisions that manage the risks from geothermal hazards. The proposed amendments (as notified) are:

- a. A new policy NH-P4: 'Minimise the risks to people and property from geothermal hazards, including by locating the discharge of any geothermal gas away from confined spaces on a site'; and
- b. A new permitted activity standard in NH-R8, which requires that, within the Geothermal Systems Overlay, any venting structures necessary for gas ingress mitigation shall be directed to vehicle accessways or the street. Activities that do not meet the performance standard are proposed to be restricted discretionary activities, with discretion reserved over 'Adverse effects from natural hazards or the worsening of any hazard identified on the planning maps are managed'.

8.5.3.2 Background & Statutory Context

8.5.3.2.1 Hazard Context

1.0 Rotorua city, due to its location over an active geothermal system, has unique geothermal hazards. To assist with the development of PC9, Tonkin + Taylor were commissioned (with the assistance of a project group also comprising the Institute of Geological and Nuclear Sciences ('GNS') and Rotorua Lakes Council and Bay of Plenty Regional Council staff) to undertake an assessment of the geothermal hazards and risks to residential buildings and occupants in the context of intensification and to identify possible methods to manage the risk ('**Geothermal Risk Assessment Report**', Appendix 3 to the Section 32 Report).

2.0 The table below summarises the types of geothermal hazards present in Rotorua, the risks to development and how the additional development enabled by PC9 can exacerbate risk. The table is based on the information in the Geothermal Risk Assessment Report, as well as an earlier summary of a report by GNS on volcanic and geothermal hazards.⁵

1.0

⁵ Tonkin & Taylor Ltd, Geothermal hazard risk review for residential dwellings and their occupants in Rotorua City (v5), report for Rotorua Lakes Council, August 2022; B.J. Scott, Rotorua District Council Hazard Studies, Part 1 Volcano and Geothermal Hazards, GNS Science Consultancy Report 2010/67.

Table 16: Geothermal Hazards and Intensification

Hazard	Risks	Impact of Intensification on the Risks
Features - Hot water, mud and steam located in geothermal features such as fumaroles.	Features can cause injury and damage to structures. However, their location tends to be known and stable over long periods of time.	No major impact anticipated as locations of features are well known and their location tends to be stable.
Emissions from features - Explosive jetting, splashing and bubbling from surface features.	Can cause injury or damage to structures or people nearby. The impacted area is usually within 3-5m of the feature. Interference with a surface feature can potentially increase the hazard.	Many features are located away from development in reserves but in some locations are located closer to private land. There is the potential for stormwater from development to interfere with features
Warm-hot ground – hazard varies, ranging from areas where temperatures are only slightly above ambient to boiling conditions at shallow depths.	The heat can damage foundations/structures. It can also affect the quality of living environments. Heated ground is also associated with issues of ground instability/ collapse.	The risks can increase with an increase in impervious surfaces, which can reduce the cooling effect of rainwater percolation and create a barrier to reducing heat radiation to the air. PC9 proposes reductions to maximum impervious surfaces but, in reality, will facilitate additional impervious surfaces through other more enabling provisions such as reduced yards.
Geothermal gases - Can be emitted diffusely from the ground or from point sources such as springs or fumaroles; and can include toxic gases such as hydrogen sulphide and radon.	Harmful gases can infiltrate through gaps in buildings, service lines and foundations and fill up spaces. It also has the potential to accumulate within depressions and small outdoor spaces between structures. It is difficult to detect without specialise sensors. The risks are difficult to quantify due to the complexities associated with long term exposure and influence of development on the risks. Eleven deaths have been attributed to gases since 1946.	Development can potentially occur in areas where gas emissions occur. The risks can also increase with an increase in impervious site coverage, causing gas emissions to concentrate into gaps such as spaces between buildings or the entrances into buildings for services.

Ground instability due to erosion of subsurface material through chemical and/or physical processes.	Has the potential to cause injuries and damage to foundations/structures. It is most likely to occur near to bores or surface features. Is the most frequent cause of accidents to people visiting thermal areas.	Development could potentially occur in areas subject to ground instability (associated with hot ground). Instability can be accelerated by concentration of stormwater from development.
Geothermal bores and associated pipework and other infrastructure located across the city used to exploit the resource deteriorate and can lead to elevated ground temperatures, emission of gases and development of surface features.	Risks to people and property associated with heat, gases, emission of materials, erosion and subsidence (e.g. undermining of foundations).	Development can occur close to or over bores/ infrastructure. Development can also block access to the bores/infrastructure for machinery, which is important in containing issues when they arise.
Geothermal eruptions , which can be either hydrothermal (with energy obtained from the geothermal system) or phreatic (with a direct magmatic heat or fluid involvement).	Phreatic eruptions - no magma activity in the Rotorua Caldera in the last 100,000 years. Hydrothermal eruptions are usually short lived but vary in size, ejecting material from several metres to up to 100m in the largest of eruptions. They have the potential to cause serious injuries and damage to structure, but are most likely to occur in places where the geothermal heat flow is very high, where there are existing boiling springs or high flows of steam (that is, in areas where there are existing known hazards).	Most likely to occur in or near existing surface features, many of which are located away from private land. However, in some cases, private land is located close to such areas and could be developed further under PC9.

- 3.0 The changes proposed by PC9 focus on the hazards associated with the venting of harmful gases, as it was identified that other methods already exist to address other hazards. Importantly, it was assumed at the time PC9 was developed that the building consent process provides significant opportunity to assess and consider mitigation for geothermal risks (refer to the Geothermal Risk Assessment Report, page 20). PC9's changes were intended to supplement this process by ensuring that when buildings are designed to collect gases and vent these through venting structures, the structures direct the gases away from confined spaces where gases can easily accumulate.

8.5.3.2.2 *Status in the IPI*

- 1.0 In terms of the status in the IPI, the proposed changes are 'related provisions' under section 80E(b)(iii) that support or are consequential on the MDRS and implementation of policy 5 of the NPS-UD. They are intended to respond to potential increased risks from venting gas from the development facilitated by PC9.

8.5.3.2.3 *Statutory and Planning Context*

- 1.0 The District Plan contains the following other policies and methods to manage the risks from the geothermal hazards set out in the table above:
- a. Subdivision 'of sites or buildings on land affected by a geothermal feature, geothermal activity or bore' is a discretionary activity (Rule SUB-R42). The related policy (SUB-P7) is to restrict development subject to specific natural hazards, including geothermal activity, 'such that the site would be unusable or unsafe or that the natural hazard risk exceeds acceptable levels'. Performance standards for subdivision also require an area with a foundation suitable for intended future use free from subsidence (SUB-S9).
 - b. Subdivision performance standard (SUB-S3(8)) also states:

For the subdivision of any land or buildings on land known to be susceptible to geothermal activity, the following shall apply:

 - a. *Those areas of the site with geothermal activity and that have visible geothermal surface features, or have existing or disused geothermal bores, shall be identified as part of the subdivision application, and shall be shown as being excluded from the location of buildings and structures.*
 - b. *The assessment of effects on the environment ('AEE') submitted with any subdivision application shall cover the effects of the geothermal activity on the subdivision and any subsequent use of the land or buildings. It shall also assess any effects the subdivision may have on the geothermal surface features. The assessment shall include an assessment of risk, cover relevant matters contained in section 106 RMA and recommend how the issue can be avoided, remedied or mitigated.*
 - c. *Proposed mitigation measures shall be documented to ensure suitability of the land for subdivision and intended future use. This shall include the consideration of subsequent location and use of either habitable or non-habitable buildings on the site.*
 - c. Buildings within 5m of a geothermal surface feature or bore are restricted discretionary activities with discretion reserved over 'Adverse effects from natural hazards or the worsening of any hazard identified on the planning maps are managed' (amongst other things) (Rule NH-R6).
 - d. Rule NH-R7 requires, as a permitted standard, an assessment by a suitably qualified and experienced person as part of any required building consent application if the site coverage of buildings and other hard surfaces exceeds 90% in the geothermal systems

overlay. This overlay is included in the planning maps and covers the Rotorua Geothermal system as well as other systems.

- 2.0 The Rotorua Regional Geothermal Plan, in turn, focuses on protection of the resource and features rather than the management of the risks to development. It requires consent for interference with a geothermal feature (Rule 13.5.3(b)).
- 3.0 Other key methods outside the District Plan to address the risks include:
- a. The Rotorua District Council Geothermal Bylaw, which includes:
 - i. A requirement to maintain site access to any well (bore) so as to allow access to the well by a drilling rig (clause 5.12).
 - ii. A restriction on the erection of structures or buildings within 5 m of either an existing well, or a closed well except with the express written approval of the council, and subject to any conditions it may impose (clause 5.18).
 - iii. A requirement for developers, owner or occupier of every building to take all reasonably practical steps to incorporate acceptable barriers to the ingress or egress of hydrogen sulphide, into or from, new or upgraded building developments (clause 7.3).
 - b. The Building Code, which contains a range of potentially relevant requirements in relation to, for example, structural stability and durability.
- 4.0 RLC also intends to develop practice notes/guidelines to assist developers to address the geothermal risks. It has procured services for this project but has yet to start the work.
- 5.0 In terms of the broader policy framework the management of the significant risks of natural hazards (which is defined as including geothermal activity) is a matter of national importance under section 6 of the RMA. The Bay of Plenty Regional Policy Statement seeks a risk management approach to managing natural hazards (Policy NH 1B). A framework is prescribed for assessing the level of risk ('high', 'medium' or 'low') at the time of development but this does not apply to geothermal hazards (Policy NH-8A).

8.5.3.2.4 *Expert Reports and Evidence*

- 1.0 In addition to the Geothermal Risk Assessment Report commissioned to support the plan change and the 2010 geothermal hazards report by GNS mentioned above, the following further reports and evidence support the evaluation in this section:
- a. Evidence of J Brzeski, Tonkin + Taylor, on the matters raised in submissions.
 - b. A memorandum by B Scott on geothermal boundaries (**Appendix 7**)
 - c. Legal advice from Rice Speirs on the extent to which geothermal hazards can be addressed in the Building Act (jointly funded by the BOPRC) (**Appendix 6**)

8.5.3.3 **Submissions**

- 1.0 Several submitters supported the proposed venting structure policy and performance standard. However, these provisions were opposed by the BOPRC and WRC. The regional councils stated that the provisions are ineffective because they do not prevent confined spaces being created around the vent later and do not address the issues of gas emitted diffusely through the ground into confined spaces (56.34).
- 2.0 Noting concerns about the scope of the Building Act to manage geothermal hazards, they sought a broader role for the District Plan, involving:
- a. Deletion of the existing requirement for a site-specific assessment at building consent when impervious surfaces exceed 90% in the geothermal systems overlay (NH-R7). They

state that this is consistent with the recommendations in Tonkin + Taylor report (section 5.2), which identified that there may be risks with lower levels of impervious surfaces (56.33, 64.16).

- b. Refocusing of the proposed policy and rule for venting structures to instead require a site-specific assessment for development in the Geothermal Systems Overlay to be certified by Council and that development is designed in accordance with geothermal guidelines (56.30, 56.35, 64.15 & 64.16):

Rule NH-RX New buildings and additions to buildings in the Geothermal Systems Overlay

1. New buildings and additions to buildings in the Rotorua Geothermal Systems Overlay

Activity status: Permitted

Subject to the following conditions:

a. The development shall be designed to mitigate risk from geothermal hazards, including gas, hot ground and acid ground [in accordance with the Geothermal guidelines/standard].

b. A report by a suitably qualified and experienced person shall be submitted alongside the building consent application, for written certification by a Council geothermal specialist, which addresses the following:

i. Identification and extent of geothermal hazards on the site, including:

1. Geothermal surface features;

2. Geothermal gas;

3. Heated ground; and

4. Corrosive ground.

ii. Measures to mitigate geothermal risks to people and property on the site and surrounding sites including:

1. Site and building design;

2. Impervious site coverage and surface treatment controls to mitigate the impact on natural gas flow and heat flux from the ground;

3. Controls over venting structures, yards, outdoor living space, separation between buildings and fencing materials to reduce gas accumulation and risk;

4. Stormwater management to avoid exacerbation of geothermal corrosive ground processes; and

5. Ongoing measures needed to be maintained by the site occupants in perpetuity to mitigate geothermal hazard risk, such as retention of permeable surfaces, location and clearance of gas venting structures.

Exception

This rule does not apply to alterations that do not increase the building footprint and are not otherwise associated with an increase in impervious surfaces.

2. Activity Status: Restricted Discretionary

New buildings and additions to buildings in the Rotorua Geothermal Assessment Overlay, where the activity does not meet the conditions of NH-RX(1), are a Restricted Discretionary Activity.

Matters of discretion:

1. Measures to minimize the risks to people and property on and off site from geothermal hazards.

- c. The Councils suggested the above rule could cover bores and site access to bores because of the importance of site layout to achieving the requirement of the bylaw to maintain access to the well (bore) at all times by a drilling rig (56.63).

- d. A new policy regarding the need to potentially reduce impervious surfaces from that permitted by the zone standards. The regional councils refer to the discussion in the Tonkin + Taylor report of reducing site coverage so as not to exacerbate the geothermal hazard. They consider that, as no work has been undertaken to determine an appropriate/safe level of impervious surface in the geothermal system overlay and it may vary from site to site, a site-specific assessment will be the best tool to ensure the best outcomes for each development (56.31).
Reduce impervious surfaces on sites in the Geothermal System Overlay where site-specific assessments determine that it is required to mitigate risk from geothermal hazards.
Advice note: Construction of impervious surfaces can reduce rainwater percolation which can then reduce the cooling effect rainwater provides to heated ground, as well as creating a barrier that reduces the release of geothermal heat from the ground into the air. This can worsen geothermal hazard risk of warm/hot ground.
 - e. An additional ‘non-compliance’ matter of discretion for residential units in the Residential Zones chapter for when impervious surfaces standards are exceeded: ‘In the Geothermal System Overlay, whether the site-specific assessment required under NH-RX has found the increased impervious surface to be appropriate for the site in relation to potential geothermal hazards’ (56.35).
 - f. Further clarity and consideration of options to manage and control impervious surfaces. The councils’ submissions expressed concern about a lack of awareness of the relationship to geothermal risk and inability to monitor incremental increases as building consents aren’t triggered (56.39).
 - g. Extension of the existing setback for buildings from geothermal surface features in Rule NH-R6 to impervious surfaces and an increase in the setback distance from 5 to 20m (56.32). They state this would align with the Waikato Regional Plan’s approach.
 - h. Amendments to the subdivision rule SUB-R42 and standard SUB-S8 to explicitly refer to the geothermal systems overlay as the spatial area of application (56.36 & 56.37).
 - i. Updating of the Geothermal Systems Overlay map to include the area to the south-west of Kuirau Park shown in Figure 1 of the Geothermal Risk Assessment Report (56.60).
- 3.0 Kāinga Ora, in their further submission, supported many of the submission points of the regional councils. However, they considered that further refinement is required to the proposed framework for the site assessment. They questioned who would undertake such an assessment and what it would involve. They suggested it may be more appropriately undertaken by the Council itself (FS 97.37, 97.40, 97.41, 97.42). Kāinga Ora also supported the proposed policy regarding limiting impervious surfaces but had concerns about determining appropriate levels (FS 97.38).
- 4.0 The RD RR also supported the site-specific assessment (FS 91.23).
- 5.0 The Rotorua Planning Consultants, however, opposed much of the relief sought by the regional councils. They stated that the requirement for a site-specific assessment would impose significant and unnecessary costs to developers and applicants if required for all development in the Geothermal Systems Overlay regardless of the type, scale and nature of development or potential for adverse effects. They noted that the overlay covers a significant area of the city. They considered that the need for a site-specific geothermal assessment would stymie development and the efficient provision of new housing, cause additional delays in the development process and costs. They believe the issues are adequately covered by geotechnical reports at subdivision or building consent when the Council or the applicant have cause to believe there to be geothermal issues (FS 104.8, 104.9).

6.0 Aside from these submissions seeking specific relief, a number of other submitters also express concern about intensification and geothermal hazards.

8.5.3.4 Evaluation

8.5.3.4.1 *Site-specific assessment*

1.0 The Geothermal Risk Assessment Report shows that there may be various site-specific considerations to ensure intensification within the geothermal system achieves the objectives for natural hazards in areas of elevated heat and geothermal gas emissions, such as:

- a. Building design to stop the ingress of harmful gases, ensure structures are durable to the effects of heat and gas and that the living environment is comfortable and not overheated.
- b. Arrangement of buildings and landscaping to avoid confined outdoor spaces where gases may accumulate.
- c. Ensuring that any collection and venting of gases occurs in a safe way.
- d. Maintaining pervious (uncovered surfaces) to let heat dissipate and gases emit more diffusely and avoid exacerbation of the hazard.
- e. Choosing surfaces that provide warning of potential subsidence underneath.
- f. Management of stormwater to prevent it contributing to instability.

2.0 To respond to the points raised about the extent to which the Building Act can be used to manage the hazard the Council sought legal advice (jointly funded by BOPRC) (attached **Appendix 6**). Based on this advice, my understanding is that the Building Code does contain various clauses that provide scope for the Council to require assessment and specific design with respect to durability, structural stability and the ingress of harmful gases and potentially heat. However, there are limitations with respect to the management of impervious surface levels and surfaces treatment, site design and the potential for development to exacerbate heat and gas issues in the surroundings. I do not consider that other mechanisms, including the Council's bylaw, address these gaps.

3.0 Therefore, I support the general approach proposed by the regional councils of a broader requirement for a site-specific assessment when building in the geothermal system; and deleting the existing rule NH-R7, which requires a site-specific assessment only if 90% impervious surfaces is exceeded. I agree with the regional councils that the location of venting structures is better addressed as part of a broader assessment; and that the existing rule is ineffective.

4.0 However, I do not support the requirement for certification of the report by a specialist. Those aspects of the assessment that relate to Building Code requirements are subject to internal technical review in accordance with engineering guidelines.

5.0 I consider that the requirement for a geothermal assessment could add costs to the building consent process but, because of the complex geology in the city, most building consents are already expected to be supported by an expert geotechnical assessment.⁶ I consider that the same geotechnical specialist will often be able to undertake the initial assessment of the hazard, particularly if supported by Council guidelines for site investigation. On many sites it is likely that geothermal hazards can be ruled out and the guidelines are intended to assist to

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⁶ The expectations for geotechnical assessments are set out in Rotorua Civil Engineering Industry Standards (RCEIS), which has been carried over into the Waikato Shared Services (CoLAB) Regional Infrastructure Technical Standards (RITS). The major exceptions are light-weight sleepouts (which don't require building consent in any case) and additions of less than 50% of the original floor area.

provide certainty about how to identify hazards. In some cases, where hazards are identified, specialist geothermal expertise could potentially be needed, but if so, this is likely to have been needed to address the Building Code in any case. The applications where it is most likely to add costs are those for additions of less than 50% of the original floor area, for which Council does not currently require a geotechnical report at building consent.

- 6.0 I generally support the wording proposed by the Regional Councils for the new performance standard/rule, with some consolidation in wording. However, I suggest that this be limited to the Rotorua Geothermal System and that consideration of extending the approach to other geothermal systems be considered in a future hazard plan change. Further changes to the proposed wording are also recommended to include consideration of bores and ground collapse.
- 7.0 I acknowledge the concerns of Kāinga Ora about the need for certainty. I consider that this will be improved by the planned development of guidelines, which would provide more certainty as to the expectations for the hazard assessment and mitigation options.
- 8.0 In terms of the status in the IPI, these recommended changes would remain 'related provisions' under section 80E(b)(iii) that support or are consequential on the MDRS and implementation of policy 5 of the NPS-UD. They are intended to respond to potential risks from increased development and the exacerbating effect of site coverage in geothermal areas.
- 9.0 An assessment of these options considered in response to submissions in accordance with section 32AA is provided in the table below.

Table 17: Evaluation of policies and methods for managing geothermal hazards

Description of Option	Option 1 Retain the notified provisions and other existing methods – New policy and performance standard to require venting structures for geothermal gas to be directed to vehicle accessways or the street. Retain existing requirements for a site-specific assessment if impervious surfaces exceed 90%	Option 2 Include a performance standard to require a site-specific assessment of geothermal hazards and measures to mitigate the hazards to accompany building consents inside the Rotorua Geothermal System. Remove the existing requirement for a site-specific assessment if impervious surfaces exceed 90%
Efficiency and Effectiveness in Achieving Objectives SDNH-O1: Minimise or reduce the level of risk to life, property and the environment from the subdivision, use and development of land in areas subject to a natural hazard.	The building consent process provides an opportunity to consider geothermal hazards to some extent. However, it is more limited with respect to the matters that can be considered, focusing on the building work and not outdoor spaces and site treatment. Less effective. There is no prompt when undertaking building work (provided impervious surfaces do not exceed 90%) to consider matters such as site layout, the level of impervious surfaces and how this may exacerbate the hazard on the site and surrounding areas.	More effective. Prompts consideration of whether hazards are present and a greater range of matters relevant to mitigating geothermal hazards across the geothermal system. The recommendations of the geothermal assessment are not directly enforceable except insofar as they address Building Code requirements. While this presents a limitation to effectiveness, the assessment requirements ensure upfront consideration and will therefore influence the future development of the site. There is likely to be some uncertainty around how to identify geothermal hazards and identify options for mitigation. The Council intends to develop guidelines to assist in efficient implementation of the performance standard. Small (>30m²) single-storey buildings and small additions (>5m²) within the roofline can be built without building consent but may still exacerbate the hazard. However, they are likely to present less risk and it would also be difficult to monitor and ensure compliance if the requirement for an assessment were extended to buildings that do not require building consent.
Costs and Benefits	Less costs. While geotechnical assessment will continue to be required to support most building	Most building consents are already accompanied by a geotechnical assessment and the proposed performance

	consents, the extent to which they address geothermal hazards is likely to be more ad-hoc and less comprehensive.	standard is intended to be met alongside this without significant additional cost. However, there would be additional expert assessment costs for building consents for additions of less than 50% of the original floor area, as such consents are not usually required to provide a geotech assessment.
Risks	Gaps in the extent of the Rotorua Geothermal Systems Overlay have been identified. However, these are relatively small in extent. This should be addressed in a future plan change (refer to discussion below)	
Summary	Option 2 is the preferred option.	

8.5.3.4.2 *Guidelines*

- 1.0 I do not support the regional council's relief with respect to requiring that development be in accordance with guidelines. These do not yet exist; and once developed, are unlikely to provide the certainty required for a rule.

8.5.3.4.3 *Impervious surfaces*

- 1.0 I agree that there needs to be greater consideration and clarity around management of impervious surfaces in the Rotorua Geothermal System.
- 2.0 As an appropriate level of impervious surfaces has not been identified and is likely to be site-specific, development of an appropriate method is complex. I support the relief sought by BOPRC to include a matter of discretion where the performance standards for impervious surfaces in the zone chapters are exceeded. However, I consider this is already addressed in the zone chapters, which include natural hazards as a matter of discretion for restricted discretionary activities that do not meet the performance standards.
- 3.0 Adverse effects from natural hazards or the worsening of any hazard identified on the planning maps are managed.
- 4.0 I acknowledge, however, that this matter of discretion has limitations because, as BOPRC point out, impervious surfaces may contribute to exacerbation of the gas and heat hazard at levels below that permitted in the zones. Indeed, City Centre and Commercial Zones (with the recommended exclusion of Mountain Road) have no standards for impervious surfaces.
- 5.0 I support addressing impervious surfaces in the policies but think this could be combined in a broader policy also addressing the risk assessment (NH-P4) and that the wording should be broader to encompass both the standards and informing of suitable management through the risk assessment.
- 6.0 I also support the regional council's relief to use an advice note in the zone chapters to try to alert to the importance of impervious surfaces in managing geothermal hazards but would suggest the wording is broadened to also cover the gas hazard.

8.5.3.4.4 *Setbacks from Geothermal Features*

- 1.0 The initial risk assessment report developed by the project team of Tonkin + Taylor, GNS and Council staff did not identify any concern with the existing 5m setback from surface features and bores in rule NH-R6, so no amendments were proposed. Such a change would also equate to an additional qualifying matter and an assessment of this has not been presented. In response to the BOPRC submission, Mr Brzeski's evidence suggests that further work should be considered as a standard setback may not be appropriate. At this stage, without further analysis of appropriate setbacks, I do not support increasing the setback from geothermal features to 20m. I note that the recommended requirement for a geothermal assessment for buildings would also provide opportunity to consider appropriate setbacks.

8.5.3.4.5 *Subdivision Discretion*

- 1.0 I agree that the subdivision rule and standard should explicitly refer to the geothermal systems overlay as the spatial area of application. The current wording of 'sites subject to geothermal activity' creates uncertainty. For this plan change, I have assumed the clarification would need to be limited to the Rotorua Geothermal System.

8.5.3.4.5.1 *Extent of the Geothermal Systems Overlay*

- 1.0 The Geothermal Risk Assessment Report identified potential gaps in the mapping of the Rotorua Geothermal System in the vicinity of Kuirau Park and Whakarewarewa. The regional

councils seek that the Kuirau Park gap be addressed through PC9 since it is an area proposed for intensification.

2.0 Advice was sought from B Scott, GNS, given GNS's extensive involvement in and knowledge of geothermal system research (**Appendix 7**). Mr Scott concluded that the boundary is relatively robust and conservative and is likely to cover most areas with significant heat flow and gas flux. He agrees there is a need to cover the shortfalls in the Koutu area and to the southeast of Whakarewarewa but was not able to identify any one existing boundary from previous work that is appropriate for the purpose of managing hazards. Therefore, I do not consider that this gap can be addressed through the current plan change.

3.0 I also note that no extension to the boundary was proposed in PC9, which may present some concerns from a natural justice perspective.

8.5.3.5 Recommendation

1.0 I recommend that:

- a. Rule NH-R7, which requires a site-specific assessment at building consent when impervious surfaces exceed 90% in the geothermal systems overlay (NH-R7) be deleted.
- b. Proposed Policy NH-P4 is amended as follows:

~~Minimise the risks to people and property from geothermal hazards, including by locating the discharge of any geothermal gas away from confined spaces on site.~~ by requiring site-specific geothermal assessments to be submitted with building consents in the Rotorua Geothermal System; identifying where zone standards for impervious surfaces may not be appropriate through the site-specific assessments; and by assessing the impact on geothermal hazards and risk when zone standards for impervious surfaces are exceeded.

- c. Proposed Rule NH-R8 relating to venting structures be rejected.
- d. New Rule NH-R8 be inserted:

Rule NH-R8 Buildings in the Rotorua Geothermal Systems Overlay

1. Activity status: Permitted

Performance Standards:

a. A report by a suitably qualified and experienced person shall be submitted alongside any building consent application, which addresses the following:

i. Identification and extent of geothermal hazards on the site, including:

1. Geothermal surface features;
2. Geothermal gas;
3. Heated ground;
4. Corrosive ground, ground collapse; and
5. Bores and other geothermal infrastructure

ii. Measures to mitigate geothermal risks to people and property on the site and surrounding sites, such as:

- e. Building design;
- f. Site layout and design, for example location of venting structures, yards, outdoor living space, separation between buildings, surface treatment, fencing materials and maintenance of access to bores;
- g. Limits on impervious surface site coverage;
- h. Stormwater management

Exception

This rule does not apply to alterations that do not increase the building footprint and are not otherwise associated with an increase in impervious surfaces.

2. Activity Status: Restricted Discretionary

Where:

Compliance is not achieved with the performance standards for NH-R8(1).

Matters of discretion:

- a. Measures to manage the risks to people and property on and off site from geothermal hazards.

Advice Note:

Geothermal risks must still be considered for building work that is exempt from the requirements to obtain building consent and the above rules. Requirements of the Rotorua Geothermal Bylaw include that:

- a. Developers, owner or occupier of every building to take all reasonably practical steps to incorporate acceptable barriers to the ingress or egress of hydrogen sulphide, into or from, new or upgraded building developments.
- b. Access to bores is maintained (to allow access by a drilling rig in the case of emergency)

- i. A new advice notice is inserted under the Site Coverage standard in Residential Zones

Advice note:

The risks from geothermal hazards can increase with an increase in impervious site coverage. This can cause gas emissions from the ground to concentrate into gaps such as spaces between buildings or the entrances into buildings for services. Construction of impervious surfaces can also reduce rainwater percolation, which can then reduce the cooling effect rainwater provides to heated ground, as well as creating a barrier that reduces the release of geothermal heat from the ground into the air.

- j. The following advice note be inserted in the standards for Commercial and City Centre Zones:

Advice note - Site Coverage and Impervious Surfaces in Geothermal Systems:

While there are no maximum standards for site coverage by buildings and impervious surfaces in [most/the] zones the risks from geothermal hazards can increase with an increase in impervious site coverage. This can cause gas emissions from the ground to concentrate into gaps such as spaces between buildings or the entrances into buildings for services. Construction of impervious surfaces can also reduce rainwater percolation, which can then reduce the cooling effect rainwater provides to heated ground, as well as creating a barrier that reduces the release of geothermal heat from the ground into the air.

- k. No amendments be made to the setback from geothermal surface features in Rule NH-R6.
- l. The subdivision rule SUB-R42 and subdivision standard SUB-S8 are amended to explicitly refer to the Rotorua Geothermal System as the spatial area of application:

SUB-R42 *The subdivision of sites or buildings on land within the Rotorua Geothermal Systems Overlay or affected by a geothermal feature, geothermal activity or bore.*

Activity Status: Discretionary

SUB-S8(3) Subdivision of land or buildings in areas within geothermal activity

- o *For the subdivision of any land or buildings on land within the Rotorua Geothermal Systems Overlay or affected by a geothermal feature, geothermal activity or bore or known to be susceptible to geothermal activity, the following shall apply:...*

- m. The geothermal systems overlay map is not updated at the present time (I consider that this should be addressed in a future hazards plan change).
- 2.0 While not a recommendation on PC9, I also consider that a future plan change should address the merit of extending the changes that are limited to the Rotorua Geothermal System to other geothermal systems in the Rotorua District.

8.6 Historic Heritage

- 1.0 This section has been prepared by Anna Bindon and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to Historic Heritage.

8.6.1.1 Scope of proposed amendments

- 1.0 PC9 proposes amendments to the Rotorua District Plan to better manage the adverse effects on historical heritage structures in response to the increased building height and bulk permitted by PC9. These proposed changes include the introduction of a new rule framework for new buildings or additions on the same site as historic heritage structure (and proposed on one additional site) as outlined below:
- a. Require resource consent as a restricted discretionary activity for new buildings that are on the same site as a heritage structure within the Residential 1, Residential 2 and Commercial 4 Zones (HH-R2A)
 - b. Apply matters of discretion to (a) that enable consideration of how any new buildings integrate with, and are sympathetic to, the heritage values of the structure.
 - a. Zone Specific HH-MD1:
 - b. Whether the new building complements the form and fabric which contributes to, or is associated with, the heritage values of the structure.
 - c. Whether the new building uses materials and/or design details that respect rather than replicate any features of the heritage structure. New and contemporary interpretations in form and detail are encouraged.
 - d. Whether the new building will not compromise the ability to interpret the heritage structure and its setting.
 - e. Whether new buildings maintain visual linkages between the building or structure, and the street where relevant.
 - f. Whether the location of the building and associated siteworks allows for an adequate setting for the heritage item.
 - g. Whether other structures or features associated with the heritage item are retained and are complemented.

8.6.1.2 Background & Statutory Context

- 1.0 Historic heritage, as defined in section 2 of the Resource Management Act 1991 ('RMA') refers too:
- a. *means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*
 - i. *archaeological:*
 - ii. *architectural:*

- iii. *cultural:*
 - iv. *historic:*
 - v. *scientific:*
 - vi. *technological; and*
 - b. *includes-*
 - i. *historic sites, structures, places, and areas; and*
 - ii. *archaeological sites; and*
 - iii. *sites of significance to Māori, including wāhi tapu; and*
 - iv. *surroundings associated with the natural and physical resources*
- 2.0 Historic Heritage covers a broad range of features of both Māori and European origin that contribute to an understanding and appreciation of New Zealand’s history and culture. The Rotorua District Plan is required to recognise and provide for the Section 6 Matters of National Importance of the RMA as outlined below.
- 3.0 *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*
- ...
- f. the protection of historic heritage from inappropriate subdivision, use, and development;*
- ...
- 4.0 The Rotorua District Plan currently manages historic heritage including historic structures through the Historical and Cultural Values Chapter - Part 2 – District Wide Matters. The current rule framework includes rules relating to the maintenance, repair, alterations, additions, re-sitting, destruction or demolition of historic heritage structures listed in the Historic Structures Schedule. These current rules are listed below:
- 5.0 HH-R1 Maintenance and repair of historic heritage structures listed in the Historic Structures Schedule as a permitted activity status where performance standards regarding materials are met, otherwise as a discretionary activity status.
- 6.0 HH-R2 Alterations and additions to historic heritage structures listed in the Historic Structures Schedule. For internal alterations as a permitted activity and external alterations as a restricted discretionary activity.
- 7.0 HH-R3 Re-siting, destruction or demolition of a historic heritage structure listed in the Historic Structures Schedule. If the activity is required by nationally significant infrastructure the activity status is discretionary otherwise it is non-complying.
- 8.0 These rules are proposed to be retained as an existing qualifying matter. The assessment for these existing qualifying matters is found in **Appendix 4**. These rules are limited to protecting the structure itself and not the “setting” of the structure which contributes to its values.
- 9.0 Additionally, standard CCZ-S1 for the City Centre Zones stipulates the maximum height and daylight envelope for any developments adjoining historic buildings listed in the schedule for Historic and Cultural Values:
- a. the height of the replacement building shall not exceed the height of the existing building or exceed the height of the historic building by 3.5m, whichever is the highest.
 - b. the height of a new building shall not exceed the height of the historic building, plus 3.5m.

- c. any alteration to the façade shall not exceed 1.5m above the height of the existing building.
- 10.0 The more enabling density standards proposed by PC9 throughout the residential, commercial and city centre zones will facilitate a greater level of development on sites that contain historic heritage structures. The change in heights and bulk of buildings has the ability to affect the characteristics and values of historic heritage structures.
- 11.0 The Section 32 Report and the Heritage Assessment by Salmond Reed Architects (Appendix 15 of the Section 32 Report) outlined that the more enabling density provisions and increased height may result in potential development that is out of scale with, or unsympathetic to, heritage values of scheduled built heritage structures.
- 12.0 The new rule proposed (HH-R2A) and associated matters of discretion, as mentioned above in **Paragraph 8.6.1.1-1.0**, are proposed as a new qualifying matter. The assessment for this new qualifying matter is below in **Paragraph 8.6.7**.
- 8.6.2 **Application of proposed rules in other zones**
- 8.6.2.1 **Submissions**
- 1.0 Heritage New Zealand Pouhere Taonga ('HNZPT') sought that HH-R2A is retained (subject to changes sought elsewhere and applied to all zones (54.3 & 54.21)).
- 8.6.2.2 **Evaluation**
- 1.0 The submission raised the issue of the scope of the Plan Change, which will be addressed in legal submissions. PC9 was focused on the urban environment, specifically the residential zones, and specific city centre and commercial zones.
- 2.0 HH-R2A has been applied to the Residential 1 Zone, Residential 2 Zone and Commercial 4 Zone to manage the effects that the more enabling development conditions would have on historic heritage structures. The proposed rule is limited to these zones as other zones either do not contain any listed historic heritage structures or have not had any proposed changes to the density provisions (except the city centre zones, which is explained below in **Paragraph 8.6.2.2-3.0**).
- 3.0 I consider that CCZ-S1, which stipulates the maximum height and daylight envelope for any developments adjoining historic buildings. CCZ-S1 has been proposed to be retained (not amended) and specifies that any replacement or new building shall not exceed the height of the historic heritage building by 3.5m and any alteration to the façade shall not exceed the building by 1.5m. Applications that propose to exceed this standard are assessed as a restricted discretionary activity. The change in building height enabled by PC9 as an operative rule would not be affected and is more restrictive.
- 4.0 With regards to applying HH-R2A to any zones outside of those within the scope of proposed PC9, I consider this to be unnecessary as there has been no proposed changes to the density standards in these zones. I also consider that the assessment by Salmond Reed Architects (Appendix 18 of the Section 32 Report) of all historic heritage structures would have to be undertaken, as well as a Section 32 assessment (which was not provided by HNZPT), and it would be more appropriate for this to be done as a comprehensive separate plan change or review.
- 5.0 The rule HH-R2A, and its associated matters of discretion, were drafted for its limited application and scope (being the residential 1, 2 and commercial 4 zones), if the rule and matters of discretion were to be applied to all zones, the framework may not be the best method, and as mentioned above would require a comprehensive Section 32 analysis.

8.6.2.3 Recommendation

- 1.0 I recommend that HH-R2A should only be applied to the residential 1, 2 and commercial 4 Zones as notified and that the submission be rejected.

8.6.3 Extent of place and protection of values

8.6.3.1 Submissions

- 1.0 HNZPT sought amendments to Appendix 15 of the Section 32 Report (the Salmond Reed Architects Heritage Report) following meeting with HNZPT to better reflect both the importance of immediate setting (such as historic curtilages) as integral parts of a listed or scheduled historic place, and all relevant heritage values that might apply to a place (including those relating to immediate and wider settings (submission point 54.23).

8.6.3.2 Evaluation

- 1.0 The Salmond Reed report is a supporting technical document and does not form part of the provisions of the plan change in which relief can be sought.
- 2.0 Rotorua Lakes Council ('RLC') and Salmond Reed Architects met with HNZPT on Wednesday 12 April 2023 to better understand the submitter's issues and outline the timeframes for PC9. It was discussed that HNZPT would like to conduct a site visit for each of the sites covered by HH-R2A to assess the values of historic heritage structure, and the extent of its setting. Council would then consider the information provided.
- 3.0 It is understood that HNZPT did undertake a site visit in the week of 15 May 2023, but has yet to provide RLC their updated findings. Subject to receiving the report from HNZPT I do not recommend any changes to HH-R2A extent.

8.6.3.3 Recommendation

- 1.0 I recommend that the application of HH-R2A be retained as notified. However, I note that this is subject to receiving the report from HNZPT where amendments may be appropriate to better reflect the setting of Historic Heritage Structures.

8.6.4 Consultation

8.6.4.1 Submissions

- 1.0 HNZPT sought the addition of a matter of control to 'sensitive sites' (note that the submission did not define 'sensitive sites' or what to what extent this would apply too) (54.12) as follows:

17. "Whether consultation has been undertaken with Mana Whenua regarding the impact of the proposed development on the cultural values of adjacent sites."

18. "Whether consultation has been undertaken with Heritage New Zealand Pouhere Taonga."

- 2.0 The submission emphasised concern about the impact of tall buildings on sensitive locations such as the Government Gardens that contains the HNZPT listed Government Gardens Historic area and the HNZPT listed Wahi Tapu area Paepaehakumanu Motutara. HNZPT considered that as there are certain area/s in the Gardens that are sensitive for Mana Whenua, it would be appropriate for Mana Whenua to be consulted at the time of development applications adjacent or opposite this site and similar sensitive sites, to ensure that Mana Whenua have a level of comfort with the proposed development. HNZPT should also be considered as an affected party for developments on the Government Gardens due to the HNZPT listed Government Gardens Historic area and the HNZPT listed Wahi Tapu area Paepaehakumanu Motutara.

8.6.4.2 Evaluation

- 1.0 Throughout the preparation of proposed PC9 Council held a number of engagement and consultation sessions with Mana Whenua throughout the Rotorua District (more detail about the consultation program can be found in **Section 6.4** of this report, and the Consultation Report – Appendix 19 of the Section 32 Report). This engagement included explaining the proposed changes to heights in the city centre zones, surrounding the sensitive locations as identified by HNZPT. The submission point raised by HNZPT of tall buildings adjacent to sensitive sites such as the Government Gardens or Paepaehakumanu Motutara were not concerns raised by Mana Whenua at any of these engagement sessions. Furthermore, none of these points were raised in submissions by submitters, except from HNZPT Council would therefore need to rely on evidence and a section 32 analysis on the matter from the submitter.
- 2.0 It is also worth mentioning that the Heritage New Zealand Pouhere Taonga Act 2014 restricts modification of destruction of an archaeological site without an authority from HNZPT (section 42).
- 3.0 An archeological site is defined in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014 as:
- a. *any place in New Zealand, including any building or structure (or part of a building or structure), that—*
 - i. *was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*
 - ii. *(provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
 - b. *includes a site for which a declaration is made under section 43(1)*
- 4.0 I consider that the requirement for archaeological authority from HNZPT would also result in consultation/conversations between an applicant and HNZPT for sites that qualify as an archaeological site.
- 5.0 I would question the effectiveness of this matter as there are no corresponding matters of discretion, and during a consenting processes I consider that this would become a tick boxing exercise without any real benefit.
- 6.0 I am also concerned about the wording of the submission point relating to “sensitive areas” and how this is defined. The Rotorua District Plan has no such definition, and therefore no way to identify which sites this matter of control would apply too.

8.6.4.3 Recommendation

- 1.0 I recommend that the proposed matter is not included and the notified matters are retained.

8.6.5 Issue Statement

8.6.5.1 Submissions

- 1.0 HNZPT sought amendments to HH-I1 - “**This includes the setting of the historic structure, which extends to the land and features surrounding the historic structure that forms part of or contributes to its historical, cultural and other heritage values**” (54.2) to further recognise the application of “setting”.

8.6.5.2 Evaluation

- 1.0 The inclusion of the concept of “setting” in HH-I1 was made to recognise and provide protection for the historic heritage item as it is within its environment, especially in response

to increased intensification. The notified proposed HH-I1 was supported by the Heritage Assessment by Salmond Reed Architects (Appendix 15 of the Section 32 Report), which states that setting should be established as they provide an additional measure which “are necessary to protect heritage values”.

- 2.0 I refer to the ICOMOS NZ Charter 2010 (**‘ICOMOS’**) which sets out principles to guide the conservation of places of cultural heritage value in New Zealand and is intended to guide statutory regulations with regard to heritage management policies, including District Plans. The ICOMOS defines setting as *“Setting means the area around and/or adjacent to a place of cultural heritage value that is integral to its function, meaning, and relationships. Setting includes the structures, outbuildings, features, gardens, curtilage, airspace, and accessways forming the spatial context of the place or used in association with the place. Setting also includes cultural landscapes, townscapes, and streetscapes; perspectives, views, and viewshafts to and from a place; and relationships with other places which contribute to the cultural heritage value of the place. Setting may extend beyond the area defined by legal title, and may include a buffer zone necessary for the longterm protection of the cultural heritage value of the place.”*
- 3.0 The ICOMOS strengthens the argument that setting of a place is integral to its cultural heritage value, that setting should be conserved with the place itself.
- 4.0 In reviewing the above I consider that the proposed amendments by HNZPT are appropriate and better reflect the definition of setting within the Rotorua context. I do believe that the inclusion of the amendments would better allow for the Rotorua District Plan to recognise and provide for the Section 6 Matters of National Importance of the RMA.

8.6.5.3 Recommendation

- 1.0 I recommend that HH-I1 is amended as sought by HNZPT to better recognise and provide for the importance of historic heritage setting as shown below.
- 2.0 This includes the setting of the historic structure, which extends to the land and features surrounding the historic structure that forms part of or contributes to its historical, cultural and other heritage values.

8.6.6 Matters of Discretion

8.6.6.1 Submissions

- 1.0 HNZPT seeks amendments to the proposed matters of discretion for HH-R2A (54.4).
- a. *Zone specific HH-MD1;*
 - b. *Whether the new building compliments the form and fabric which contributes to, or is associated with, the heritage values of the structure.*
 - c. *Whether the new building uses materials and/or design details that respect rather than replicate any features of the heritage structure. ~~New and contemporary interpretations in form and detail are encouraged.~~ Sensitive contemporary interpretations in terms of form and detail may be considered’*
 - d. *Whether the new building will not compromise the ability to interpret the heritage structure and its setting.*
 - e. *Whether the new building maintains visual linkages between the buildings or structure, and the street where relevant.*
 - f. *Whether the location of the building and associated siteworks ~~allows for an adequate setting for the heritage item place.~~ enables the heritage values of the place and setting to be maintained.*

- g. Whether other structures or features associated with the heritage ~~item~~ place are retained and are complemented.*
- h. Whether the new building is the same height or lower than the heritage building not comparatively dominant in scale – such as being equal or lower in height*

2.0 This point is generally supported by Kāinga Ora Homes and Communities ('Kāinga Ora') however does not support the inclusions within subclause f to include the 'place and setting' as this is considered ambiguous and it is unclear what the 'setting' would be. Further, the words "such as being equal or lower in height" within subclause h is considered unnecessary given that the word 'comparatively' is already within the sentence (FS 97.11).

8.6.6.2 Evaluation

1.0 The notified PC9 amendments to the Historic Heritage provisions were informed by technical advice from Salmond Reed Architects (Appendix 15 of the Section 32 Report). HH-R2A would require resource consent as a restricted discretionary activity and allow Council to consider the effects a new building may have on the existing historic heritage structure.

2.0 With regards to the changes sought by HNZPT below is my evaluation.

3.0 (c) – In my opinion the key difference between what was proposed in PC9 and what is sought by HNZPT is wording regarding contemporary design, and the difference between “are encouraged” and “may be considered”. I also note the changes between “new” and “sensitive” with regards to the contemporary design.

4.0 The Heritage Report by Salmond Reed Architects (Appendix 15 of the Section 32 Report) clearly identified that development of adjacent buildings can maintain, and in some instances enhance, the heritage values of historic heritage structures where the design “complements by contrast” and such development is recommended. Furthermore, it states that new development should be “based on good design principles” and “that replica building designs requires specific attention to building proportions, scale, massing, architectural and construction detailing. While heritage building design replication should not be completely excluded, it requires specialist and experienced designers to achieve outcomes that do not dilute or compromise the heritage values of the subject heritage building.”

5.0 I note that HNZPT state that “may be considered” is a more appropriate approach in the context of historic heritage. I note in discussion with HNZPT they explained that there can be instances where the notion of contemporary can go too far that the wording “are encouraged” leans heavily towards contemporary design. I consider that proposals for development on the same site as heritage buildings should be considered on a site-by-site basis, taking into account setting, and that in the context of Rotorua, there may be instances when the “materials” of Rotorua (materials which are commonly used in historic sites around Rotorua) are encouraged.

6.0 I consider that the approach proposed by HNZPT is broader, better achieves the objectives of the Rotorua District Plan, and protects heritage structures from effects of new development in part.

7.0 (f) – The proposed changes to (f) by HNZPT seek in the inclusion of the concept of “place” and that both place and setting are “maintained”.

8.0 (g) – The submission point relating to (g) seeks the inclusion of the concept of “place” rather than “item” are retained and complemented. Within the Rotorua District Plan, Historic Heritage “Structures” are scheduled, and there are no established “places”, or provisions protecting the “place” around structures.

- 9.0 The ICOMOS defines place as *“means any land having cultural heritage value in New Zealand, including areas; cultural landscapes; buildings, structures, and monuments; groups of buildings, structures, or monuments; gardens and plantings; archaeological sites and features; traditional sites; sacred places; townscapes and streetscapes; and settlements. Place may also include land covered by water, and any body of water. Place includes the setting of any such place.”*
- 10.0 This concept of place and setting is key, and the reason why HH-R2A was proposed, that is, to establish a place around a building where the historic heritage values could be considered through a consenting process. I consider, that for the concept of “setting” to be fully integrated into the Rotorua District Plan, there would need to be a more comprehensive review of the Rotorua District Plan, including assessments of all historic heritage structures, and their associated extents of place.
- 11.0 However, I do believe that the inclusion of the concept of “place” into this matter of discretion may facilitate those considering constructing a new building on a site with a heritage building to consider the concept of “setting” and how to maintain the values that the setting provides. While I agree with Kainga Ora’s point relating to the ambiguity around what would be defined as “setting” I believe that the Heritage Report, by Salmond Reed Architects and other expert advice, would provide guidance as to the extent of place. I believe that the inclusion of setting in both matters of discretion (f) and (j) is appropriate, and adequately provides protection to the values of heritage structures.
- 12.0 With regards to (f) and the concept of the values being “maintained”, I consider that the addition is better aligned with the requirements for Council to recognise and provide for matters of national importance under s6 of the RMA. The historic heritage chapter is to provide “protection of historic heritage from inappropriate subdivision, use, and development” s6(f). I believe that maintaining the values allows for better protection.
- 13.0 (h) - The changes sought by HNZPT to (h) relate to the difference in level of effect between building height and building scale in maintaining historic heritage values. In my opinion, building scale is a broader assessment, and in terms of density standards, would be referring to height, bulk and overall dominance of a building on a site. As outlined in the Heritage Report by Salmond Reed Architects “new development may not be sympathetic in building scale and form”. I therefore consider that the proposed amendments by HNZPT are more appropriate.

Table 18: Evaluation of potential further changes to the matters of discretion for historic heritage

Description of Option	Option 1 Retain the notified matter of discretion: Zone specific HH-MD1; Whether the new building compliments the form and fabric which contributes to, or is associated with, the heritage values of the structure. Whether the new building uses materials and/or design details that respect rather than replicate any features of the heritage structure. New and contemporary interpretations in form and detail are encouraged Whether the new building will not compromise the ability to interpretive the heritage structure and its setting. Whether the new building maintains visual linkages between the buildings or structure, and the street where relevant. Whether the location of the building and associated siteworks allows for an adequate setting for the heritage item place. Whether other structures or features associated with the heritage item are retained and are complemented. Whether the new building is the same height or lower than the heritage building	Option 2 Accept proposed changes by HNZPT to the matter of discretion: Zone specific HH-MD1; Whether the new building compliments the form and fabric which contributes to, or is associated with, the heritage values of the structure. Whether the new building uses materials and/or design details that respect rather than replicate any features of the heritage structure. Sensitive contemporary interpretations in terms of form and detail may be considered' Whether the new building will not compromise the ability to interpretive the heritage structure and its setting. Whether the new building maintains visual linkages between the buildings or structure, and the street where relevant. Whether the location of the building and associated siteworks enables the heritage values of the place and setting to be maintained. Whether other structures or features associated with the heritage place are retained and are complemented. Whether the new building not comparatively dominant in scale – such as being equal or lower in height”
Efficiency and Effectiveness in Achieving Objectives	Less effective and efficient in achieving HH-O1, as it is less aligned with the ICOMOS definition of place and the Heritage Report by Salmond	More effective and efficient in achieving HH-O1 as is more aligned with ICOMOS definition of place.

HH-O1: Protect cultural heritage features (Māori and European) from different eras and of themes that contribute to, and that are representative of Rotorua's evolving history.	Reed Architects. I consider that this option is less effective in protecting the historic heritage structures and associated values.	
Costs and Benefits	May result in a greater level of effect on historic heritage values, however, may enable more development on site.	Allowing for greater level of protection over the historic values. However, may be seen as too wide and restrictive of development.
Risks	No identified risks in recommending option 2.	
Summary	Option 2 is the preferred option.	

8.6.6.3 Recommendation

- 1.0 I recommend that the matters of discretion are amended as sought by HNZPT to better recognise and provide for the importance of historic heritage values as shown below.

Matters of Discretion:

- a. Zone specific HH-MD1:
- b. Whether the new building compliments the form and fabric which contributes to, or is associated with, the heritage values of the structure.
- c. Whether the new building uses materials and/or design details that respect rather than replicate any features of the heritage structure. ~~New and contemporary interpretations in form and detail are encouraged. Sensitive contemporary interpretations in terms of form and detail may be considered'~~
- d. Whether the new building will not compromise the ability to interpretive the heritage structure and its setting.
- e. Whether the new building maintains visual linkages between the buildings or structure, and the street where relevant.
- f. Whether the location of the building and associated siteworks ~~allows for an adequate setting for the heritage item place. enables the heritage values of the place and setting to be maintained.~~
- g. Whether other structures or features associated with the heritage item place are retained and are complemented.
- h. Whether the new building is ~~the same height or lower than the heritage building not comparatively dominant in scale – such as being equal or lower in height"~~

8.6.7 Qualifying Matters

8.6.7.1 Submissions

- 1.0 The following submissions were received with regards to the proposed new qualifying matter for HH-R2A and the existing qualifying matters relating to historic heritage:
- 2.0 HNZPT support qualifying matters applying to Historic and Cultural Values-Built Historic Heritage, Built Historic Heritage-Subdivision, Archaeological Sites and Historic sites, Sites and Areas of Significance to Māori, Marae Protection Overlay, and Development Areas-Pukehangi Heights Development Area (54.20).
- 3.0 G Shekell does not support HH-R2A as notified and instead seeks that no new buildings can be constructed on cultural or historic sites (83.3).
- 4.0 Kāinga Ora supports proposed rule HH-R2A and its application (86.29).

8.6.7.2 Evaluation

- 1.0 I recognise the support from HNZPT and Kāinga Ora around the proposed application of new and existing qualifying matters to historic heritage related provisions.
- 2.0 I do note however, G Shekell's submission seeking that no new buildings can be constructed on cultural or historic sites. I do not consider that there is sufficient evidence to support a prohibited activity status for new buildings on the same sites as historic heritage structures. I consider that the proposed HH-R2A restricted discretionary activity status and associated matters of discretion are adequate in managing the effects that any new development may have on the values of historic heritage sites.
- 3.0 In terms of section 32 (s77J(2)) and the broader s74 requirements, in my view, the proposed HH-R2A is the most effective and efficient way in which to achieve the objectives, and give

effect to the higher order policy documents, as it allows for a pathway to development in a way that effects on historic heritage values can be managed.

- 4.0 I consider that the approach proposed for the historic heritage provisions in PC9 should be adopted and I continue to support the identification of the historic heritage as a new qualifying matter.

8.6.7.2.1 Assessment of Qualifying Matters

- 1.0 I support new rule HH-R2A, which comprises a new qualifying matter and the retention of the following existing qualifying matters relating to historic heritage:

- a. HH-R2 - Alterations and additions to Historic heritage structures listed in the Historic Structures Schedule;
- b. HH-R3 - Re-siting, destruction or demolition of a historic heritage structure listed in the Historic Structures Schedule;
- c. SUB-R41 – Subdivision activity where the site includes or adjoins a site of cultural importance listed in the schedules for Historical and Cultural Values;
- d. HH-R5 - Disturbance, modification and alteration of cultural historic heritage listed in the Archaeological Sites Schedule or Historic Sites Schedule;
- e. HH-R6 - Destruction of cultural historic heritage listed in the archaeological sites schedule or historic sites schedule;
- f. SUB-R41 Subdivision activity, including that which otherwise be a controlled activity where the site includes or adjoins a site of cultural importance listed in the schedules for Historical and Cultural Values;
- g. SASM-R3 - Disturbance, modification and alteration of cultural historic heritage listed in the structures and sites of cultural historic significance schedule;
- h. SASM-R4 - Destruction of cultural historic heritage listed in the structures and sites of cultural significance schedule;
- i. SASM-R5 - Alterations to existing buildings located within the Marae Protection Area Overlay Also relevant is the alternative height standard in RESZ-S1; and
- j. SASM-R6 - New buildings within the Marae Protection Area Overlay Also relevant is the alternative height standard in RESZ-S1.

- 2.0 The assessment for the new qualifying matter of HH-R2A is provided below, and the assessment for the proposed existing qualifying matters is provided in **Appendix 4**.

Table 19: Table providing justification for new qualifying matter proposed for the historic heritage rule.

Explanation of qualifying matter and where it applies	Why the qualifying matter is incompatible with the level of development permitted by the MDRS (s77J(3)(a))	Alternative provisions	Impact on development capacity (s77J(3)(b))	Cost and broader impacts of alternative provisions (s77J(3)(c))
An additional “New building” rule is proposed to apply to sites that contain historic structures as listed in the schedule in the Residential 1 and Residential 2 zones. The purpose is to the protection of historic heritage from inappropriate subdivision, use and development, which is as a matter of national importance under section 6(f) of the RMA.	Applying the MDRS creates the potential for adverse effects arising from ‘out of scale’ and sympathetic buildings in close proximity to historic structures, which potentially undermines heritage values.	A proposed rule requiring “New buildings that are on the same site as a heritage structure listed in the “Historic Structures Schedule” as a Restricted Discretionary Activity. The new rule requires a consent application which allows an assessment of the building’s design and consideration of effects on the values and characteristics of the heritage structure.	The additional rule and supporting assessment criteria proposed, will only be applicable to a 8 sites throughout the urban environment. The rule itself also does not prohibit development on the site, but instead requires resource consent so that the effects on the values and characteristics of the heritage structure can be considered through a consenting process. It is therefore considered that the impacts on development capacity are negligible.	The section 32 report above provides a detailed analysis of the overall costs and benefits of the proposed rule, including commentary on the impacts on development capacity.

8.6.7.3 Recommendation

- 1.0 That the proposed qualifying matter as notified is retained, subject to changes elsewhere in the above sections, and that submissions are accepted or rejected as outlined in **Appendix 3**.

8.6.8 Other Matters

8.6.8.1 Submissions

- 1.0 HNZPT is supported in part, the height limit relation to matters of national importance (“qualifying matters”) in SDUD P3, but sought amendments as follows as they are considered about no direct consideration of archaeology, which is a part of historic heritage and is already included in the Plan, within HH-Sched 1-Archaeological sites Schedule. As matters of national importance can be considered as reasons to limit height or density, HNZPT considers that there should specific consideration of this matter in SDUD-P3 (54.1):

Within the urban environment, limit height and densities where it is necessary to recognise and provide for matters of national importance, or other matters of significance to Rotorua including:

- 1. Nationally significant infrastructure;*
- 2. Historic heritage;*
- 3. Sites of significance to Māori and identified cultural values;*
- 4. Outstanding natural features and landscapes;*
- 5. Significant indigenous vegetation and significant habitats of indigenous fauna;*
- 6. Maintenance and enhancement of public access along lakes and rivers;*
- 7. Management of significant risks from natural hazards, including flooding and geothermal hazards.*
- 8. “Archaeological sites”*

8.6.8.2 Evaluation

- 1.0 I acknowledge the importance of archeological sites and that they are protected within the District Plan to provide for the RMA matters of national importance found at s6(e): the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga: and s6(f): the protection of historic heritage from inappropriate subdivision, use, and development.

- 2.0 However, I consider that the definition within the RMA of ‘Historic Heritage’ which is covered in (2) of SDUD-P3 would include considerations of archaeological qualities, and archaeological sites.

- 3.0 Historic heritage, as defined in section 2 of the RMA and the Rotorua District Plan refers too:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:

(i) archaeological:

...

(b) includes-

...

(ii) archaeological sites; and

...

8.6.8.3 Recommendation

- 1.0 I recommend that the amendment sought by HNZPT to SDUD-P3 is rejected, and that the policy is retained as notified.

8.7 Transport

- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to Transport. Several changes are recommended to Residential Zones, Commercial Zones, City Centre Zones and Subdivision chapters and to Appendix APP1 in response to matters raised in submissions. The evaluation in this section is supported by evidence of M Nixon, Commute Transportation Limited, P Meredith, the Land Development Engineering Manager at Rotorua Lakes Council and C Goodwin, the Waste and Climate Change Manager at Rotorua Lakes Council.

8.7.1 Transport Objectives and Policies

8.7.1.1 Scope of Proposed Amendments

- 1.0 PC9 proposes the following objectives for the Residential 1 Zone and Residential 2 Zone related to transport:

Objectives – Activities in Residential 1 Zone – Medium Density Residential Zone

RESZ-O3: Development contributes to attractive and safe streets and open spaces.

RESZ-O4: Development provides healthy, safe and quality living environments for residents, within the context of a medium density residential environment.

RESZ-O5: Development is supported by adequate infrastructure and services.

RESZ-O6: Development supports the use of public and active transport.

Objectives – Activities in Residential 2 Zone – High Density Residential Zone

RESZ-O10: Development contributes to attractive and safe streets and open spaces.

RESZ-O11: Development provides healthy, safe, and quality living environments for residents, within the context of a high density residential environment.

RESZ-O12: Development is supported by adequate infrastructure and services.

RESZ-O13: Development supports the use of public and active transport.

- 2.0 PC9 also inserts the following traffic-related policies. The green ones are mandatory (clause 6 of Schedule 3A of the RMA):

Policies – Activities in Residential 1 Zone – Medium Density Residential Zone

RESZ-P3 Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.

RESZ-P4 Enable housing to be designed to meet the day-to-day needs of residents

RESZ-P5 Require development to achieve quality living environments for residents on site by providing

...

4. safe and convenient pedestrian access to residential units from the street.

RESZ-P7 Require proposals for four or more residential units to demonstrate that there is adequate capacity in the infrastructure networks to support the development

Policies – Activities in Residential 2 Zone – High Density Residential Zone

RESZ-P12 Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.

RESZ-P13 Enable housing to be designed to meet the day-to-day needs of residents.

RESZ-P14 Require development to achieve quality living environments for residents on site by providing

...

4. safe and convenient pedestrian access to residential units from the street.

RESZ-P15 Require proposals for four or more residential units to demonstrate that there is adequate capacity in the infrastructure networks to support the development⁷

3.0 Amendments to objectives and policies in Commercial Zones relevant to transport are also proposed:

COMZ-O3A Residential development provides healthy, safe, and quality living environments for residents.

COMZ-P8 Enable and encourage high quality development that positively contributes to the safety and attractiveness of streets and public open spaces.

COMZ-P13 Require the design of residential buildings to achieve quality on site living environments for people by providing:

... iii) Safe and convenient pedestrian access to residential units from the street;

8.7.1.2 Background & Statutory Context

1.0 As noted above, several of these proposed policies are mandatory. The remainder of the proposed provisions are 'related provisions' under section 80E(b)(iii) of the Resource Management Act 1991 ('RMA') that support or are consequential on the Medium Density Residential Standards ('MDRS') and implementation of policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD'). They provide the planning framework for addressing transport and other matters in the context of the increased density facilitated by the plan change to give effect to the MDRS and Policy 5.

2.0 The proposed objectives and policies would add to the following existing objectives and policies relating to transport that address themes of capacity; servicing development; safety and efficiency; and the relationship between urban form and transport.

1.0

⁷ Refer to the Infrastructure section of this report for changes proposed to this policy.

SDUD-03 Serviced development that safely connects to the existing road network, utility reticulation, provides a potable drinking water supply and sufficiently caters for the future development potential of the site.

SDUD-06 Subdivision, use and development consistent with the anticipated settlement pattern that maximises the efficient use of zoned and serviced urban land and is co-ordinated with the provision of cost effective infrastructure

EIT-06 A regionally integrated, efficient, safe and sustainable transportation network that supports development and enables alternative modes of transport and contributes to economic growth.

COMZ-P9 Manage the design of activities within commercial centres to maintain or enhance the character, public safety and efficient functioning of the transport network.

SUB-04: Sites and associated roads integrate safely and efficiently within the transport network.

SUB-05: Adequate infrastructure and services are provided to each site to accommodate the potential development.

3.0 Important to the consideration of submissions is also Policy UG 3A of the Bay of Plenty Regional Policy Statement ('**BOPRPS**')- Promoting travel demand management across the region, which reads:

Actively promote travel demand management across the region to:

(a) Create effective integrated land and travel networks;

(b) Increase public transport use;

(c) Address congested transport corridors;

(d) Reduce use of the private motor vehicle where practicable;

(e) Encourage the use of alternative renewable transport fuels;

(f) Reduce emissions from transport; and

(g) Ensure adequate provision for and increased use of future public transport, walking, cycling networks and corridors, while providing for connectivity.

Explanation:

Appropriate policies are required to be included in district plans and the Bay of Plenty Regional Land Transport Plan to actively promote travel demand management. Land use planning is essential in managing the demand for travel. This could include having higher density/mixed use developments close to good public transport links and community facilities and employment close to where people live (Appendix B – High quality urban design principles). Additionally, future integration of land use and transport planning will need to take into account the need to design and build transport networks that facilitate walking, cycling and public transport (bus, light rail, etc.). Regard should also be given to the policies and targets of any relevant walking and cycling strategies in the region

8.7.1.3 Submissions

1.0 Most submission points were in support of the proposed changes to objectives and policies.

- 2.0 Submissions that sought changes focused only on public and active transport. Retirement Villages Association ('**RVA**'), Ryman Healthcare Limited ('**Ryman**') and Somerset Group Holdings ('**Somerset**') sought that proposed objective RESZ-O6 be amended so that development 'encourages' rather than 'supports' the use of public and active transport (88.32). They stated that it is unclear what would be required for development to 'support' public and active transport.
- 3.0 Bay of Plenty Regional Council ('**BOPRC**') opposed this relief. It considered that 'encourages' is less directive than 'supports'; and that Policy UG 3A of the BOPRPS directs active promotion of travel demand management, including by increasing public transport use, reducing private motor vehicle use and ensuring adequate provision for and increased use of future public transport, walking, cycling networks and corridors, while providing for connectivity.
- 4.0 Waka Kotahi sought that a new policy be added to the Strategic Direction chapter to ensure that higher density and mixed-use development supports and provides for multi modal transport options, with an emphasis on public transport and active travel (77.8).
- 5.0 This relief was supported by the BOPRC, which stated that the relief aligns with Policy UG 3A of the BOPRPS (FS 84.11).
- 6.0 Kāinga Ora Homes and Communities ('**Kāinga Ora**') supported the new policy sought by Waka Kotahi in part, reserving support until the wording is provided. (FS 97.69).
- 7.0 RVA and Ryman opposed the new policy sought by Waka Kotahi insofar as it relates to retirement villages. They stated that active modes and public transport are less relevant to this activity (FS 109.29 & 111.29).
- 8.0 Sigma Consultants sought amendments to CCZ-P5 to expressly state that storage includes cycle parking (84.21). This relief was supported by the BOPRC but opposed by RVA and Ryman Healthcare Limited (FS 84.13, 109.45 & 111.45).
- 9.0 Sigma Consultants sought also amendments to COMZ-P12 to refer to a transition to lower carbon transport options and requiring the provision of cycle parking in new buildings and changing facilities in commercial buildings (84.40). This relief was opposed by RVA and Ryman (FS 109.51 & 111.51).

8.7.1.4 Evaluation

- 1.0 I consider that the changes to transport objectives and policies proposed in PC9 should be adopted.
- 2.0 With respect to the change sought to the wording of objective RESZ-O6, I consider that there would be little difference between the terms encourages and supports in practice: both have a sense of active contribution to provision rather than merely not obstructing. Noting that the submitters had a different view, my preference is to leave the wording as notified on the basis that the Bay of Plenty Regional Policy Statement takes a wide interpretation of travel demand management and seeks that this be 'actively' promoted. Therefore, I recommend to adopt Objective RESZ-O6 as notified.
- 3.0 I do not support the request to include an additional policy in the Strategic Direction section to ensure higher density and mixed-use development supports and provides for multi modal transport options. I consider that, as described in the submission, this may be better framed as an objective than a policy as it does not describe the course of action except in a broad way. Objective RESZ-O6 already promotes the same intent, albeit more broadly across the Residential 1 and Residential 2 Zones rather than in relation to higher density and mixed use

development. The policies and rules (discussed further in the section below) describe the specific ways in which this is to be achieved.

- 4.0 I do not support the change sought to the wording of objective COMZ-P12 to refer to a transition to lower carbon transport options and requirements for cycle parking and changing facilities. I consider that matters that relate to lower carbon transport options, are generally addressed in the Strategic Direction chapter, including at SDUD-I1 which recognises the benefits of future development to support good accessibility by public and active transport modes to support reductions in greenhouse gas emissions. SDUD-P6 also seeks to enable the highest density of development within and adjoining the city centre, recognising the accessibility of these locations. I also consider that considerations for cycle parking are more effectively addressed through matters of discretion as further discussed in Section 7.8.6. Therefore, I do not consider changes are necessary to COMZ-P12 and recommend to adopt objective COMZ-P12 as notified.
- 5.0 With respect to the changes sought to the wording of policy CCZ-P5, I support that the inclusion of reference to cycle parking as a type of storage space as this will provide improved clarity on the appropriate outcomes, which support the provision of high amenity residential units. I note that the consideration of cycle parking is already included in the matters of discretion and assessment criteria for new residential units under CCZ-MDA, and the changes sought will reinforce the outcomes sought within assessment criteria. I consider the small scale of change to policy CCZ-P5 does not necessitate a Section 32AA evaluation.
- 6.0 The first table below provides an evaluation of whether the objectives of PC9 are the most appropriate to achieve the purpose of the Act and the higher order planning documents (sections 32AA and 32(1)(a)), focusing on options relating to the matters raised in submissions. The second table assesses options for amending the transport policies (sections 32AA and 32(1)(b) and 32(2)).

Table 19: Evaluation of potential further changes to the transport objectives

Description of Option	Option 1 Insert an additional policy in the Strategic Direction chapter to ensure that higher density and mixed-use development supports and provides for multi modal transport options, with an emphasis on public transport and active travel.	Option 2 Make no further changes to the Strategic Direction Chapter, rely instead on proposed Objective RESZ-O6 and specific policies and methods developed in relation to matters such as accessway design for multiple modes, cycle storage and pedestrian access from the street to residential units.
Efficiency and Effectiveness in Achieving Objectives RESZ-O6: Development supports the use of public and active transport.	Provides no additional clarity to improve efficiency and effectiveness beyond the objective. Likely to make little difference to the achievement of objectives.	More efficient – reduces unnecessary provisions in the plan.
Costs and Benefits	As currently described, it is not explicit about the course of action – how these developments will support or provide for multi modal transport options. Could create uncertainty.	Provides greater clarity on expectations for developments.
Risks	There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.	
Summary	Option 2 is the preferred option.	

Table 20: Evaluation of potential further changes to the transport policies

Objectives - Options	RMA s5 Purpose RMA	RMA s6 Matters of national significance	RMA s7 Other matters	RMA s8 Treaty of Waitangi	National Policy Statements	Regional Policy statement/plans
Option 1 Retain proposed objective RESZ- O6: Development supports the use of public and active transport.	Unlikely to be any difference in practice in achieving the purpose of the RMA of sustainable development, the recognition and protection of matters of national importance, the extent to which other matters specified in s7 are given regard; or the extent to which the principles of the Treaty of Waitangi are taken into account.				Unlikely to be any difference with respect to the implementation of relevant aspects of the NPS-UD, such as Policy 5.	'Supports' may be more consistent with the active intent of Policy UG 3A.
Option 2 Amend proposed objective RESZ- O6: Development supports <u>encourages</u> the use of public and active transport.						'Encourages' may be less consistent with Policy UG 3A.

8.7.1.5 Recommendation

1.0 I recommend that policy CCZ-P5 be amended as follows:

Encourage the provision of high amenity residential ~~units accommodation within the City Centre 1 zone above ground level.~~

This will be achieved by ensuring residential units provide ~~good access to sunlight from living rooms,~~ good quality outdoor living spaces, ~~outlook spaces, storage spaces~~ (including cycle parking), appropriate noise insulation, and are of a size and shape that will enable for the functional use of the units.

2.0 Otherwise, I recommend that no further changes be made to the objectives and policies on transport outlined above; and that the submissions be accepted and rejected as set out in Appendix 3.

8.7.2 Private Access

8.7.2.1 Scope of Proposed Amendments

1.0 PC9 proposes to amend the residential and subdivision standards to increase the maximum number of 'residential units' (currently 'dwellings') that can be served from shared access driveways from 8 to 20 (RESZ-S5 and SUB-S9(2)).

2.0 For driveways serving 9-20 residential units PC9 also proposes minimum overall and formed driveway width standards; a requirement for a separate 1.5m wide pedestrian path; and 1m wide services berm. I note an error in the subdivision chapter, which should refer to 9-20 residential units instead of 8-20.

3.0 Residential units that do not meet the standards are restricted discretionary activities in Residential 1 and 2 Zones (RESZ-R3). Matters of discretion relating to shared accessways are also proposed (RESZ-MDA) as follows:

Shared access driveways

- 1. Whether safe and convenient access is provided for pedestrians and cyclists. Where there may be a low number of parking spaces provided on-site, whether safe and easy access can also be provided for vehicles, taking into account the type of vehicles required to visit the site and the likely number of vehicle movements generated.*
- 2. One-lane vehicle access may be considered where it connects two public roads (i.e. operates as a one-way access), or where passing bays can be provided to enable two-way traffic. Any passing bays should be designed so that opposing vehicles can wait within two-lane sections of the access and have clear visibility to the next two-way section of access (in order to safely determine when they can proceed into the one lane section).*
- 3. Shared access driveways for more than 20 dwellings may be appropriate where they are designed to meet the needs of people on the site, and where they provide safe and convenient access for pedestrians, cyclists and vehicles (to the extent relevant).*
- 4. The vesting of roads is encouraged where they are designed to a public road standard and would provide wider connectivity and accessibility benefits.*

4.0 PC9 proposed an amendment to standards SUB-S1(4) (Residential Zones), SUB-S3(3) (Commercial Zones) as follows:

Any vehicle access, on-site parking and turning that is required in accordance with the Zone performance standards, site serviceability standards and Appendix APP1 – Parking

Turning and Access shall be separate to the area provided for access to front doors, outdoor spaces and residential privacy.

8.7.2.2 Background & Statutory Context

1.0 By increasing the maximum number of residential units using an access as a permitted activity (and signalling, through the matters of discretion, that greater numbers of units may also be considered) PC9 intends to improve certainty and confidence for intensification; removing potential barriers and reducing consenting requirements. In terms of the status of these changes in the IPI, the proposed changes are 'related provisions' under section 80E(b)(iii), which support the MDRS by enabling development consistent with these standards.

2.0 Relevant to the assessment of submissions are also the following standards relating to access in Residential Zones, City Centre and Commercial Zones:

a. Vehicle crossings

All vehicle crossings onto local roads shall be provided and constructed to the standards of Rotorua District Council. Where new vehicle crossings are proposed onto a State Highway, written consent from the New Zealand Transport Agency shall be provided (RESZ-S5(6), CCZ-S(5), COMZ-S6).

b. Construction (surfacing and gradient and stormwater)

All on-site parking areas, driveways and turning areas shall be (Appendix APP1 (3)(a)):

designed, formed, drained and constructed as part of the activity and shall be surfaced with 'permanent wearing materials (including but not limited to concrete, cobblestones, asphaltic concrete (hotmix), chip, sealed surfaces, or any paver with tight joints, provided that... For any site located in a residential or rural zone where the activity is a single household, or single household and an additional household unit, all on-site parking areas, driveways and turning areas shall be designed, formed, drained and constructed as part of the activity and shall be surfaced with all-weather materials (e.g. metalled surfaces) subject to the following performance standard...Any driveway area with a gradient steeper than 1 in 20 shall be sealed and have a kerb and channel.

c. Turning Curves

Turning curve standards are also included for "service lanes and similar accessways", which refer to an 8m rigid truck (Appendix APP1 3(a)(iii)). My interpretation is that these do not apply to residential accessways.

3.0 The District Plan objectives relating to these standards include those addressing the enablement of development and efficient use of land (RESZ-O1 and RESZ-O8), as well as those outlined above relating to servicing development and the safety of streets and quality living environments.

8.7.2.3 Submissions and Evaluation

8.7.2.3.1 Approach to accounting for the number of units

8.7.2.3.1.1 Submissions

1.0 The submission by Rotorua Lakes Council ('RLC') stated that clarity is needed about how to calculate the number of units accessing a private accessway for the purpose of these standards, especially in the context of the medium density residential standards, which allow up to three units on a site, as of right (61.3). It seeks amendments to SUB-S9(2) and RESZ-S5 to identify that, for the purpose of calculating the number of residential units accessing a private

accessway for the standards, vacant residential lots shall be considered to contain one residential unit unless a greater number of units has obtained a building or landuse consent, in which case that number shall be used. This was supported by Kāinga Ora (FS 97.50).

8.7.2.3.1.2 Evaluation

- 1.0 I support clarifying the way the number of residential units is calculated. The approach proposed by RLC and supported by Kāinga Ora of counting one unit per vacant lot or the number of actual units consented on a lot is reasonable.

8.7.2.3.2 Construction standards and ongoing maintenance

8.7.2.3.2.1 Submissions

- 1.0 Submitters expressed concerns about construction standards and maintenance with the proposed increase to the performance standard for the maximum number of units served by private accessways:
- 2.0 The submission by RLC referred to the need for workable standards for ongoing maintenance and repair (61.1).
- 3.0 L Nelson stated the changes to standards RESZ-S5(4) and SUB-S9(2) will 'make a rod for Council's back' as owners will not be able to agree on ownership/maintenance and will petition Council to take this over. He sought that Council instead provide more flexibility on legal road widths that Council will take over that align closer with what NZS4404 provides, that is, allow more 8-12m legal roads where no further development potential exists (26.18 & 26.29).
- 4.0 Cheal supported the increase to the maximum number of users but stated that this must go hand-in-hand with construction standards for example requiring longer lasting surfacing (79.10 & 79.21).

8.7.2.3.2.2 Evaluation

- 5.0 This issue is addressed in the evidence of P Meredith. She explains that issues of ongoing maintenance for accessways serving large numbers of units are currently addressed through conditions imposed on resource consent requiring the formation of an entity for ongoing maintenance. I support her recommendation that, if the number of permitted residential units served by an accessway is increased, a performance standard should be introduced requiring demonstration that an arrangement is in place for ongoing maintenance.

8.7.2.3.3 Emergency services, delivery services and rubbish collection

8.7.2.3.3.1 Submissions

- 1.0 Submitters also sought that PC9 include additional standards for accessways serving 9-20 units to accommodate emergency services, deliveries and rubbish collection.
- 2.0 The submission by RLC referred to the need for workable standards for safe access by residents, delivery trucks and emergency vehicles; safe on-site maneuvering; and on-site rubbish collection (61.1). RLC sought that if the allowance for 9-20 residential units to be served by a private accessway is retained, the requirement for rubbish collection, emergency vehicle and delivery truck access and on-site maneuvering be incorporated into the standard as recommended by Commute Transportation Consultants in the report prepared to support the plan change (61.1 and 61.2).
- 3.0 Kāinga Ora supported the proposed changes to the standards (86.38) but also supported RLC's submission to find workable solutions to the matters above (FS 97.48). However it opposed the relief sought by the council to incorporate the standards recommended for on-site manoeuvring by Commute Transport Consultants, stating that it would be overly onerous to require truck manoeuvring space within all developments of 8 units or more and that this

- matter should be dealt with through assessment criteria rather than standards to allow for the most practical or safest option for that development (FS 97.49).
- 4.0 The RVA and Ryman opposed RLC's submission noting the need to provide for the functional and operational needs of retirement villages (FS 109.27 & 111.27).
 - 5.0 L Nelson opposed the increase to the maximum permitted number of residential units, but if increased, he sought that standards for rubbish-day storage be included (26.18 & 26.29)
 - 6.0 Fire and Emergency New Zealand ('FENZ') supported the proposed driveway widths for 9-20 residential units but sought amendments to the standards for 1-2 and 3-4 residential units so that fire appliances can access sites in an emergency. It sought an increase to 4m formed width or apply a maximum accessway length (50m – to allow for efficient hose run) and where there is exceedance, require a 4m formation width or the provision of a suitable hardstand every 50m (51.7, 51.23). This was opposed in further submissions by the RVA and Ryman on the grounds that fire-fighting servicing is already provided for under the Building Act and it is inappropriate to duplicate controls (FS 109.9 and 111.9).
 - 7.0 FENZ also sought the following additional standards relating to driveway design (51.41), which the RVA and Ryman opposed (FS 109.18 and 111.18):
 - a. *A clear vehicle crossing of no less than 3.5m wide should be provided at site entrances, internal entrances and between buildings.*
 - b. *A height clearance at vehicle crossings and along carriageways should not be less than 4m.*
 - c. *The maximum negotiable gradient is 1:5, but in general the roading gradient should not exceed 16%.*
 - d. *Where a driveway exceeds 50m in length, a hardstand in accordance with Fire and Emergency's 'Designer's Guide' to Firefighting Operations Emergency Vehicle Access' (December 2021) must be provided every 50m.*
 - 8.0 FENZ also sought that a new matter of discretion be added for non-compliance with shared access driveway standards (51.27):

The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs.
- 8.7.2.3.3.2 Evidence**
- 1.0 Further evidence has been commissioned from Mike Nixon (Commute Transportation Limited) on the transport issues relating to these submissions; and from C Goodwin (Rotorua Lakes Council Manager: Waste and Climate Change) on the policy context for public waste collection services and challenges presented by intensification.
 - 2.0 Mr Nixon recommends:
 - a. For shared private accesses serving 9-20 residential units on-site rubbish collection, emergency vehicle access and delivery truck access, and on-site manoeuvring should be required to prevent reverse maneuvers to/from the road network. This was recommended in his initial report to support the development of PC9 but not carried over into the proposed performance standards.
 - b. An additional performance standard be added to Appendix APP1 (under Section 3a) for turning curves for residential shared access driveways that requires turning areas to be

designed to accommodate the Council's 10.5m waste collection truck. He notes that the size of this vehicle will also ensure fire appliances can access the site.

- c. A minimum formed access width of 4m be incorporated for accessways more than 50m long to accommodate fire appliances or the provision of a hardstand.

3.0 Mr Goodwin, in turn, discusses the importance of public waste collection to national waste and climate change outcomes; the need to sometimes provide for collection within private sites to overcome challenges with roadside collection in the context of intensification; and the importance of onsite turning where rubbish collection vehicles enter private sites.

8.7.2.3.3.3 Evaluation

1.0 I support the original intent of PC9 to remove barriers to intensification by increasing the performance standard for the maximum number of residential units that can be served by private accessways as a permitted activity. I also agree with submitters that emergency services, rubbish collection and delivery services must also be considered in the design.

2.0 I support the recommendations of Mr Nixon as the basis for standards for permitted activities. There may often be situations where emergency services, deliveries and rubbish collection can be accommodated notwithstanding non-compliance with these standards. For example, turning for smaller design vehicles may be sufficient where waste collection can be accommodated in the road reserve and there is no need for rubbish vehicles to access the site and fire appliances can simply reverse from the site. However, I consider that the standards he recommends provide an appropriate starting point with any non-compliance considered through matters of discretion.

3.0 Regarding firefighting access and the argument that the District Plan should not duplicate controls in the Building Act, I understand that the Building Code does not address driveway widths for emergency service access for residential units. It only addresses firefighting access in respect of attached dwellings in a limited way. It reads:

C5.3 Buildings must be provided with access for fire service vehicles to a hard-standing from which there is an unobstructed path to the building within 20 m of (a) the firefighter access into the building, and (b) the inlets to automatic fire sprinkler systems or fire hydrant systems, where these are installed.

Performance requirements in clauses C5.3 to C5.8 do not apply to backcountry huts, detached dwellings, within household units in multi-unit dwellings, or to outbuildings, and ancillary buildings.

4.0 I agree with Mr Nixon that the alternative relief proposed by FENZ of a maximum length for driveways less than 4m wide or the provision of hardstands is preferable for ensuring access for firefighting than requiring all driveways to be 4m wide. However, as I am required to consider all the District Plan objectives, including those addressing efficient use of land, I do have some reservations about whether 50m is the most appropriate maximum length. I understand that the Fire Service recently supported a similar approach but with a 90m maximum driveway length in the review of Selwyn's District Plan. I support the recommendations of the Fire Service subject to them providing further justification that the 50m maximum length is warranted.

5.0 The minimum height clearance along accessways of 4m is supported. However, I do not consider it necessary to require this for road crossings, which are in the road reserve and subject to separate processes.

8.7.2.3.4 Vehicle Crossings

8.7.2.3.4.1 Submissions

- 1.0 FENZ sought changes to the standard for vehicle crossings, as outlined above (3.5m width and height clearance 4m). In addition, Kāinga Ora sought that the District Plan refer to a specific standard or document for the design of vehicle crossings (86.96 and 86.129).

8.7.2.3.4.2 Evaluation

- 1.0 I agree with Kāinga Ora that if the District Plan has standards for the design of vehicle crossings it should refer to a specific standard rather than generically to 'Council standards'. However, I consider this performance standard unnecessary. Road crossings are managed under the corridor access request process guided by the Waikato Shared Services Regional Infrastructure Technical Standards ('RITS'). These standards promote consistency across multiple authorities. Therefore, I recommend that these standards be replaced by advice notes.
- 2.0 The minimum crossing width specified in RITS is 3m and not the 3.5m requested by FENZ. However, in practice, crossings are constructed to the width of the accessway, which have minimum widths of 4m except in the case of 1-2 units. I understand that the actual width of a fire appliance is less than 3m and do not foresee significant emergency service access issues associated with accessways for 1-2 units.

8.7.2.3.5 Aligning widths for 3-4 units with widths for 1-2 widths to enable development

8.7.2.3.5.1 Submissions

- 1.0 Sigma sought that the widths of shared access driveways serving 1-4 residential units be the same as those currently required for 1-2 units so as not to affect the ability of existing rear sites to be developed under the permitted MRDS standards (84.53).

8.7.2.3.5.2 Evaluation

- 1.0 Reducing the minimum accessway width for 3-4 units to align with 1-2 units could assist to enable housing on some sites. However, there are also considerations relating to safety and emergency vehicles. I agree with the analysis of Mr Nixon that the current standards should be retained.

8.7.2.3.6 Standards for Separation of Vehicle Access

8.7.2.3.6.1 Submissions

- 1.0 FENZ support the amendment to the access, onsite parking, and turning areas standard to require separation from access to front doors (submissions 51.5 and 51.6), but others consider this is too restrictive.
- 2.0 Classic Group (submissions 38.5 and 38.6) consider that access to front doors is required from parking, turning and access areas.
- 3.0 Nelson, L (submission 26.17) consider that parking close to front door is important for members of the community with limited mobility.
- 4.0 Kilpatrick, J (submission 96.11 and 96.12) consider that turning and parking areas are required to support residential units, irrespective of whether they are adjacent to front doors.

8.7.2.3.6.2 Evaluation

- 1.0 In response to the submission, I have further considered the proposed amendments to SUB-S1(4) and SUB-S3(3) and acknowledge that the standard may be restrictive as it does lack specificity and may create uncertainty for implementation.
- 2.0 I note that the matters of discretion and assessment criteria for the consideration of four or more residential units in the Residential Zones and the construction of new buildings in the

City Centre and Commercial Zones include consideration of whether safe, direct, and easily identifiable pedestrian access is provided from the street to residential units. I consider that these provisions will ensure that the safe access for pedestrians to residential units are addressed.

- 3.0 I therefore recommend the deletion of the amendment proposed under PC9 to include 'access to front doors' to SUB-S1(4) and SUB-S3(3).

8.7.2.4 Recommendation

- 1.0 I recommend the following further changes be made as related provisions that support or are consequential to the MDRS and Policy 5:

- a. The error in the subdivision performance standards be corrected to refer to 9-20 residential units rather than 8-20.
- b. Subject to further information from FENZ, that the minimum legal widths for 1-2 and 3-4 residential units in the tables of standards RESZ-S5 and SUB-S9(2)(b) be retained but that an additional clause be included after the tables as follows:

Provided that, where an access exceeds 50m in length it must have a minimum legal width of 4m; or a hardstand in accordance with Fire and Emergency's 'Designer's Guide' to Firefighting Operations Emergency Vehicle Access' (December 2021) must be provided within 50m of the residential units served by the driveway.

- c. An additional clause be added after the clause addressing the maximum number of units:

For the purpose of calculating the number of residential units accessing a shared access driveway, vacant residential lots shall be considered to contain one residential unit unless a greater number of units has obtained a building or land use consent, in which case that number shall be used.

- d. A further clause be added to the end of RESZ-S5 addressing clearance:

The minimum height clearance along an access shall be 4m.

- e. Further clauses be added to the end of RESZ-S5 and SUB-S9(2) addressing maintenance:

For shared access driveways for 9-20 residential units it shall be demonstrated that a legally binding arrangement is in place for ongoing maintenance.

- f. Appendix APP1(2)(a) be amended to require, as a performance standard, on-site turning for vehicle entrances to private access / driveways serving more than 8 residential units.

2 Turning Standards

This part outlines when on-site turning is required

...

ii Sites adjacent to all other roads are not required to provide on-site turning area, except where:

1 The site is accessed by a private access / driveway serving more than 8 residential units. In this case, a turning area shall be required to prevent reverse manoeuvre onto the road network. The area may be located within the private access.

- g. Appendix APP1(3)(a)(v) be inserted to specify a turning curve for private access / driveways serving more than 8 residential units as follows:

3. Design and Construction

a. Design and Construction of access and on-site turning and parking areas

Where on-site turning and parking is required, the design and construction of these areas shall be in accordance with the following:

...

v. Turning curves for private access driveways for residential units

A 10.5m rigid truck shall be used for the design of turning areas

- h. An additional point be added to the matter of discretion for non-compliance with private access standards in Residential Zones (RESZ-MDA):

Whether adequate provision can be made for rubbish collection, emergency services and delivery services.

- i. The performance standards for vehicle crossings in Residential Zones, City Centre Zones and Commercial Zones be replaced with advice notes that the design of vehicle crossings is managed through the corridor access request process.
- j. The deletion of the amendment proposed under PC9 to include 'access to front doors' to the Access, onsite parking and turning areas standards under SUB-S1(4) and SUB-S3(3).
- k. The relevant submissions be accepted, partially accepted or rejected as set out in **Appendix 3.**

8.7.3 Transport Assessment Requirements

8.7.3.1 Scope of proposed amendments

- 2.0 PC9 proposes that a new performance standard requiring a traffic assessment for developments with 20-100 residential units or lots be added to Appendix APP1 4(b):

A simple review of the effects of a development on the road network immediately surrounding the site and must be prepared by a suitably qualified person. Its purpose is to assess the effects of the development on the safe and efficient operation of the adjacent road network, including ensuring the road network can accommodate relevant service vehicles (waste collection trucks, delivery trucks) and emergency service vehicles.

- 3.0 This requirement to undertake the traffic assessment is implemented through reference in the zone activity rules. Proposed performance standards for four or more residential units in the Residential 1 and Residential 2 Zones in RESZ-R3(3) require compliance with standard RESZ-S5, which in turn requires compliance with Appendix APP1.

- 4.0 Consideration of the traffic assessment is enabled through the proposed matters of discretion for land use activities involving multiple residential units (RESZ-MDB). These matters include broad considerations as well as a specific matter referring to the traffic assessment requirements for 20 or more residential units:

Whether safe and direct pedestrian access that is easily identifiable is provided from the street to residential units on the site.

Whether a good level of connectivity is provided within the site to the existing transport network and to local services and facilities.

Whether vehicle access and carparking areas are designed as low speed environments that prioritise pedestrian movement.

Whether access for emergency service vehicles is appropriately designed so that emergency staff can access the site safely and efficiently.

For 20 or more residential units, whether a transport assessment is provided in accordance with APP1 (4)(b) demonstrating that the adjacent road network can operate safely and efficiently.

8.7.3.2 Background & Statutory Context

- 1.0 The amendments are proposed in response to advice on the plan change from Commute Transportation Limited (Appendix 11 to the Section 32 report), which expressed concern about on-street parking and the potential displacement of parking demands from higher density residential sites (which no longer require a minimum parking provision) to the public road network. That is, ensuring that the road network can still operate safely and efficiently (for example, can rubbish trucks and emergency vehicles still use the road with potentially increased on-street parking demands). The assessment is intended to be of the local off-site effects of the development and potentially require minor mitigation measures to ensure the road network can continue to operate safely and efficiently rather than major upgrades (for instance, the applicant may have to install 'No Stopping' lines or other parking controls as part of their development).
- 2.0 In terms of their status in the IPI, these changes are related provisions which support or are consequential on the increased development enabled by the implementation of the MDRS and Policy 5 (section 80E(1)(b)(iii)).
- 3.0 The District Plan already contains a requirement for a 'higher level' Integrated Traffic Assessment ('ITA') assessment. Various development trigger levels are provided, including 100 'dwellings' (proposed to be renamed residential units), which Appendix APP1 states may be required when there is discretion. It also states that these may vary in terms of the level of detail and breadth of assessment required. For developments where there is potential for adverse effects that may be more than minor, the ITA will need to be prepared by a suitably qualified person. Guidance is provided as to the content.
- 4.0 The requirement for an ITA for 100 or more residential units was not amended, consistent with the advice from Commute Transportation Limited.

8.7.3.3 Submissions

- 1.0 Submitters, including Waka Kotahi and FENZ (77.4, 51.42), supported the proposed traffic assessment for 20-100 residential units. However, Kāinga Ora opposed the assessment (86.135).
- 2.0 Kāinga Ora also sought that the thresholds for the ITA be instead tied to the number of carparking spaces (86.13). Waka Kotahi opposed the submission point, stating carparks are not an appropriate proxy for transport effects that can be used to determine whether an ITA is warranted. Carparks provide an indication of likely vehicular trip generation, but not the other factors considered in an ITA, such as the need for walking, cycling and public transport provision. For this reason, the number of residential units proposed is considered to be a more appropriate threshold for determining whether an ITA is warranted.
- 3.0 FENZ sought the inclusion of additional matters of discretion to include consideration to whether access is appropriately design so that emergency service personnel can access the site safety and efficiently (submissions 51.33 and 51.40). FENZ strongly support the inclusion of the

- equivalent matter in the matters of discretion for the construction of four or more residential units.
- 4.0 RVA, Ryman and Summerset sought that there be an exemption from the requirements to undertake an ITA for retirement villages (88.74, 88.92 & 88.118). The submitter stated that any requirements applying to retirement villages should reflect their lower transport demand compared to other residential development.
- 5.0 Various submissions also expressed concern that intensification will cause parking on the street and this will have adverse impacts, including for pedestrian access, and emergency services and amenity (for example, 4.2 & 6.2).
- 8.7.3.4 Evaluation**
- 1.0 As currently drafted there is an overlap between the lower and higher tier assessments and the first should be amended to 10-99 units so as to avoid the requirement for two assessments, which was clearly not the intent and an error.
- 2.0 If the matters of discretion are reduced and reworded in response to submissions addressed in the residential section of this report, the matter of discretion allowing consideration of the transport assessments required under Appendix APP1 should be retained and the following wording is recommended:
- For 20 or more units the effects on the adjacent road network and the recommendations of any transport assessment required under Appendix APP1.*
- 3.0 In terms of the matters raised in submissions, I support the analysis provided in the evidence of M Nixon, by Commute Transportation Limited.
- 4.0 I consider that, with the implementation of the increased density enabled by the MDRS and implementation of Policy 5, there is potential for effects on the operation of the adjacent road network. For example, the increased on-street parking demand may affect access and efficiency for rubbish collection, public transport and emergency services. It is important that the Council can consider and potentially require that these effects be addressed to achieve objectives and policies.
- 5.0 I consider that, with the removal of parking requirements from the plan, residential units are a more appropriate trigger for the ITA assessment than parking spaces. As stated by Commute Transportation Limited, with parking spaces as the trigger the actual effects of a development may not be fully understood; the development may generate off-site effects not captured by the submitted rule framework.
- 6.0 In relation to additional matters of discretion for the consideration of access for emergency service vehicles, I agree that there is a need to consider emergency access, particularly as greater heights and densities or development will be enabled within the City Centre and Commercial Zones. I recommend the inclusion of the following assessment criteria for CCZ-MDA and COMZ-MD1 for the construction of new buildings:
- The location and design of parking, access and servicing, including whether access for emergency service vehicles is appropriately designed so that staff can access the site safely and efficiently.*
- 7.0 I note that this is consistent with the matters of discretion included for four or more residential units in the Residential 1 and 2 Zones.

- 8.0 On the matter of retirement villages (which are known as rest homes in the current provisions), I agree with the evidence of M Nixon that they should not be exempt from traffic assessment requirements. As explained by Mr Nixon, while they may have a lower traffic generation than standard residential developments in peak hours, there are a range of relevant matters that should be addressed in an ITA. Rest Homes are currently discretionary activities providing broad discretion to consider transport issues. There may be some ambiguity around whether rest homes are currently subject to the ITA requirements, but this is of little importance under the fully discretionary status.
- 9.0 If an alternative restricted discretionary framework is adopted, I would recommend that the performance standards refer to the requirements of Appendix APP1; that the matters of discretion include 'for 20 or more units, effects on the adjacent road network and the recommendations from any required transport assessment required under Appendix APP1 – Parking, Access and Turning Standards'. I would also recommend that the higher and lower tier thresholds for traffic assessment in Appendix APP1 are amended as recommended by M Nixon to clarify that for rest homes the number of 'residential unit' should include both standalone resident homes, villas, terraces, apartments etc and rest home beds.

Table 21: Evaluation of potential changes to the transport assessment requirements

Description of Option	Option 1 Reject the proposed lower tier assessment requirement for 10-99 units [and the corresponding matter of discretion].	Option 2 Use parking spaces as the trigger for an ITA instead of residential units	Option 3 Adopt the changes proposed in PC9 (insert a new lower tier assessment).
Efficiency and Effectiveness in Achieving Objectives RESZ-O1 Land is used efficiently for medium density residential living that increases housing supply and choice. RESZ-O8: Land that has good accessibility ..., is efficiently used for high density urban living that increases housing supply and choice. RESZ-O3/10: Development contributes to attractive and safe streets and open spaces. RESZ-O4/11: Development provides healthy, safe and quality living environments for residents. RESZ-O5/12: Development is supported by adequate infrastructure and services. RESZ-O6/13: Development supports the use of public and active transport	Removal of the need to consider traffic effects would increase certainty and reduce costs for development, potentially helping to achieve objectives RESZ-O1 and RESZ-O8. However, it would not support the achievement of other objectives relating to safety and quality of the living environment and service with adequate infrastructure.	Parking spaces no longer provide a good proxy for the scale of the development since onsite parking space requirements have been removed from the District Plan. Therefore, they are not an effective indication of the potential traffic effects that need to be considered in achieving the objectives of the plan.	Supports the achievement of objectives relating to safety and quality of the living environment and service with adequate infrastructure by enabling effects to be considered through lower tier and higher tier assessments using triggers that represent the scale of the activity and potential effects.
Costs and Benefits	Removing the proposed lower tier assessment would assist to reduce costs and uncertainty for multi-unit developments.		The lower tier assessment has increased costs and uncertainty compared to Option 1 but provides more certainty than the situation prior to PC9 where transport issues for multi-unit developments were considered under the broad discretions for comprehensive

			residential developments without limitation on the types of effects potentially considered.
Risks	There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.		
Summary	Option 4 is the preferred option.		

8.7.3.5 Recommendation

- 1.0 I recommend that the error be corrected by amending the requirement for the lower tier assessment for 10-99 units, rather than 10-100.
- 2.0 Retain a matter of discretion to allow consideration of the transport assessments required under Appendix APP1 for four or more residential units and word as follows:
- For 20 or more units the effects on the adjacent road network and the recommendations of any transport assessment required under Appendix APP1.*
- 3.0 The assessment criteria for new buildings in the City Centre and Commercial Zones (CCZ-MDA and COMZ-MD1) include:
- Whether access for emergency service vehicles is appropriately designed so that staff can access the site safely and efficiently.*
- 4.0 If rest homes are amended to a restricted discretionary activity the performance standards refer to the requirements of Appendix APP1; the matters of discretion align with residential units above; and that the higher and lower tier thresholds for traffic assessment in Appendix APP1 are amended as recommended by M Nixon to clarify that for rest homes the number of units includes standalone units or apartments as well as beds in a care facility.
- 5.0 Otherwise, at this stage, I recommend that no further changes are made to the transport assessment requirements and that submissions be accepted and rejected as set out in Appendix Three. However, I would be open to changes in the wording from those submitters in opposition that would clarify the intended limitations in scope of the 'lower tier' traffic assessment for 20-100 residential units.

8.7.4 Cycle Storage

8.7.4.1 Scope of proposed amendments

- 1.0 PC9 also proposes a number of changes relating to the provision of cycle storage:
- a. RESZ-P8 and RESZ-P17 for the Residential 1 Medium Density Zone and Residential 2 High Density Zone require proposals for four or more residential units to provide adequate storage for cycle parking on site. A corresponding matter of discretion for 4+ residential units is also proposed: 'whether each residential unit has sufficient space within the site for the secure storage of at least one bicycle'.
 - b. Cycle storage matters of discretion are also proposed for City Centre and Commercial Zone (in the list of discretions for building and site layout, which would apply to residential units that trigger consent under the rules for new buildings and building additions) of 'whether each residential unit has sufficient space within the site for the sheltered and secure storage of at least one bicycle, which is conveniently located for users'.

8.7.4.2 Submissions

- 1.0 Sigma Consultants sought the inclusion of cycle parking standards for new buildings in the City Centre and Commercial Zones, requiring one space per residential unit and one space per 150m² net floor area and one locker per cycle park (84.32 and 84.52).

8.7.4.3 Evaluation

- 1.0 In relation to the inclusion of standards for cycle parking in residential units, I note that the matters of discretion and assessment criteria proposed under CCZ-MDA will provide for the consideration of cycle parking in residential units. I consider that this will provide greater

- flexibility than the inclusion of a standard and will enable the provision of cycle parking to be assessed on an individual site basis through the resource consent process.
- 2.0 In relation to commercial buildings, I consider that the inclusion of standards for cycle parking in new buildings do not relate to the implementation of the MDRS or Policy 5 of the NPS-UD.
- 3.0 For the reasons above, I do not support the inclusion of cycle parking standards. Notwithstanding, I acknowledge the benefits of a comprehensive standard to identify the expected outcomes for the provision of cycle parking and active transport and note that such provisions can be addressed through a future plan review.

8.7.4.4 Recommendation

- 1.0 I recommend no further changes at this time and that submissions be accepted and rejected as set out in the Appendix.

8.8 Infrastructure

- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to Infrastructure. In response to submissions changes are recommended to the Residential Zones, Commercial Zones and City Centre Zones chapters. The evaluation in this section is supported by evidence of G Manzano, Infrastructure Growth and Planning Manager at Rotorua Lakes Council and P Meredith, Land Development Engineering Manager at the Council.

8.8.1 Infrastructure to Support Intensification

8.8.1.1 Scope of proposed amendments

- 1.0 PC9 proposes:
- Objectives for Residential 1 and 2 Zones that development is supported by adequate infrastructure and services (RESZ-O5 and RESZ-O12).
 - Policies for these zones to require proposals for four or more residential units to demonstrate that there is adequate capacity in the infrastructure networks to support the development (RESZ-P7 and RESZ-16).
 - A corresponding matter of discretion for four or more residential units in these zones is also proposed about whether the development can be adequately serviced by water, wastewater and stormwater (RESZ-MDB).

8.8.1.2 Background & Statutory Context

- 1.0 The proposed amendments are 'related provisions' under section 80E(b)(iii) of the Resource Management Act 1991 ('RMA') that support or are consequential on the Medium Density Residential Standards ('MDRS') and implementation of policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD'). They provide the planning framework for addressing infrastructure and servicing in the context of the intensification facilitated by the plan change to give effect to the MDRS and Policy 5.
- 2.0 These objectives and policies proposed for the Residential 1 and 2 Zones would sit alongside existing objectives in the strategic direction, infrastructure and subdivision sections of the plan that also address infrastructure and services for development:

SDUD-O3 Serviced development that safely connects to the existing road network, utility reticulation, provides a potable drinking water supply and sufficiently caters for the future development potential of the site.

SDUD-06 Subdivision, use and development consistent with the anticipated settlement pattern that maximises the efficient use of zoned and serviced urban land and is co-ordinated with the provision of cost effective infrastructure

EIT-01 Infrastructure that provides for the economic, cultural, social and environmental wellbeing of the Rotorua district, the region and New Zealand.

SUB-05: Adequate infrastructure and services are provided to each site to accommodate the potential development.

- 3.0 Currently infrastructure and servicing for residential developments can be considered under the performance standards for subdivision and, for multi-unit development in the Residential 1 Zone, under the broad discretion for comprehensive residential development. With the implementation of the MDRS, the rules for comprehensive residential development are to be removed and increased development densities are provided for as permitted activities than foreseen at subdivision.

8.8.1.3 Submissions

8.8.1.3.1 Submissions on proposed provisions for Residential 1 and 2 Zones

- 1.0 Several submitters supported the proposed policies RESZ-07 and RESZ-16 and matter of discretion relating to 4+ residential units in Residential 1 and 2 Zones.
- 2.0 Kāinga Ora Homes and Communities ('Kāinga Ora') sought changes to the wording of the proposed policies to make the requirement to demonstrate capacity more absolute, as well as to limit the assessment to the point of connection (86.63):
- Require proposals for four or more residential units to demonstrate that there is adequate capacity in the infrastructure networks to support the development at the point of connection.*
- 3.0 Several submitters opposed this relief, arguing that the issues are downstream and not at point of connection (for example, FS 89.9).
- 4.0 The Retirement Villages Association ('RVA'), Ryman Healthcare Limited ('Ryman') and Summerset Holdings Limited ('Summerset') considered that the policies should be amended to enable the upgrading and/or development of infrastructure to service residential development where the existing services do not have adequate capacity as follows (88.46 & 88.58):

Require proposals for four or more residential units to demonstrate that there is adequate capacity in the infrastructure networks to support the development or to demonstrate how the residential units will be serviced for infrastructure.

8.8.1.3.2 Submissions on broader issue of infrastructure to support intensification

- 1.0 Aside from the above submissions on the specific changes proposed for Residential 1 and 2 Zones, submitters broadly expressed concern about infrastructure to service the development enabled by PC9. For example:
- S Jones stated, 'Currently Rotorua's infrastructure including storm water and sewerage cannot handle the current demands and improvements will require significant rate payer contribution which is already significant burden'. The submitter seeks that [the plan change] be deleted (3.6).
 - Rotorua District Ratepayers and Residents expressed concern about the analysis of infrastructure capacity to support the proposed changes, stating that, while increase will not happen overnight, there is a risk that pockets of increased density are developed

anywhere within the Residential 1 zone, isolated from infrastructure planning and upgrades. The submitter considered that the lack of an infrastructure assessment is a flaw in the PC9 process and stated that the ability to service higher densities should have been properly examined as part of the preparation of this PC9 to inform ratepayers as to likely costs and impact on rates (20.6).

- c. F Musumeci stated that Rotorua's infrastructure is already taxed, fragile and in continual patch-up mode and asks what will so many more houses in use/condensed do to the workings of the infrastructure and seeks that the plan change be revisited (59.2)

8.8.1.4 Evaluation

8.8.1.4.1 *Submissions on proposed provisions for Residential 1 and 2 Zones*

- 1.0 I understand that Kāinga Ora is seeking to increase certainty by limiting the assessment of capacity to the point of connection to a network. However, I do not support this relief for the reason that capacity at point of connection is not the only consideration. I consider that the matter of discretion would be more effective if it weren't limited to issues of capacity and instead referred to adequacy consistent with the proposed objective. As explained in the evidence of P Meredith, conditions imposed under comprehensive residential development and subdivision (which provide an indication of the likely nature of the conditions that are required) are not limited to 'capacity' in the 'network'. As an example, conditions relating to the design of pumps to boost water from the network to elevated building sites.
- 2.0 Furthermore, as noted in the submission of RVA etc, solutions do not always involve 'infrastructure networks'. For example, stormwater may involve soakage. I support in part the relief sought by RVA, Ryman and Summerset in that they seek to retain options for alternative provision of services.
- 3.0 I consider that the concerns of Kāinga Ora may be partially addressed by removing the words 'requiring the applicant to demonstrate' because, in practice, RLC holds much of the information about three waters infrastructure capacity and pursues community solutions.
- 4.0 Confirming the types of infrastructure to be assessed were confirmed would also increase certainty, which I consider may assist to address submitter concerns. The policy refers broadly to infrastructure and services, while the matter of discretion refers just to water, wastewater and stormwater. I recommend that the matter of discretion also include electricity as this can present a limitation to development and the consenting process provides an opportunity to provide early warning of any servicing issues. I consider this would also assist to address the general concerns about the adequacy of infrastructure to support PC9 (discussed below). I also recommend that the words 'and services' be deleted from the policy to avoid confusion with a broader concept of services.

8.8.1.4.2 *Submissions on broader issue of infrastructure to support intensification*

- 1.0 With respect to the broader issue of whether infrastructure can support the intensification enabled by PC9, some submitters sought deletion of the plan change or opposed other submissions such as the expansion of the Residential 2 Zone. There is an implied question of additional qualifying matters.
- 2.0 For three waters infrastructure capacity, I refer to the evidence of G Manzano. He explains that no significant changes are anticipated to RLC's planned infrastructure programme because of PC9, assuming that the rate of growth remains similar to that considered in the development of the last Long Term Plan ('LTP'). The forecast capital work programme already includes

- significant projects to provide for growth and the Council continually reviews its infrastructure plans in response to growth. A review of the Long Term Plan is currently underway.
- 3.0 With respect to other infrastructure, providers have not raised concerns about any significant limitations to servicing development enabled by PC9.
- 8.8.1.5 Recommendation**
- 1.0 I recommend the following:
- 2.0 Proposed policies RESZ-P7 and RESZ-16 be amended as follows:
- ~~Require For proposals for four or more residential units ensure adequate to demonstrate that there is adequate capacity in the infrastructure networks can be provided to support the development.~~*
- 3.0 Electricity be added to the infrastructure in matter of discretion RESZ-MDB and the wording be amended as follows.
- ~~Whether the development can be adequately serviced by water, wastewater and stormwater infrastructure. Adequacy of water, wastewater, stormwater and electricity infrastructure and management.~~*
- 4.0 Submissions be accepted, partially accepted or rejected as set out in **Appendix 3**.
- 8.8.2 Standard for Water Supply**
- 8.8.2.1 Scope of Proposed Amendments**
- 1.0 This section considers submissions from Fire and Emergency New Zealand ('FENZ') relating to the standard of water supply and its adequacy for firefighting. Their submissions relating to papakāinga and water supply are addressed in the Papakāinga section.
- 2.0 As discussed above, PC9 proposes changes relating to the objectives and assessment requirements for development in Residential 1 and 2 Zones to ensure adequate infrastructure. It does not specifically refer to the standard of water supply.
- 8.8.2.2 Background & Statutory Context**
- 1.0 The existing and proposed objectives for Residential Zones do not specifically refer to firefighting water supply. Proposed objectives RESZ-O5 and RESZ-O12 and existing objective SUB-O5 refer more generally to 'adequate' infrastructure, while strategic direction objective SDUD-O3 seeks that development is serviced, provides a potable drinking water supply and sufficiently caters for the future development potential of the site.
- 2.0 However, policy SUB-P16, in the subdivision chapter, does refer to firefighting purposes:
- SUB-P16** Ensure applications for subdivisions demonstrate that the water supply capacity, including capacity for firefighting purposes, is sufficient for the development.*
- 3.0 Accordingly, the site serviceability performance standards for subdivision, which are referenced through the rules for various zones, require 'the water supply shall be adequate for firefighting purposes' (SUB-S9(3)(b)(vi)).
- 4.0 There are currently no District Plan standards requiring firefighting water supply for land use activities.
- 5.0 Aside from the District Plan, The Council's levels of service for the reticulated water supply also promote the provision of a water source sufficient for firefighting in Rotorua city.

8.8.2.3 Submissions

1.0 FENZ sought that:

- a. Existing strategic direction objective SDUD-O6 be amended to refer to firefighting water supply (51.2):

Serviced development that safely connects to the existing road network, utility reticulation, provides a potable drinking water supply, [firefighting water supply](#) and sufficiently caters for the future development potential of the site.

- b. A performance standard for water supply be added to the rules for residential units in Residential 1 and 2 Zones (51.2); as well as to the rules for new buildings, residential units, conversion of buildings to residential units in Commercial and City Centre Zones (51.30, 51.31, 51.32, 51.36, 51.37 & 51.38). While clause 1 does not specifically refer to firefighting water supply but to reticulated water supply, I understand that connection to the public reticulated network is intended to provide the source of the desired firefighting water supply.

Servicing

1. All new developments that will require a water supply must be connected to a public reticulated water supply, where one is available.

2. Where the new development will not be connected to a public reticulated water supply, or where an additional level of service is required that exceeds the level of service provided by the reticulated system, the developer must demonstrate how an alternative and satisfactory water supply can be provided to each lot.

Note: Further advice and information about how an alternative and satisfactory firefighting water supply can be provided to a development can be obtained from Fire and Emergency New Zealand and the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008. (or to a similar effect).

- c. Matters of control and discretion for subdivision, which refer to 'the potential for the activity to adversely affect the safe and efficient operation of strategic infrastructure' be amended to specifically reference the three waters network (51.8 and 51.9).

2.0 RVA and Ryman opposed the changes FENZ sought to the strategic objective, stating they are unnecessary and that the District Plan already has objectives and policies relating to infrastructure servicing (FS 109.6 & 111.6). They also opposed the performance standard for water supply, stating there are already provisions in the Building Act and the District Plan shouldn't duplicate controls.

3.0 The Bay of Plenty Regional Council ('BOPRC') supported the servicing standard sought by FENZ (FS 84.5 & 84.6).

8.8.2.4 Evaluation

1.0 I do not support the change FENZ seeks to the strategic direction objective. I am concerned it would imply that firefighting water supply is an objective for all development, regardless of type and their water needs. (Although I note I have similar reservations about the existing reference to potable water supply wording). I also have concerns about the lack of opportunity for participation in changes to this broad objective.

2.0 While I consider there are likely to be few instances where residential units and commercial development in the city will propose alternatives to the public reticulated water supply, I acknowledge that consideration of the adequacy of water supply is not currently a requirement at land use and only considered at subdivision.

3.0 Should the commissioners support addressing this gap through PC9 as a related provision, I would support a standard being applied to the rules for residential units in Residential 1 and 2 Zones and the rules for new buildings, residential units, conversion of buildings to residential units in Commercial and City Centre Zones. This standard would reference the requirements of the firefighting water supplies code of practice for developments that do not connect to a public reticulated water supply.

4.0 I do not consider the changes sought to the matters of control for subdivision are necessary as the performance standards for subdivision already address firefighting water supply.

8.8.2.5 Recommendation

1.0 I recommend that an additional performance standard be included in Residential, Commercial and City Centre Zones as follows; and that this be referenced from the rules for residential units in Residential 1 and 2 Zones and the rules for new buildings, residential units, conversion of buildings to residential units in Commercial and City Centre Zones.

RESZ-S5A/CCZ-S5A/COMZ-S6A Servicing

For developments that will require a water supply and will not be connected to a public reticulated water supply, the applicant must demonstrate how an alternative water supply adequate for firefighting purposes can be provided to the development in accordance with the Fire and Emergency New Zealand and the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.

8.8.3 Protection of Infrastructure Corridors

8.8.3.1 Scope of proposed amendments

1.0 This section addresses submissions that sought protection of infrastructure corridors – the rail corridor and gas network. PC9 does not propose any provisions to protection these or other infrastructure corridors.

8.8.3.2 Background & Statutory Context

1.0 Existing objective RESZ-O22 of the District Plan seeks that residential property and development ensures reverse sensitivity effects on network utilities and other infrastructure do not occur.

2.0 Proposed strategic direction policy SDUD-P3 refers to limiting heights and densities where it is necessary to recognize and provide for matters of national importance or other matters of significance to Rotorua including ‘nationally significant infrastructure’.

3.0 Objectives promoting healthy, safe and quality living environments are also relevant (RESZ-O4 and RESZ-O11).

4.0 As further context, I note that the District Plan also contains some methods to protect infrastructure corridors, such as:

- a. Minimum yard standards, which provide some level of protection against sensitivity of neighbouring users by setting buildings back from boundaries with adjacent road corridors or lots, where infrastructure may be located (for example, RESZ-S2);
- b. Acoustic design requirements for noise sensitive activities near state highways (NOISE-R4);
- c. Rules for buildings, structures, earthworks and subdivision to protect the National Grid Yard (EIT-R18, EIT-R19 and SUB-38);

- d. Designations; and
- e. Inclusion of the gas network (transmission pipelines only) in the District Plan maps.

5.0 Policy EI 3B of the Regional Policy Statement also is relevant:

Protecting nationally and regionally significant infrastructure

Protect the ability to develop, maintain, operate and upgrade existing, consented and designated nationally and regionally significant infrastructure from incompatible subdivision, use or development. Ensure that where potentially incompatible subdivision, use or development is proposed near regionally significant infrastructure, it should be designed and located to avoid potential reverse sensitivity effects.

8.8.3.3 Submissions

8.8.3.3.1 Rail Corridor

- 1.0 KiwiRail Holdings Limited ('KiwiRail') sought that their ability to maintain, operate and upgrade the currently non-operational rail corridor in Rotorua city is protected now and into the future (53.1). The submitter sought that a 5m 'no-build' setback be introduced adjacent to the rail corridor to ensure people can use and maintain their land and buildings safely without the need to extend into the corridor. In other words, that side and rear yards be increased. It considers this would minimise the risks of physical interference on railway operations and health and safety hazards on these residents.
- 2.0 The submitter noted that the setbacks for side and rear yards are reduced to 1m under the MDRS, but are effectively 400mm as the definition of yard enables eaves to be located in a yard up to 600mm.
- 3.0 The submission is opposed by Kāinga Ora, which opposes provisions in urban areas where 'sensitive activities' would be required to manage effects of / provide potential mitigation for adverse effects (noise and vibration) created by the infrastructure network itself. Moreover, Kāinga Ora broadly oppose a proposed approach of using a 'default' effects corridor / buffer (e.g. rules applying within a generic 100m buffer). It states it is more appropriate, as well as achievable, to model the actual spatial extent of a potential effect and have any district plan provisions apply to those identified / modelled locations where any potential effect would be present and warrant mitigation (FS 97.10).

8.8.3.3.2 Gas Corridor

- 1.0 Firstgas Limited ('Firstgas') sought that the District Plan provide a 'pipeline corridor', which requires any increase of residential intensity, change of use to a sensitive activity and/or subdivision of site to consult with Firstgas (98.1). The dimensions sought for this corridor are 60m (30m either side) of a transmission gas pipeline, and 10m (5m either side) of a strategic distribution pipeline.
- 2.0 The submitter argued that residential intensification increases the risk around event frequency and the population exposed to risk should an event occur.
- 3.0 For clarity the submission also sought that the following definitions be included in the District Plan.

Transmission gas pipeline – Main high-pressure pipelines with a nominal operating pressure 2000kPa and above.

Strategic distribution gas pipelines – pipelines with an operating pressure of greater than 420kPa but less than 2000kPa, and where the consequence of a loss of supply and/or the

consequence of a gas escape risk is assessed to be serious or greater by Firstgas Distribution Engineer or Distribution Manager.

8.8.3.4 Evaluation

8.8.3.4.1 Rail Corridor

- 1.0 I am unclear from the submission about the exact extent where KiwiRail seeks a 'no-build' setback; and whether the relief sought is limited to areas affected by the MDRS (Residential 1 and 2 Zones) or also other zones.
- 2.0 The relief sought by KiwiRail would be less enabling than the setbacks in MDRS and would, therefore, need to be assessed as a qualifying matter under section 77J, in terms of why the level of development permitted by the MDRS is incompatible with the qualifying matter and the costs and impacts on development capacity, etc. I would wish to consider this assessment before supporting the relief.
- 3.0 My initial understanding is that much of the rail corridor near residential zones adjoins road reserve in any case. It is also my understanding (contrary to that of KiwiRail) that eaves are not permitted to encroach into side and rear yards proposed for Residential 1 and 2 Zones (for compliance with the MDRS) because PC9 proposes to amend the definition of yard to exclude the allowance for eaves in Residential 1 and 2 Zones. I question whether this understanding would influence the relief sought.
- 4.0 I also have concerns about imposing more restrictive yards than even the current plan in the context of an unused rail corridor. I would want further information about the potential future use of the corridor before supporting the relief.
- 5.0 At this stage, I recommend no changes in response to the submission.

8.8.3.4.2 Gas Corridor

- 1.0 I am unclear from the submission about the location of the strategic distribution lines where Firstgas seeks to identify a pipeline corridor requiring consultation. I understand from discussions with the submitter that they do extend into the city; but their location should be clarified.
- 2.0 I support the outcome sought by Firstgas of early consultation to reduce risk. It would align with District Plan objectives relating to reverse sensitivity and healthy, safe and quality living environments. However, I do not consider that the District Plan is the most efficient and effective way to achieve these objectives.
- 3.0 The beforeUdig online service is already available. It enables those undertaking design and excavation works to obtain information on the location of cables, pipes and other utility assets in and around any proposed dig site; helping to protect themselves and critical utility assets during these works. I do not think that establishing a parallel system but for just one service would be effective or efficient.

8.8.3.5 Recommendation

- 1.0 I recommend that no changes be made at this stage in response to these submissions and the submissions be rejected as set out in **Appendix 3**.

8.9 Papakāinga

8.9.1.1 Scope of proposed amendments

- 1.0 PC9 has proposed amendments to the rules in the Papakāinga and Kaumātua Housing provisions in Part 2 District Wide Matters- General District Wide Matters.

- 2.0 The relevant District Plan objective is SDML-O1: *Opportunities for development on Māori land that meets the needs of those landowners and respects the exercise of kaitiakitanga and the relationship of tāngata whenua with land, water, significant sites and Wāhi tapu.*
- 3.0 No changes are proposed to this objective, which applies to the development of papakāinga across the Rotorua District. This objective is considered to remain appropriate in achieving the purpose of the Resource Management Act 1991 ('RMA') in terms of enabling papakāinga and kaumatua housing in the district to provide for the social, economic, and cultural wellbeing of people and communities.
- 4.0 Proposed amendments are being made under section 80E(1)(b)(ii) of the RMA to better enable papakāinga housing in the Rotorua District. The purpose of the changes is to address current issues with the operative district plan framework in respect of:
1. Difficulty complying with the current performance standard requiring papakāinga to be established on land that adjoins or is adjacent to a Marae;
 2. Recognising and providing clarity on the management of non-residential papakāinga activities that are ancillary to papakāinga housing;
 3. The ability of the MDRS to better enable the residential components of papakāinga within relevant residential zones; and
 4. Recognising that there are different opportunities and resource management issues that apply to the development of papakāinga within the urban and rural zones.
- 5.0 In summary, the proposed changes as notified comprise the following:
1. Amending the district wide provisions for papakāinga development applying to urban zones to require compliance with the standards for residential units in the underlying zone.
 2. Amending PK-R1(1)(b) to delete reference to kaumatua flats and for Kaumatua flats to be included as part of a papakāinga development,
 3. Amending PK-R1(1)(c) to remove the existing performance standard which required papakāinga to adjoin or be adjacent to an existing Marae.
 4. Amending PK-R1(3) in respect of the density performance standards for papakāinga located within the rural zones.
 5. Amending PK-R1(3)(b) to specify that the number of units within a papakāinga development does not exceed one residential unit per 2000m² of net site area within rural zones.
 6. Amend PK-R1(3)(d) to provide for non-residential papakāinga development, providing that any places of assembly and commercial or industrial activities are established in conjunction with, and are directly associated with, the residential activities of the papakāinga.
 7. Provide matters of discretion for restricted discretionary papakāinga development to align with objectives, policies and anticipated environmental outcomes of the rural zone where the matters are infringed.
- 8.9.1.2 Background & Statutory Context**
- 1.0 The papakāinga provisions are a discretionary element of the Intensification Planning Instrument ('IPI') and are specifically authorised by section 80E(1)(b)(ii) of the RMA. As a result, they are not required to support or be consequential to the Medium Density Residential Standards ('MDRS') or Policy 5 of the National Policy Statement on Urban Development 2020 ('NPS-UD')
- 2.0 The Rotorua District Plan is required to give effect to sections 6, 7 and 8 of the RMA. These sections of the RMA place various duties on the Council with regard to Māori.

- 3.0 Section 6 identifies as a matter of national importance the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. Section 7 requires particular regard to be given to Kaitiakitanga and the recognition and protection of the heritage values of sites, buildings, places or areas and, section 8 requires the principles of the Treaty of Waitangi to be taken into account.
- 4.0 Papakāinga is a term that describes housing on ancestral Māori land and includes other non-residential activities that are associated with the papakāinga.
- 5.0 Providing for papakāinga within the Rotorua district through appropriate district plan provisions acknowledges the ancestral connection with the whenua for iwi and hapu and recognises the importance of Māori being able to develop their ancestral lands.
- 6.0 Throughout New Zealand and across all districts, papakāinga is managed differently. Rotorua has a large proportion of whenua Māori and enabling mana whenua to develop their land is a key priority for the Council.
- 7.0 In terms of regional policy direction, Proposed Change 6 to the Bay of Plenty Regional Policy Statement notes *“The difficulties involved in developing multiple owned Māori land remains a real and significant barrier for many whanau.*

Policy UG 22B states:

Ensure planning decisions provide for Te Tiriti o Waitangi principles by

- a. Enabling Māori to develop their land, including but not limited to papakainga housing, marae and community facilities.*

- 8.0 At the same time that Rotorua was included in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**‘Amendment Act’**) Rotorua Lakes Council (**‘RLC’**) was encouraged by the Minister to consider the efficiency and effectiveness of our current papakāinga provisions and incorporate appropriate amendments through the IPI - in this case PC9 to the Rotorua District Plan. *“As the IPI can include papakāinga provisions we encourage RLC to consider provisions that will enable papakāinga and additional opportunities where appropriate⁸.”*
- 9.0 The amendments to the papakāinga provisions are to provide certainty for tangata whenua for the development of papakāinga within the Rotorua District. The proposed changes are seeking to better enable development of papakāinga within both the urban and rural zoned land in the district.
- 10.0 The majority of the submissions received supported the overall intent of PC9, that is, seeking to better enable papakāinga, in particular the removal of the performance standard that had previously limited development of papakāinga to being established adjoining or adjacent a Marae.
- 11.0 Some submitters have raised concerns with respect to the proposed amendments to the density standards with some submitters requesting the current provision be retained and others requesting the density requirement within the rural zones be further reduced.

1.0

⁸ Letter from Hon Dr Megan Woods to Hon Mayor Chadwick, *Order in Council under the Resource Management (Enabling Housing Supply and Other Matters Amendment Act)*

- 12.0 In total 18 submissions and 7 further submissions were received in response to the proposed amendments to the district plan provisions relating to papakāinga.
- 8.9.2 Definitions
- 8.9.2.1 **Scope of Proposed Amendments**
- 1.0 No amendments to the current definition of papakāinga have been proposed as part of the notified provisions for PC9.
- 8.9.2.2 **Background and Statutory Context**
- 1.0 The current definition of papakāinga is limited to development on Māori multiple-owned land, or land which is otherwise under the jurisdiction of the Māori Land Court.
- 8.9.2.3 **Submissions Received and Points Raised**
- 1.0 **Kāinga Ora Homes and Communities ('Kāinga Ora')**: sought that the restriction on locating papakāinga on multiply owned Māori land, or land otherwise under the jurisdiction of the Māori Land Court, is removed and that a revised definition is developed to allow mana whenua to develop papakāinga on general title land (86.47).
- 2.0 Kāinga Ora have proposed an alternative definition which would allow mana whenua to develop papakāinga on general title land - noting that the current definition is limited to land held under Te Ture Whenua Māori Act (1993).
- "Papakāinga means residential and ancillary activities (including social, cultural, educational, conservation, recreational, and commercial activities) to support the cultural, environmental, and economic wellbeing of tangata whenua on their ancestral land".*
- 8.9.2.4 **Evaluation**
- 1.0 A consideration for the commissioners is how the district plan can provide for papakāinga as a permitted activity on ancestral lands when the relationship of Māori and their culture and traditions with their ancestral land has never been extinguished. I acknowledge that what may be deemed general title today, may have been whenua Māori historically and that iwi and hapu may still have ancestral connection with the land. While I agree in principle to amending the current definition I acknowledge the difficulty of providing an extended definition that is sufficiently certain and objective to operate as part of a permitted activity.
- 8.9.2.5 **Recommendation**
- 1.0 While I agree in principle that the above amendments to the definition should be adopted, I acknowledge that there is difficulty in considering this as a performance standard for a permitted activity.
- 2.0 In my opinion the development of papakainga on general title could be enabled as a restricted discretionary activity which would provide an opportunity for the applicant to demonstrate an ancestral connection to the land.
- 3.0 The proposed matter of discretion could be as follows:
- [PK-R1.2.h](#)
- [h. The extent to which the applicant can demonstrate that the land in question is either of the following](#)
- [i. Māori freehold land registered in the Māori Land Court as a Māori title, OR](#)
 - [ii. Land in General Title where it once was Māori title \(pre the compulsory conversion to General Title from 1967 for example\) OR](#)
 - [iii. Land in the process or intention of being converted back in Māori title, OR](#)

- iv. Land that is considered to be Māori “customary” land with clear and demonstrated tikanga, history or other matters of significance, meaning it is attached to the ownership and kaitiaki of the whānau/hapū.

And:

PK-R4.4.h

h. The extent to which the applicant can demonstrate that the land in question is either of the following

- i. Māori freehold land registered in the Māori Land Court as a Māori title, OR
- ii. Land in General Title where it once was Māori title (pre the compulsory conversion to General Title from 1967 for example) OR
- iii. Land in the process or intention of being converted back in Māori title, OR
- iv. Land that is considered to be Māori “customary” land with clear and demonstrated tikanga, history or other matters of significance, meaning it is attached to the ownership and kaitiaki of the whānau/hapū.

8.9.3 Proposed amendment seeking removal of performance standard requiring papakāinga establishing adjacent to a Marae

8.9.3.1 Scope of Proposed Amendments

1.0 PC9 has proposed amendments to performance standard PK-R1(1)(c) that removes the requirement for Papakāinga to be established adjoining or adjacent to Marae.

2.0 The purpose of this amendment was to ensure that the provisions were more enabling and respond to feedback from mana whenua who regard the provision as a barrier to developing their whenua. This is addressed in section 17.5.2 of the Section 32 Report.

8.9.3.2 Background & Statutory Context

1.0 Currently rule PK-R1(1)(c) states that Papakāinga must be “located on land that adjoins or is adjacent to a Marae” As part of the amendments proposed in PC9 this performance standard is proposed to be deleted. Through engagement and consultation, iwi and hapū expressed that this provision was seen as a barrier to developing their ancestral land and that they supported the removal.

8.9.3.3 Submissions

1.0 A summary of the key issues raised through submissions in respect of the above amendment is provided below:

2.0 **P Staite** supported the removal of the requirement for papakāinga to be established adjacent to a marae noting the current rule framework is outdated (21.1);

3.0 **Paul, K (Taheke Paengaroa Trust, Tautara Matawhaura Trust, Rotoiti 15 Trust, Paehinahina Mourea Trust, Te Takinga Marae Trust)** generally supported the removal of the requirement to build Papakāinga homes on lands adjacent to marae (Submission 57.1);

4.0 **J Taiatini** requested that if Māori land is being developed for housing on blocks that are not adjacent or adjoining a Marae then this should not be considered as papakāinga (2.2);

5.0 **Ngati Pikiao Environmental Society** supported the proposed amendment to the provisions seeking to remove the requirement to build Papakāinga homes on lands adjacent to marae. (72.1); and

6.0 **Te Arawa Lakes Trust (‘TALT’)** requested more opportunities to allow whanau to increase the number of family members living in papakāinga and to create papakāinga for whanau within

their current living spaces and existing pa/marae/hapu/papakāinga residential communities should be prioritised. (19.3)

8.9.3.4 Evaluation

1.0 In my view, it is appropriate to remove the requirement for papakāinga to be located adjacent to a Marae for the following reasons:

- a. The definition of papakāinga and papakāinga housing in the operative District Plan applies to a settlement development by tangata whenua on land in their traditional rohe/on Māori land. This definition is appropriately broad and enables iwi and hapu within the district to practice their culture and traditions on their ancestral lands (s6(e));
- b. There is a significant amount of Māori land within the Rotorua district, which extends well beyond existing established Marae locations (refer Figure 7: *Map illustrating Whenua Māori in the Rotorua District* in Section 4.4 of Section 32 Report). Limiting papakāinga to establishing adjacent to a Marae significantly impacts the ability of iwi and hapu to practice their culture and traditions. This is consistent with what I heard from iwi and hapu through engagement prior to notification of PC9;
- c. The limitation on development of papakāinga in the operative District Plan is to support the culture and tradition of Māori. It is more efficient and effective in my view, to manage the effects of papakāinga on the environment where it is necessary, through provisions that are better targeted towards the effects being managed. I discuss this further below, with respect to the changes to the papakāinga rules sought by other submitters.

2.0 This amendment was generally supported by submitters, with only one submission from J, Taiatini seeking that if the use of Māori land is being considered for housing that is not adjoining or adjacent to a Marae then it should not be regarded as papakāinga.

3.0 I do not support the submission from J. Taiatini seeking that, if Māori land is being considered for housing away from Marae, then this should not be referred to as papakāinga, as I believe that the district plan should provide for papakāinga development on all multiply owned Māori land administered by the Māori Land Court. It is my opinion that having this restriction severely limits the ability for Māori to develop their land. As demonstrated above Rotorua has a significant amount of Whenua Māori, the majority of which is not located adjacent to a Marae.

4.0 I consider that the removal of performance standard PK-R1(1)(c) assists council in meeting their obligations in respect of sections 6, 7 and 8 of the RMA and aligns with objective SDML-01.

8.9.3.5 Recommendation

1.0 I recommend retaining the proposed removal of the requirement for Marae to be established adjacent to marae.

8.9.4 Proposal to amend density provisions for papakāinga within the residential and rural zones

8.9.4.1 Scope of Proposed Amendments

1.0 PC9 has proposed to amend the minimum density requirements for Papakāinga within the rural zones to better enable papakāinga development in the Rotorua District.

2.0 No amendments were proposed to the density requirement within the residential zones and changes were proposed to require papakāinga to comply with the performance standards of the relevant zone. For the Residential 1 and 2 Zones, this means that a range of other more enabling standards would apply as per the MDRS. In respect of the Residential 3 Zone, a new qualifying matter has been proposed whereby the MDRS will not apply, but permissive density

standards apply in that zone, and iwi and hapu have expressed a strong preference to retain those zone rules.

- 3.0 Within the rural zones, the operative District Plan requires papakāinga to comply with the underlying zone density standards, except for kaumatua flats. PC9 proposed to make this more enabling by allowing one unit per 2000m² for papakāinga and removing the reference to kaumatua flats.

8.9.4.2 Background & Statutory Context

- 1.0 The purpose of the changes to the Papakāinga provisions was intended to address current issues with the operative district plan framework which is considered by Māori to be inhibiting.
- 2.0 The operative rule states that papakāinga development must comply with the performance standards of the zone, in particular, the permitted level of density (for residential units per site).
- 3.0 The permitted residential unit densities within the rural 1, 2 and 3 zones are as follows:

Table 22: Showing the permitted residential unit density within the rural zones

Zone	Permitted residential unit densities
Rural 1 Zone	One household residential unit per site, except: For sites that exceed an area of 30 hectares, one household residential unit per 15 useable hectares. For sites outside the Lake Rotorua catchment with versatile soils, one additional household residential unit per 40 useable hectares.
Rural 2 Zone	1 residential unit per 8000m ² for areas not serviced by public reticulation. Where reticulation is available the permitted density is 4000m ² .
Rural 3 Zone	1 residential unit per 1500m ² within areas not service by public reticulation, or 1 residential unit per 1000m ² within areas connected to public reticulation.

- 4.0 The minimum permitted density of papakāinga in rural zones notified in PC9 of 2000m² was chosen as it aligned with the on-site effluent requirements of the Bay of Plenty Regional Council.

8.9.4.3 Submissions

- 1.0 A summary of the key issues raised through submissions is provided below:
- 2.0 **Kāinga Ora:** Supported the proposed amendments to enable Papakāinga to locate on land that does not adjoin or is adjacent to a Marae; and requested that provisions are consistent with the MDRS, where appropriate; increasing the density of Papakāinga development in rural zones (86.47);
- 3.0 **Residents of Rangitaitaia Road:** Expressed concern that the Rural 1 Zone currently only allows them to have one dwelling on their land and states the whenua has always been papakāinga, but Council regulations are not consistent (34.20);
- 4.0 **Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (“MHUD”):** Raised concerns with the proposed permitted density for papakāinga within the rural zones. The submitter believes that the density would have the effect of significantly limiting the establishment of papakāinga because development would not be permitted or would require a very large amount of land to yield a small number of new homes.
- 5.0 The submitter has also raised concerns that the relevant matters of discretion are too broad and do not clearly focus consideration on the specific issues that are non-compliant with the permitted activity performance standards, in particular the requirement to comply with the Regional Council provisions in respect of on-site effluent treatment (“OSET”) (63.1);

- 6.0 **Cheal Consultants Limited:** did not support the introduction of a performance standard which permits kaumātua housing to such a high density within the rural zones, noting that development at such a high density could potentially have adverse or more than minor character and amenity effects and could potentially be contrary to the objectives and policies of the rural zones and also establish a high permitted baseline for other activities.
- 7.0 The submitter is also concerned that there is insufficient infrastructure in the rural zones to support developments of such scale.
- 8.0 The submitter noted that it is important that a balance is achieved with maintaining rural amenity and providing for papakāinga development. It is also important that adequate land areas are provided for on-site effluent disposal.
- 9.0 The submitter sought that, for papakāinga development within the rural zones, the council should introduce similar performance standards for density as is currently provided for within the Rural 3 Zone; (79.26)
- 10.0 To assist the commissioners the district plan defines the Rural 3 zone (RURZ3) as *“a mix of housing and commercial uses in a rural setting that are generally small service centres for the surrounding working rural areas. Lot sizes are generally smaller than in the surrounding rural area and therefore are more urban in character. Such settlements include Golden Springs, Reporoa, Ngākuru and Mamakū. Each village contributes to the cultural historic heritage and identity of Rotorua”*.
- 11.0 **Sigma Consultants:** Noted that there is a large area (77ha) of residentially zoned whenua Māori located on the eastern side of the lake. The proposed provisions risk enabling ad hoc development and compromising the overall development potential of this land. The development of a structure plan would provide better outcomes (84.17);
- 12.0 **P Staite:** Considered that applying one residential unit per 2000m² of net area for Papakāinga is not consistent with tikanga Māori. Provisions for clusters of units (Kāinga) would be more practical and fitting at one residential unit (whare) per 400m² minimum area for Kōeke to live and maintain upkeep (21.2);
- 13.0 **B Kingi:** Requested that where wastewater reticulation is available e.g., Rotoiti/Rotoma, the density standard be reduced to a size similar to urban residential. Where there is no Council wastewater reticulated network available, the proposed 2000m² should be further reduced to 1000m². They do not understand the logic for a minimum half acre section per dwelling) (50.1);
- 14.0 **Paul, K (Taheke Paengaroa Trust, Tautara Matawhaura Trust, Rotoiti 15 Trust, Paehinahina Mourea Trust, Te Takinga Marae Trust):** sought changes to allow Māori owners to build or place more than 1 dwelling on lands designated for Papakāinga. The submitter would like the same proposed medium density proposals for District PC9 to apply to their Papakāinga designated lands around Lakes Rotoiti and Rotorua (57.2);
- 15.0 **Ngāti Pikiao Environmental Society:** Sought changes to allow Ngāti Pikiao whanau to build or place more than 1 dwelling on their lands designated for papakāinga purposes (72.2);
- 16.0 **G Shekell:** Opposed changes to densities – and requested that the Council implement the currently operative densities (83.10);
- 17.0 **M and J Paget:** Through a further submission (in response to original submissions from B, Kingi and P Staite) noted that they own property in the rural zone adjacent to Māori land and oppose the amendments to permitted density for papakāinga. while they understand the

suggestion for smaller lots for better use of the land and closer living to foster greater communal/support activities, property owners surrounding Māori land have bought their properties because they want to live in a rural setting. Housing density that exceeds current rural rules next to rural properties is not going to work (FS 21.149).

8.9.4.4 Evaluation

1.0 I appreciate that in determining rural character there needs to be a balance struck between section 6 of the RMA (the relationship of Māori and their culture and traditions with their ancestral lands), providing for development of multiply owned Māori whenua, removing barriers to papakāinga development while also maintaining rural character and amenity of the surrounding environment. I believe, however, particular weight and consideration must be given to sections 6 and the relationship of Māori and their culture and traditions with their ancestral lands.

2.0 Below, is the calculated median lot size of Whenua Māori within the Rotorua District by each rural zone:

Table 23: Showing median lot size of Whenua Māori within the Rotorua District

Zone	Median lot size (m ²)	Number of lots	Largest individual lot size	Total area (m ²)
Rural 1 Zone	43,623m ² (4.3 ha)	686	44,417,727m ²	450,173,626m ²
Rural 2 Zone	4,088m ² (0.4 ha)	90	244,371m ²	1,271,133m ²
Rural 3 Zone	987,117m ² (98 ha)	1	987,117m ²	987,117m ²

3.0 The Rural 1 Zone has a significant amount of whenua Māori. Much of this land is held in large land blocks located near each other. Most of the Rural 2 Zone is located around Hamurana where the area is characterised by fragmented lifestyle lot properties. As a site-by-site analysis has not been undertaken it should be noted that although based on the median lot size, in particular within the Rural 1 Zone below indicates a large number of potential papakāinga units based on a minimum average net site area of 2000m². Much of this land within the district may be constrained however, and unlikely to be developed to the full potential.

4.0 Below is an assessment in accordance with section 32 and 32AA of the potential options to address concerns with the proposed amendments to the density provisions for papakāinga within the rural zones.

Table 24: Evaluation of potential further changes to the density for Papakāinga in the Residential 1 Zone

Description of Option: The assessment of these options is in response to submissions requesting amendments to density requirements in the rural zone for papakāinga.	Option 1 Retain the density performance standard for papakāinga development within the Rural 1 zone as notified.	Option 2 Amend the density performance standard for density to limit the number of permitted household units within a papakainga development to 10 as permitted activity within the Rural 1 zone. For development of more than 10 household units the activity would be assessed as a restricted discretionary (RD).
Efficiency and Effectiveness in Achieving Objectives SDML-O1: Opportunities for development on Māori land that meets the needs of those landowners and respects the exercise of kaitiakitanga and the relationship of tangata whenua with land, water, significant sites and Wāhi tapu.	Would likely provide more clarity for Māori landowners however would not address concerns potential effects on rural character and amenity for surrounding environment and reverse sensitivity.	Could still provide level of certainty for Māori landowners and could implement appropriate development standards to ensure that rural character is maintained for larger scale papakāinga development through an RD consent process. A site-specific assessment would be required for developments of greater than 10 households.
Costs and Benefits	Provides clarity on expectations for Papakāinga development, however does not address concerns of submitters in respect of maintaining rural character and amenity.	Still provides clarity on expectations for Papakāinga development within the district and seeks to mitigate effects on the surrounding environment however iwi and hapu may still regard as limiting.
Risks	There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.	
Summary	Option 2 is the preferred option.	

Table 25: Evaluation of potential further changes to the density for Papakāinga in the Residential 2 Zone

Description of Option: The assessment of these options is in response to	Option 1	Option 2 Amend the performance standard for density to limit the number of permitted household units to 5 as permitted activity within the Rural 2
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submissions requesting amendments to density requirements in the rural zone for papakāinga.	Retain the density performance standard for papakāinga development within the Rural 2 zone as notified	zone. For development of more than 5 household units the activity would be assessed as a restricted discretionary (RD).
Efficiency and Effectiveness in Achieving Objectives SDML-O1: Opportunities for development on Māori land that meets the needs of those landowners and respects the exercise of kaitiakitanga and the relationship of tangata whenua with land, water, significant sites and Wāhi tapu.	Would likely provide more clarity for Māori landowners however would not address concerns raised in submissions in respect of potential effects on rural character and amenity for surrounding environment and reverse sensitivity.	Could still provide a level of certainty for Māori landowners and through the district plan implement appropriate development standards to ensure that rural character is maintained. A site-specific assessment would be required for developments of greater than 5 households.
Costs and Benefits	Provides clarity on expectations for Papakāinga development, however, does not address concerns of submitters in respect of maintaining rural character and amenity.	Still provides clarity on expectations for Papakāinga development within the district and seeks to mitigate effects on the surrounding environment however iwi and hapu may still regard as limiting
Risks	There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.	
Summary	Option 2 is the preferred option.	

Table 26: Evaluation of potential further changes to the density for Papakāinga in the Residential 3 Zone

Description of Option: The assessment of these options is in response to submissions requesting amendments to density requirements in the rural zone for papakāinga.	Option 1 Retain the density performance standard for papakāinga development within the Rural 3 zone as notified	Option 2 Amend the performance standard for density to limit the number of permitted household units within the Rural 3 zone up to 5. For development of more than 5 household units the activity would be assessed as a restricted discretionary (RD).
Efficiency and Effectiveness in Achieving Objectives	Would likely provide more clarity for Māori landowners however would not address concerns raised in	Could still provide a level of certainty for Māori landowners and through the district plan implement appropriate development

SDML-O1: Opportunities for development on Māori land that meets the needs of those landowners and respects the exercise of kaitiakitanga and the relationship of tangata whenua with land, water, significant sites and Wāhi tapu.	submissions in respect of potential effects on rural character and amenity for surrounding environment and reverse sensitivity.	standards to ensure that rural character is maintained. For development of more than 5 household units the activity would be assessed as a restricted discretionary (RD). A site-specific assessment would be required for developments of greater than 5 households.
Costs and Benefits	Provides clarity on expectations for Papakāinga development, however does not address the concerns of submitters in respect of maintaining rural character and amenity.	Still provides clarity on expectations for Papakāinga development within the district, however some iwi and hapu may still be regarded as limiting.
Risks	Note from the analysis undertaken there is only one multiple owned Māori block within the Rural 3 Zone. There is sufficient information to determine the range and nature of environmental effects of the options set out above. An assessment of the risk of acting or not acting is not required.	
Summary	Option 2 is the preferred option.	

- 5.0 Up to 10 residential units within the Rural 1 zone (and 5 for the Rural 2 and 3 Zones) are recommended as a threshold for permitted activities as it is considered viable for a single stage papakāinga development. As the Rural 1 zone is generally comprised of larger lots in comparison to the Rural 2 and 3 Zones it is my opinion that the number of residential units proposed is acceptable.
- 6.0 I consider that the minimum lot size for papakāinga development within the rural zones should remain at 2000m² of average net site area within areas not serviced by public reticulation for wastewater.
- 7.0 I agree that the performance standard in relation to permitted density for papakāinga within the rural zones should be amended to address concerns raised by submitters. I do not consider that the permitted level of development allowed within the rural zone should be reduced further.
- 8.0 In accordance with the above s32AA assessment I recommend that option two is adopted and applied to the Rural 1, 2 and 3 Zones. This would implement a rule framework whereby up to 10 houses (within the Rural 1 Zone, and up to 5 (within the Rural 2 and 3 zones) with a minimum average net site area of 2000m² would be permitted and proposed development above this threshold resource consent would be required as a restricted discretionary activity.
- 9.0 The above options have been discussed with the RLC Papakainga working group and the proposed changes seeking provision of up to 10 residential units (within the rural 1 zone and up to 5 within the rural 2 and 3 zones as a permitted activity was supported.
- 10.0 A further option in which council retains the provision for the applicant to submit a development plan instead of resource consent was tested, however, this has not been progressed as the provision for a development plan is considered ultra vires.
- 11.0 As noted above, the Council also received submissions requesting amendments to the density requirements for papakāinga within the Residential 4 Zone (Lakeside Residential, which includes Rotoma and Rotoiti) (50.1 from B. Kingi & 57.1 from Paul, K (Taheke Paengaroa Trust, Tautara Matawhaura Trust, Rotoiti 15 Trust, Paehinahina Mourea Trust, Te Takinga Marae Trust)).
- 12.0 No amendments to the performance standards in respect of papakāinga density within the Residential 4 Zone have been proposed. The current permitted density within the Residential 4 Zone is 1 residential unit per 2000m² or site without reticulation and 1000m² with reticulation.
- 13.0 I also recommend a performance standard in respect of landscaping that will seek to ensure that rural character and amenity is maintained for adjoining neighbours.
- 14.0 I acknowledge in response to Sigma Consultants Limited that a Council-led structure plan for the Eastside could assist in integrating development with infrastructure and access. However, the timing for this does not align with PC9.
- 15.0 Given the above assessment and submissions received I do not believe the matters of discretion, objectives and policies should be limited to matters relating to onsite effluent treatment and effects on the Lakes. I recommend that the proposed matters of discretion be retained and applied to those developments that exceed the 10 residential unit threshold or do not comply with other performance standards.

8.9.4.5 Recommendation

- 1.0 I recommend that appropriate amendments be made to rule PK-RI to amend the performance standard in respect of the permitted density requirement of dwellings within a papakāinga development.
- 2.0 I also propose an additional performance standard requiring a landscape strip where papakāinga development is established within 10 metres (10m) of an adjoining boundary to address concerns from adjoining property owners in respect of visual amenity.
- 3.0 I recommend the following changes:

PK-R1

Where the maximum number of residential units proposed is:

- (i) Rural 1 Zone: 10
- (ii) Rural 2 and 3 Zones: 5

Performance Standards:

- a. Activities shall comply with the performance standards of the zone for household units, except in respect to RURZ-S4 Household unit density;
 - b. The number of residential units per site does not exceed one residential unit per 2,000m² of net site area.
 - ~~c. The density for kaumātua flats shall not exceed one per 150m² of land area;~~
 - d. Any places of assembly and commercial or industrial activities are established in conjunction with, and are directly associated with, the residential activities of the papakāinga.
 - e. Non-residential activities are set back at least 100m from any existing residential unit on a separate site. Where buildings associated with papakāinga are established within 10 metres of an adjoining boundary a landscape strip of no less than 3 metres wide and that will achieve the height of the roof line within 5 years is to be provided along the adjacent boundary.
 - f. Non-residential activities shall not cumulatively exceed 500m² in gross floor area on any one site.
 - g. The activity must be located on Māori multiple-owned land, or land which is otherwise under the jurisdiction of the Māori Land Court; and
 - h. The land concerned must be vested in trustees whose authority is defined in a Trust Order or other empowering instrument which will ensure that:
 - I. The land remains vested in the trustees without power of sale; and
 - II. The occupation or beneficial interest in the land shall be restricted to members of the hapū.
- 4.0 The following matters of discretion are retained with the subsequent amendments as recommended above in respect on development of papakāinga on general title:

PK-R1.4 Matters of Discretion:

- a. Those matters of non-compliance and the objectives and policies relevant to the matters of discretion;
- b. Where performance standards of the zone are not met: the effects of the non-compliance in achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matter of discretion;
- c. PK-MD1 General;
- d. The extent to which papakāinga affects the natural landscape, geothermal or wildlife resources;

- e. The extent to which papakāinga affects the sustainable management of the natural and physical resources of the district;
- f. The extent to which papakāinga affects streams, rivers, lakes or other elements of the water environment; and
- g. The extent to which papakāinga affects the character and amenity of the underlying zone.
- h. The extent to which the applicant can demonstrate that the land in question is either of the following:
 - i. Māori freehold land registered in the Māori Land Court as a Māori title, OR
 - ii. Land in General Title where it once was Māori title (pre the compulsory conversion to General Title from 1967 for example) OR
 - iii. Land in the process or intention of being converted back in Māori title, OR
 - iv. Land that is considered to be Māori “customary” land with clear and demonstrated tikanga, history or other matters of significance, meaning it is attached to the ownership and kaitiaki of the whānau/hapū.

8.9.5 Kaumātua housing

8.9.5.1 Scope of Proposed Amendments

- 1.0 PC9 as notified, included changes to PK-R1 which is papakāinga (including kaumatua housing), therefore any proposed changes also applied to kaumatua housing.

8.9.5.2 Submissions

- 1.0 Submissions to the proposed amendments to the papakāinga provisions have raised concern at the level of development permitted for kaumatua housing within the district plan, in particular within the rural zones.
- 2.0 **Cheal Consultants Limited:** The submitters do not support the introduction of a performance standard which permits kaumātua housing to such a high density within the rural zones noting that development at such a high density could potentially have adverse or more than minor character and amenity effects and could potentially be contrary to the objectives and policies of the Rural Zones and also establish a high permitted baseline for other activities.
- 1.0 The submitter notes that where the proposed changes will enable one kaumātua flat per 150m² of land area in the rural zones; this could potentially result in 13 units/flats upon a 2,000m² area. This is not realistic when the effluent disposal area(s) for 13 units would take up a substantial area upon a 2,000m² area, thus needing a larger land area. (79.26)

8.9.5.3 Evaluation

- 1.0 In response to submissions raising concerns over the permitted level of kaumatua housing, this was an error/oversight in drafting the proposed provisions and it was intended for Kaumatua housing to be included in the definition of papakāinga and subject to the same provisions. Reference to 1 dwelling permitted per 150m² for Kaumatua housing was not intended.

8.9.5.4 Recommendation

- 1.0 As per the above assessment in respect of the removal of provision for development plans, the following recommendation is made:
- 2.0 Deleting performance standard PK-R1.3(C) as per the following:

~~e. The density for kaumatua flats shall not exceed one per 150m² of land area~~

8.9.6 Amendments to infrastructure standards in relation to papakāinga

8.9.6.1 Scope of Proposed Amendments

- 1.0 There were no proposed amendments to the infrastructure performance standards in respect of papakāinga development in PC9.

8.9.6.2 Background & Statutory Context

- 1.0 As the provisions are currently drafted there is no requirement for papakāinga developments to provide water supply for firefighting purposes and no performance standards in respect of shared access ways in the rural area for papakāinga development.

8.9.6.3 Submissions

- 1.0 **Fire and Emergency New Zealand ('FENZ')** raised the potential gap in the requirement to ensure that Papakāinga developments provide adequate firefighting water supply and emergency service access FENZ have requested a new performance standard requiring Papakāinga developments provide a firefighting water supply and that this standard apply to all zones in the district. (51.10).

8.9.6.4 Evaluation

- 1.0 I support the request from FENZ to implement performance standards managing infrastructure supporting papakāinga developments, in particular water supply for firefighting and shared access. In respect of infrastructure, I believe that the requirements in respect of firefighting standards and shared access ways should be consistent for all forms of development within the rural zones.

8.9.6.5 Recommendation

- 1.0 I recommend that appropriate performance standards be included within the provisions for papakāinga development to manage shared private access and firefighting water supply

2.0 Proposed Performance Standards

- 3.0 The following performance standards to be inserted:

Shared Private Access

The minimum access and formation widths for shared private access serving residential units shall be provided in accordance with the following table:

<u>Number of residential units Served by the Access</u>	<u>Width</u>	
	<u>Overall</u>	<u>Formed</u>
<u>1-2 residential units</u>	<u>3m</u>	<u>2.7m</u>
<u>3-4 residential units</u>	<u>4m</u>	<u>3m</u>
<u>5-8 residential units</u>	<u>6.5m</u>	<u>5m</u>
<u>9-20 residential units</u>	<u>8m</u>	<u>5.5m (plus separate 1.5m wide pedestrian path and 1m wide services berm)</u>

1. Provided that, where an accessway exceeds 50m in length it must have a minimum width of 4m; or a hardstand in accordance with Fire and Emergency's 'Designer's Guide' to Firefighting Operations Emergency Vehicle Access' (December 2021) must be provided within 50m of the residential units served by the driveway.

Advice Note – Vehicle Crossings

The design of vehicle crossings from private access driveways to the road is managed through the corridor access request process.

Water Supply

- I. That all Papakāinga development established within the rural zone shall have a sufficient water supply for firefighting purposes. Where a reticulated water supply is not available water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509: 2008.

8.9.7 Other topics relating to papakāinga

8.9.7.1.1 *Removal of the Requirement for a Development Plan*

8.9.7.2 **Scope of Amendments**

- 1.0 No amendments were proposed to Rule PK-R2 through the notified PC9. At present, should a proposal for papakāinga be unable to meet the performance standards for the underlying zone, the applicants can submit consent in the form of a development plan in accordance with Rule PK-R2)

8.9.7.3 **Submissions**

- 2.0 **Luke Nelson:** Rule PK-R2 papakāinga (including Kaumatua Flats) under a development plan, as it is currently drafted is not clear as to whether this is intended to apply to Māori freehold land only and seeks that council amend for clarity (26.22).

8.9.7.4 **Evaluation**

- 3.0 While I agree that this the rule is not clear as to whether it is intended to apply to Māori freehold land only, it is considered that the requirement for a development plan is ultra vires and therefore Council has undertaken an evaluation of appropriate amendments.
- 4.0 The existing rule requiring an application for a development plan appears to offend the principle in *Queenstown Airport Corp Ltd v Queenstown Lakes District Council* [2014] that a consent cannot be given to a plan, it must be given to an activity. I therefore consider it appropriate to remove the rule in its entirety. The removal of this rule was not proposed by the notified PC9. The removal of this rule would require the assessment of a proposal for papakāinga to be considered entirely through rule PK-R1 with no provision for submission of a development plan.
- 5.0 Should the commissioners agree that there is scope to address this issue the following amendments are proposed:

PK-R2 ~~Papakāinga (including kaumatua flats) under a development plan~~		~~{3.5(15)}~~
Applicable Spatial Layers All Zones	1. ~~Activity Status: Restricted Discretionary~~ ~~Performance Standard~~ ~~Applications for development plan PK-S1.~~ ~~Matters of Discretion:~~ ~~a. Those matters of non-compliance and the objectives and policies relevant to the matters of discretion;~~	

	b. ~~Where one or more performance standards of the zone are not met: extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance in achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matter of discretion; and~~ c. ~~The extent to which development affects:~~ ~~—the natural landscape, geothermal or wildlife resources;~~ ~~—the sustainable management of the natural and physical resources of the district;~~ ~~—streams, rivers, lakes or other elements of the water environment;~~ ~~—the character and amenity of the underlying zone; and~~ ~~—PK MD1 General;~~
Advice Note: ~~Where an application for resource consent is required for papakāinga (including kaumātua flats), the resource consent can be in the form of a ‘development plan’ to establish the principles of development, rather than providing all details with the application. Papakāinga or kaumātua flats developed in accordance with the development plan will not require further resource consent for not meeting the performance standards of the zone.~~	

PK-S1 Applications for development plans for papakāinga (including kaumātua flats) under a development plan

~~{3.8(3)}~~

- ~~1. Applications shall include sufficient detail to describe the scale and means of servicing the site by providing information regarding:

 - ~~a. The number of residential household units or other buildings;~~
 - ~~b. The means of access to a road;~~
 - ~~c. The means of providing services (potable water supply, stormwater and sewage disposal, electricity, gas and telecommunications);~~
 - ~~d. Any proposal for the staging of the development;~~~~
- ~~2. It may also include all or any of the following:

 - ~~a. Landscaping of the site (including earthworks, existing planting to be retained, proposed planting, fencing or other means of enclosure, and any other hard landscaping features);~~
 - ~~b. Design and external appearance of the buildings.~~~~

Advice Notes:

- ~~1. Where an application for resource consent is required for papakāinga, the resource consent can be in the form of a ‘development plan’ to establish the principles of development, rather than providing all details with the application.~~
- ~~2. A development plan may be subject to conditions relevant to any of the above matters that are considered necessary given the circumstances of the site but are not submitted with the development plan accompanying the application for resource consent.~~

8.9.7.5 Recommendation

1.0 Delete PK-R2 and PK-S1 as it relates to provision for a development plan.

8.9.7.5.1 *MDRS for Papakāinga*

8.9.7.6 **Scope of Amendments**

- 1.0 PC9 seeks to introduce medium density residential standards within the Residential 1 and 2 Zones.

8.9.7.7 **Submissions**

- 1.0 **L, Nelson:** noted that in reference to rule PK-R1(1) does not seem to offer any benefit to Māori that the MDRS does not already provide for in a residential zone (26.21).
- 2.0 **RLC:** RLC has sought that, Rule PK.R1 be amended to clarify that within the residential zones papakāinga is limited to three residential units which is in line with the medium density residential standards (4.1).
- 3.0 **Kainga Ora:** Kāinga Ora seeks amendments to ensure that provision is made for a permitted level of Papakāinga development, similar to that of general residential developments, within the residential zones (47.1)

8.9.7.8 **Evaluation**

- 1.0 In my opinion there is benefit in providing for non-residential activities associated with the papakāinga development as a permitted activity.
- 2.0 I agree that there is ambiguity about whether permitted Papakāinga are limited to three residential units per site in line with residential units within the Residential 1 and 2 Zones. Kainga Ora have also raised similar concerns in their submission and requesting that provision is made for a permitted level of Papakāinga development within the residential zones.
- 3.0 I agree that this is an oversight in the drafting of the notified provisions and have proposed amendments to PK-R1 and recommend clarifying that up to three residential units are permitted to comply with the performance standards of the residential zone, including the medium density residential standards.

8.9.7.9 **Recommendation**

- 1.0 That rule PK-R1(1) be retained as drafted.
- 2.0 I recommend the following amendments to the performance standards PK-R1(a):
- 3.0 **Performance Standards:**
- Activities shall comply with the performance standards of the zone for residential units and be permitted up to three residential units per site ~~household units, except in respect of the density of kaumātua flats (see b. below);~~

8.9.7.9.1 *Non-Residential Activities Associated with Papakāinga Development*

8.9.7.10 **Scope of Proposed Amendments**

- 1.0 As part of PC9 the provisions have been clarified to provide for papakāinga development that is not just limited to residential units but also provides for activities that are associated with the papakāinga development.

8.9.7.11 **Submission**

- 1.0 **G, Shekell:** Noted that associated activities as stated in the proposed provisions are too vague (83.11).
- 2.0 **Waikato Regional Council:** sought that social services such as Kōhanga Reo, Kura, Wananga, Urupā, and health services be included in the policy/rule framework (64.1).

- 3.0 **RLC:** sought that activities related to papakāinga development should be enabled in the zones addressed in PK-R1(1) (that is, zones other than Rural or Industrial Zones), as is proposed for Rural Zones (61.5).

8.9.7.12 Evaluation

- 1.0 Acknowledging that papakāinga is not just the establishment of residential units but includes ancillary activities that benefit and are associated with the papakāinga the performance standards have been broadened to detail the non-residential activities that are permitted. Further clarification is proposed in respect of activities that are considered ancillary to papakāinga development and permitted.

8.9.7.13 Recommendation

- 1.0 The following amendment is proposed in respect of PK-R1.3.d

d. Any places of assembly and commercial or industrial activities are established in conjunction with, and are directly associated with, the residential activities of the papakāinga this includes social services such as Kōhanga Reo, Kura, Wananga, Urupā, and health services.

- 2.0 I also recommend the following amendment to the performance standards for rule PK-R1.1 to clarify that activities that are ancillary to papakāinga development are provided for as part of the development of papakāinga. This rule applies to all zones except rural zones.

- 3.0 Proposed new performance standards (e) to (g) to be inserted in **PK-RI**

- e. Any places of assembly and commercial or industrial activities are established in conjunction with, and are directly associated with, the residential activities of the papakāinga. These include social services such as kohanga, kura and wanaga, urupa and health services in relation to papakāinga.
- f. Non-residential activities are set back at least 100m from any existing residential unit on a separate site.
- g. Non-residential activities shall not cumulatively exceed 500m² in gross floor area on any one site.

8.10 Financial Contributions

- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to financial contributions.

8.10.1.1 Scope of proposed amendments

- 1.0 PC9 includes proposed amendments to the objectives, policies and rules for financial contributions in Part 2 of the District Plan.
- 2.0 The section 32 report for PC9 explained that the proposed changes seek to align the purpose of contributions with intensification and the consequential shift in focus to the development of existing reserves. The changes seek to ensure the contribution rates reflect the potential cost savings of intensification and Council's desire to encourage housing and remove barriers.
- 3.0 Furthermore, the proposed changes seek to improve equity and consistency including by addressing the inequity that only residential units that require resource consent need to pay a contribution under the existing rules (noting that with implementation of the Medium Density Residential Standards ('MDRS') additional residential units are anticipated without resource consent that would not be required to pay a financial contribution).
- 4.0 In summary, the proposed changes (as notified) comprise:

- a. Amending objective FC-O1 to clarify that, with intensification, there is a need to enhance the quality of existing reserves and open spaces in the city. The focus is shifted from just neighbourhood reserves to a wider range of reserves and open spaces.
- b. Clarifying that the purpose of financial contributions for reserves is to achieve the District Plan objectives.
- c. Extending the situations for charging reserve contributions to permitted residential units.
- d. Reducing the level of contributions for reserves to reflect the shifting focus from new reserves to developing existing reserves. This change also responds to the Council's aim to reduce housing costs and housing choice. PC9 proposed that the contribution for reserves be reduced from 5% of the land value to 3.5% for most zones.
- e. Further reducing the contribution rates for rural zones to 2.5% of the land value of a nominal area to acknowledge that residents in these areas have less demand for the reserve network.
- f. Further reducing the contribution rates for smaller residential units to 1% acknowledge that they are likely to be associated with less occupants and therefore less demand on reserves.
- g. Aligning the basis of contribution in commercial, industrial and business and innovation zones (currently unit value) with the basis in other zones (land value) to improve consistency.
- h. Clarifying the nominal land area used for the calculation in the situation of multiple units.
- i. Removing the requirement for a minimum land area for contributions in the form of land, as functional reserves can sometimes be provided with a smaller area to achieve the objective, for example, to provide linkages.

8.10.1.2 Background & Statutory Context

- 1.0 Following the recent changes to the Resource Management Act 1991 ('RMA'), section 77E now states that a rule may require a financial contribution from 'any class of activity other than a prohibited activity'. In other words, it provides that Council may require permitted activities to pay financial contributions.
- 2.0 Sections 80E and 77T allow an Intensification Planning Instrument ('IPI') to include provisions relating to financial contributions if the territorial authority chooses.
- 3.0 Section 77E states that a rule requiring a financial contribution must specify:
 - a. The purpose for which the financial contribution is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and
 - b. How the level of financial contribution will be determined; and
 - c. When the financial contribution will be used.
- 4.0 Other relevant context is that the RLC has indicated its intention to consider funding reserves from development contributions in the future (Development Contributions Policy 2022, p127). Therefore, financial contributions for reserves may be removed from the District Plan in the future.

8.10.1.3 Submissions

- 1.0 Most submissions supported the changes or specific aspects such as the reduction in contribution rates or extension of contributions to permitted activities.
- 2.0 The key relief sought by submitters who sought changes was that:
- a. Contribution rates not be reduced (Shekell 83.7).
 - b. Reserve contributions be removed and instead incorporated into the development contributions regime. The submitter reasoned that there would be greater transparency on expenditure under the Development Contributions Policy (L Nelson 26.19).
 - c. The term 'subsidiary dwelling' be removed as this was missed when the term was removed in a past plan change [Plan Change 1] (L Nelson 26.20).
 - d. Amendments be made to ensure that (Retirement Village Association ('RVA') 88.21):
 - i. There is no double dipping with financial contributions and development contributions. The submitter referred specifically to contributions to infrastructure to service an activity and states that these matters are covered by the Development Contributions Policy.
 - ii. There is certainty as to the financial contributions that will be required to be paid and that contributions are based on actual demand rather than land value.
 - iii. The calculation methodology takes into account the cost of works undertaken as part of development.
 - iv. A retirement village-specific regime be implemented that takes into account their substantially lower demand profile compared to standard residential developments

8.10.1.4 Evaluation

- 1.0 I consider that the changes to the reserve contribution provisions proposed in Plan Change 9 should be adopted.
- 2.0 Development contributions present another potential option for funding reserves, and Council has indicated an intention to investigate it. However, incorporating reserve contributions into the development contributions policy is not a relief that can be provided in the plan change. In the meantime, the proposed reduction in contributions would have the benefit of reducing development costs (albeit in a small way) to assist in achieving the objective of increased housing choice (RESZ-O1 and RESZ-O8). Most submissions were in support of the changes.
- 3.0 I agree that the terminology "subsidiary dwelling" should be removed from FC-R1 (iv)(d) and replaced with "residential unit".
- 4.0 Contributions for infrastructure were not addressed in the notified plan change. I acknowledge the concerns expressed in the submission by the RVA about the need to clarify the relationship between infrastructure contributions under the District Plan and development contributions under the Development Contributions Policy. However, I understand that, in practice, there is no issue as Council considers that Rule FC-R2 cannot be used to fund infrastructure that is in the capital works programme of the Long Term Plan and funded by development contributions.
- 5.0 With respect to contributions for reserves and retirement villages (known as rest homes in the current provisions of the District Plan) it is noted that there may be some ambiguity as to whether rest homes can currently be charged reserve contributions under the District Plan. The current provisions require contributions only from 'residential units' and visitor accommodation; and one may question whether a rest home unit is also a residential unit for

the purpose of the rule. I understand that in practice the interpretation is that rest homes cannot be charged. This will be further clarified by the proposed definition of rest home unit, which states it is not a residential unit. On this basis, I consider that no further relief is necessary.

8.10.1.5 Recommendation

6.0 I recommend that the changes proposed to financial contributions for reserves be adopted with further amendments to FC-R1 (iv)(d), as detailed in detailed in Appendix 1, to remove the reference to additional or subsidiary dwelling in favour of simply referring to all as residential units.

7.0 Submissions be accepted or rejected as set out in **Appendix 3**.

8.11 Partnership with Te Arawa

1.0 This section has been prepared by Simon Thurston and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to concerns as to Rotorua Lakes Councils ('RLC') current Partnership with Te Arawa and the process by which RLC as undertaken PC9.

8.11.1.1 Scope of Proposed Amendments

1.0 The proposed amendments within PC9 seek to give effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ('Amendment Act').

8.11.1.2 Background & Statutory Context

1.0 In 2015 the Rotorua Lakes Council signed the Manatu Whakaaetanga, Partnership Agreement.

2.0 The agreement sets out the framework for an ongoing relationship between RLC and Te Tatau. The purpose of the agreement is to outline the partnership objectives, principles, expectations and deliverables of the partnership between Te Arawa and the RLC. The request to be included within the Amendment Act was supported by both the RLC and its Partners Te Arawa Lakes Trust ('TALT') and Te Tatau o Te Arawa.

3.0 The Government currently has a partnership through the Rotorua Housing Accord with the RLC and Iwi to jointly coordinate work to address the current housing shortage in Rotorua.

8.11.1.3 Submissions Received and Points Raised

1.0 **Te Arawa Lakes Trust:** The submitter is seeking that in responding to the current housing crisis, RLC must ensure fundamental principles including Te Tiriti o Waitangi partnership and kaitiakitanga are not ignored through the process, noting that RLC has legal obligations to Māori regarding engagement and decision-making under Te Tiriti o Waitangi, Resource Management Act 1991 ('RMA'), Local Government Act 2002 ('LGA').

2.0 The Trust considers it critical that RLC partners with TALT to develop and embed climate breakdown adaptation and mitigation solutions that align with iwi priorities and values into all Rotorua zoning, housing and urban development plans. This means identifying and embedding mātauranga Māori in urban design and construction to manage climate-related hazards. This action will increase the resilience of public housing by identifying where retrofitting is needed and ensuring new dwellings are built away from areas prone to climate hazards. It will also promote effective planning and the design of resilient infrastructure as part of public housing activities (19.11).

3.0 **Te Arawa Lakes Trust:** The submitter is seeking that RLC partners with TALT to identify opportunities to ensure existing and future zoning, planning and developments enhance and

- align with cultural values, and support and enhance Papakāinga communities, rather than impacting on and further taking away from them. (19.7)
- 4.0 TALT through submission has requested that the RLC share its evidence base, including any modelling and rationale with TALT to consider and share with the iwi regarding the environmental sustainability of the proposed medium and high-density compact housing and in particular provide detail on the following (19.11):
1. What analysis has been done on how much population growth the district, waterways and our natural resources can sustain?
 2. What controls will there be on development to ensure water quality improves rather than becomes adversely affected?
 3. What positive and negative impacts have been identified nationally and internationally of the proposed medium and high-density compact housing on the health and wellbeing of natural environments including water sources, waterways, geothermal fields, soils, indigenous taonga species and associated ecosystems?
- 5.0 **Lani Kereopa:** requests that RLC share its evidence base. Te Arawa needs access to information to be able to work with RLC to undertake an assessment of the current status of Rotorua housing, the needs, and realistic options based on that information. (39.2)
- 6.0 **Lani Kereopa** (39.7): requests that RLC partners with Te Arawa to develop and embed adaptation solutions that align with iwi priorities and values into all Rotorua zoning, housing and urban development plans. This means identifying and embedding matauranga Maori, identify and values in urban design and construction to manage climate-related hazards. This will increase the resilience of public housing by identifying where retrofitting is needed and ensuring new dwellings are built away from areas prone to climate hazards. It will also promote effective planning and the design of resilient infrastructure as part of public housing activities.
- 7.0 **Te Arawa Lakes Trust** (19.10) is seeking that the RLC share its evidence base, including any modelling and rationale with Te Arawa Lakes Trust to consider and share with the iwi regarding the environmental sustainability of the proposed medium and high-density compact housing and provide detail on the following:
1. What analysis has been done on how much population growth the district, waterways and our natural resources can sustain?
 2. What controls will there be on development to ensure water quality improves rather than becomes adversely affected?
 3. What positive and negative impacts have been identified nationally and internationally of the proposed medium and high-density compact housing on the health and wellbeing of natural environments including water sources, waterways, geothermal fields, soils, indigenous taonga species and associated ecosystems?
- 8.0 **Te Arawa Lakes Trust** (19.11) is seeking that RLC partners with Te Arawa to develop and embed climate breakdown adaptation and mitigation solutions that align with iwi priorities and values into all Rotorua zoning, housing and urban development plans; and to ensure future housing and development plans enable community resilience to the potential impacts of climate breakdown by supporting sustainable water and energy management and use; accommodating food growing and sharing; and restoring connections with nature.
- 9.0 **L Kereopa** – (39.6) is seeking that Rotorua Lakes Council partners with Te Arawa to ensure any future development, increased housing and population within Rotorua does not have a

- negative impact on our lakes, waterways, ngāwhā, natural environment and indigenous taonga species.
- 10.0 **L Kereopa** – (39.8) is seeking that Rotorua Lakes Council partner with Te Arawa to incorporate the restoration and protection of wetlands, native forests and indigenous taonga species into all aspects of Rotorua housing and development planning.
 - 11.0 **J Taiatina:** has whānau who whakapapa and belong here and mokopuna who live here and need to continue a legacy that supports Te Ao Māori (FS 7.5).
 - 12.0 **P Casey, D Haley, J Murrery, A Marshall,:** opposes the original submission stating it seeks extensive planning and consenting privileges for mana whenua alleging obligations under Te Tiriti o Waitangi, the RMA and Local Government Act. They state that Local Government must serve the interests of all in democratic decision-making processes. (FS 4.3, 32.7, 38.7 & 41.2).
 - 13.0 **P, Murray:** states that local government must serve the interests of all in democratic decision-making processes. This is seen as co-governance giving disproportionate power. The Attorney General has ruled against discriminating non-Māori. The role and importance of mana whenua is already fully accepted and entrenched for the future development of Rotorua. (FS 102.7).
 - 14.0 **M Oxley:** opposes the original submission stating it seeks extensive planning and consenting privileges for mana whenua alleging obligations under Te Tiriti o Waitangi, the RMA and LGA. They state that Local Government must serve the interests of all in democratic decision-making processes (FS 117.7).
 - 15.0 **Habitat for Humanity Central Region NZ:** Habitat support all nine recommendations from TALT and believe that enacting all of these recommendations would meet RLC’s obligations as a treaty partner to Te Tiriti o Waitangi and also be consistent with the partnership expectations that Te Arawa entered into the Fenton Agreement in the 1800’s which established Rotorua as a township. Further, it would also recognise Te Arawa Hapu/Iwi have a very substantial part to play in the solution to Rotorua’s housing crisis, both as a partner to Council and also as the major landholder of subdividable land within the RLC district (FS 125.6).
 - 16.0 **Rotorua District Residents and Ratepayers (‘RDRR’):** states it is the voice of residents and ratepayers. The proposed partnership is tantamount to co-governance. While Te Arawa is a legitimate and highly respected interest group with kaitiakitanga responsibilities it is no a co-governance entity. H Maguire and M Gordon also support the RDRR submission (FS 91.14).
- 8.11.1.4 Evaluation**
- 1.0 The council acknowledges the submissions from the TALT and L Kereopa expressing the need for the Rotorua Lakes Council to work closely with Te Arawa and in particular the TALT and notes that many of the issues raised within submissions can be addressed through processes other than PC9, in particular the Future Development Strategy (‘FDS’)
 - 2.0 RLC acknowledges the submissions received to PC9 requesting that the RLC partner with Te Arawa to address the significant housing issues facing Rotorua, In particular, submissions from the TALT and submissions 19.10, 19.11, 39.2, 39.6, 39.8 & FS 125.6
 - 3.0 Further submissions were received opposing the submission from TALT and L Kereopa.
 - 4.0 Although this is not relief in terms of provisions of PC9, through the partnership with Te Arawa, the RLC should continue to work closely with all partners including the TALT in ensuring that housing is delivered in a way that meets the needs of all iwi and hapu and ensures that as growth and development occurs provision is made to protect the natural and cultural heritage of the Rotorua District.

8.11.2	Inclusion of Statement of Iwi Aspirations
8.11.2.1	Scope of proposed amendments
1.0	In accordance with the National Policy Statement on Urban Development 2020 ('NPS-UD'), RLC must prepare their FDS and incorporate a statement on Iwi and Hapu aspirations within this strategy.
8.11.2.2	Background & Statutory Context
1.0	The development of the draft FDS was run in parallel with the PC9 process, however the statutory plan change process has particular obligations that functions that the RLC must follow when undertaking a formal district plan change.
8.11.2.3	Submissions Received and Points Raised
1.0	L Kereopa: notes that RLC has legal obligations to Māori regarding engagement and decision-making under Te Tiriti o Waitangi, RMA, LGA and potentially other relevant policy and legislation. Simply including a statement of iwi and hapu aspirations will not meet basic council requirements and obligations. (39.1)
2.0	Further submissions were received from P Casey (19.4.3), D Haley (19.32.7), J Murray (19.38.7), A Marshall (19.41.2), Rotorua Residents and Ratepayers (19.91.7), P, Murray (19.102.7), M Oxley (19.119.7) opposing original submission 39.1 stating that Local Government must serve the interests of all with effective and democratic decision making.
8.11.2.4	Evaluation
1.0	RLC acknowledges the submission and notes that the Draft FDS Strategy is currently out for public consultation, and it is intended that this strategy will address the issues and points raised by the submitter.
8.11.2.5	Recommendation
1.0	That the above submissions are received and presented to the Rotorua Future Development Strategy Joint Committee for consideration.
8.12	Other
8.12.1	Other Potential Qualifying Matters
1.0	This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on Plan Change 9 ('PC9') that relate to other potential qualifying matters.
8.12.1.1	Scope of proposed amendments
1.0	As discussed above in this report, PC9 proposes new qualifying matters relating to flooding, heritage buildings and Māori villages as a basis for provisions that are less enabling than the Medium Density Residential Standards ('MDRS'). It also proposes to amend several existing qualifying matters.
2.0	Three other potential qualifying matters are considered in this section of the report in response to matters raised in submissions.
8.12.1.2	Background & Statutory Context
1.0	Under section 77I of the RMA Rotorua Lakes Council ('Council') is able to make the MDRS less enabling of development in areas where there are "qualifying matters," also referred to as development constraints, but these must be evaluated in terms of their impact on development, etc (sections 77J to 77L).

8.12.1.3 Submissions

- 1.0 Three Submissions were received in relation to potential qualifying matters as below:
- 2.0 Mataatua Marae Trustees oppose development in close proximity to the marae to protect cultural wellbeing of the marae, its people and its facilities. The marae trustees consider that the setting of a marae is integral to the cultural values and heritage of its beneficiaries that includes the nga whare (tupuna, tupuna kuia) and it is incumbent of local council to ensure these surroundings are respected, protected and preserved. The submitter refers also to sections 6 and 8 of the RMA, District Plan Objective -O1 - Protection of Cultural Heritage Features and Policy HH-P1 (13.1). This was opposed by Kainga Ora Homes and Communities ('Kainga Ora') due to the lack of detail around the extent required (FS 97.1).
- 3.0 The Rotorua Seventh-Day Adventist School Board and the NZ Seventh-Day Adventist Schools Association Ltd raised concerns about students' safety with the increase of heights and overlooking on sites adjacent to the school at 3 Tilsley Street. They seek the following sites be prohibited from developing to three storeys - 2,4,5,6,7,8,9 Tilsley Street 6,8,10,12 Holland Street 305-309, 311, 313, 315-317 Fenton Street (14.1 & 24.1). This was opposed by Kainga Ora as it seeks to recognise 'proximity to schools' as a qualifying matter which is not considered appropriate (FS 97.2)(FS 97.6).
- 4.0 R and A Mickinley sought that Tihi-o-tonga be excluded from the plan change as a qualifying matter due to accessibility, being separated from the main suburbs of Rotorua and steep topography (Submission 58.1).

8.12.1.4 Evaluation

- 1.0 At this stage I do not recommend any further changes but invite the submitters to consider presenting an evaluation of potential qualifying matters under sections 77J to 77L of the RMA.
- 2.0 I note that the issue of protecting the values of marae through management of surrounding sites is already addressed through the existing qualifying matter of the Marae Protection Area Overlay, which applies to adjacent sites. Alterations to existing buildings are restricted discretionary if the marae will be visible from proposed second floor windows or balconies and new buildings are discretionary (rules SASM-R5 and SASM-R6). There is also a reduced height limit of 5m RESZ(S2(4)).
- 3.0 In response to the submission about the Rotorua Seventh-Day Adventist School, here may other methods outside District Plan to address the submitters' concerns, such as screening with planting.

8.12.1.5 Recommendation

- 1.0 No changes be made in response to these submissions.

8.12.2 Treatment of Qualifying Matters in the Plan

- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on PC9 that relate to how qualifying matters are referenced in the District Plan and whether a definition of qualifying matters should be included.

8.12.2.1 Scope of proposed amendments

- 1.0 The term qualifying matter is used in the policy inserted into the strategic direction section, which is a mandatory policy required under the recent Resource Management Act 1991 ('RMA') changes for the MDRS and Intensification Planning Instruments ('IPI's) (Schedule 3A(6)):

SDUD-P4: Apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).

- 2.0 Otherwise, the term ‘qualifying matters’ has not been inserted into the District Plan, except in regard to the information note provided at the beginning of the Residential Zones, which explains that qualifying matters provide an exception for provisions that would otherwise have immediate legal effect

8.12.2.2 Submissions

- 1.0 The following submissions sought changes with respect to how qualifying matters are referenced throughout the plan:
- a. Transpower sought that a definition be included in the plan of qualifying matters that lists the qualifying matters applicable in the District Plan, as it was concerned that this information is important to interpretation of the plan and will be lost from the note at the beginning of the Residential Zones once the plan change is operative and the note is no longer necessary to explain immediate legal effect (30.2)
 - b. Transpower and Heritage New Zealand sought to add clauses to various issue statements, objectives and policies using the term ‘qualifying matters’ to acknowledge how the provision may be moderated by competing issues (30.7, 30.10, 30.14, 54.13, 54.15, 54.16, 54.18 & 54.19).
 - c. Firstgas sought that specific use and reference to the terminology of ‘qualifying matters’ is enabled within PC9, so as to ensure consistency with NPS-UD and to promote greater awareness of location of gas networks and safety considerations in the enabling of greater residential intensity within the Rotorua Lakes district (98.2).
- 2.0 Kainga Ora’s and the Retirement Village Association’s (‘RVA’s) further submission opposed some of the specific relief sought above. Kainga Ora considered much of the references unnecessary, referring to the role of overlays. Kainga Ora did, however, support a definition of qualifying matters (further submission 97.7).
- 3.0 In addition, BOPRC sought that the map of areas affected by qualifying matters that was appended to the Section 32 Report be updated to cover areas in Ngongotahā once information becomes available (submission 56.1).
- 4.0 The Ministry of Education sought that it be clarified that qualifying matters have not been applied to Ministry designations so that it may rely on s77M(6) to develop school sites to the same standards as the adjacent residential areas. It was concerned that the Council identified all designations as a qualifying matter (submission 52.1).

8.12.2.3 Evaluation

- 1.0 I do not support the submissions that seek to refer to qualifying matters throughout issues, policies and objectives. This term is appropriate in policy SDUD-P4, which explains where the MDRS will apply in accordance with the requirements of legislation (and is mandatory in any case). However, in other cases I consider that the term qualifying matter need not be used. I agree with the further submission points of Kainga Ora that qualifying matters are addressed as overlays (or other specific controls etc.) that moderate the zone rules. The relationship between provisions in zones and other topic-based sections is provided by general principles of interpretation, case law and, in the case of rules, the notes before each of the rule tables. Adding such moderating clauses would likely under-represent the complexity of the relationships and create further confusion.

2.0 No changes are recommended in response to the BOPRC submission. The map referred to was developed to show the extent of areas affected by the proposed flood assessment qualifying matter as part of the assessment of qualifying matters required under the RMA. It does not sit in the District Plan.

3.0 In response to the Ministry of Education I confirm that, although the RMA allows for designations to form the basis for qualifying matters, no such qualifying matters have been identified.

8.12.3 Other Subdivision Changes

1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on PC9 that relate to the other supporting subdivision matters.

8.12.3.1 Scope of proposed amendments

1.0 In addition to changes to the subdivision chapter discussed in the Residential, Natural Hazards and Transport sections above, PC9 also proposed a new policy SUB-35A to 'Provide for subdivision around existing development, and where it enables creation of sites for uses that are in accordance with an approved land use resource consent and where there is compliance with District-wide and zone rules'. This was to give effect to the intent of Schedule 3A of the RMA of enabling subdivision around existing buildings that does not increase the degree of non-compliance with the density standards.

2.0 Further supporting changes to implement this policy are proposed to the performance standards for cross leases, unit titles and company lease subdivision; conversion of cross lease to freehold and subdivision around existing buildings (SUB-S14(2),(3) and (6)) were also proposed.

8.12.3.2 Background & Statutory Context

1.0 These changes are 'related provisions' under section 80E(1)(b)(iii) that seek to support the MDRS and implementation of Policy 5 of the NPS-UD.

8.12.3.3 Submissions Received and Points Raised

1.0 Kainga Ora, Cheal Consultants Limited ('Cheal') and the Rotorua Planning Consultants supported the proposed policy (79.17, 86.31 to 86.44 and further submission 104.21). However, Cheal opposed the clarification of 'and' and 'or' in SUB-S14(2) as shown below.

Cross lease, unit title, company lease subdivision

All applications associated with cross lease, unit title, or company lease applications shall demonstrate to council that all buildings on the lease areas either:

- a. *Have existing use rights; or a land use consent has been granted; and*
- b. *Comply with all building consent requirements, or have a Certificate of Acceptance issued in accordance with the Building Act 2004; ~~or and~~*
- c. *Will not increase the degree of any non-compliance with the density standards in the district plan after subdivision will be created unless there is an approved land use consent; and*
- d. *Comply with other the relevant provisions of the District Plan for the zone in which the site is located; ~~or and~~*
- e. *~~Comply with all building consent requirements, or have a Certificate of Acceptance issued in accordance with the Building Act 2004; or~~*
- f. *~~A resource consent has been granted.~~*

- g. Where a building fails to comply, a subdivision consent will not be granted until the requirements under (a) to (d) above have been met.*
- 2.0 J Kilpatrick was opposed to certain changes proposed to the provisions and appears concerned about costs when there is non-compliance.
- 8.12.3.4 Evaluation**
- 1.0 I support the proposed policy SUB-P35A and the edits to standards SUB-S1 and SUB-S14 that give effect to this policy. I consider that the submissions opposing the changes to SUB-14(2), (3) and (6) should be rejected, as the changes give effect to MDRS and it is necessary for all the clauses in (2) to be satisfied for an appropriate subdivision around existing development to occur. In other words, 'and' is appropriate.
- 8.12.3.5 Recommendation**
- 1.0 Make no changes in response to these submissions and accept or reject the submissions as set out in the Appendix.
- 8.12.4 Rezoning to Residential 1 Zone**
- 1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on PC9 that relate to the other requests to rezone to Residential 1 Zone.
- 8.12.4.1 Scope of proposed amendments**
- 1.0 The notified plan change did not propose any rezoning from other zones to residential zones. However, several submitters seek that rezoning of specific areas to residential be progressed through PC9.
- 8.12.4.2 Background & Statutory Context**
- 1.0 The issue of whether the submissions are within the scope of the plan change will be addressed in legal submissions. Aside from this issue of scope, requests for rezoning are subject to the evaluation requirements of sections 32 and 32AA. In the case of rezoning, this section 32 analysis would typically need to be informed by technical work to demonstrate that the site or area is suitable for urbanisation and gives effect to the higher order policy documents, including the Bay of Plenty Regional Policy Statement.
- 2.0 In this context, the Bay of Plenty Regional Policy Statement requires that:
- a. Structure plans are prepared for large scale land use changes (defined as 5 hectares or more) to ensure coordinated development, integrated provision of infrastructure and integrated management of related environmental effects (Method 18).
 - b. Natural hazard risk assessments are completed at the time of land development or change or intensification of land use for sites 5 hectares or more (Policies NH 8A and NH 9B).
- 8.12.4.3 Submissions**
- 1.0 Submissions sought:
- a. The rezoning of 171 Fairy Springs Road from Commercial 5 Zone to Residential 1 Zone to enable residential development of this 14ha site, which the submitter considered a critical growth area and logical expansion of Rotorua (Summerset Holdings Limited, submission 73.1)
 - b. Rezoning of Rangitaitaia Road (approximately 2ha), as well as the greater Mourea area, from Rural 1 Zone to residential (Residents of Rangitaitaia Road, submission 34.1). The submitters wanted the whenua, which they said has always been papakāinga, adjacent to the marae/heritage structure to allow for more families to live and build on sections.

- c. Rezoning of Industrial Transitional Zone (less than 5ha) to Residential 1 Zone (L Nelson, submission 26.46). The submitter stated that all of the land should be returned to Residential 1 given Lockwood are reducing their industrial footprint with the recent sale for a motel as an example.
- d. Rezoning of Rotorua Racecourse (30ha+) from Reserve 3 Zone to Residential 1 Zone (L Nelson, submission 26.48).

8.12.4.4 Evaluation

1.0 The table below summarises information about each site and potential considerations.

Table 27: Table showing commentary on sites sought to be rezoned.

Site	Details	Commentary and analysis
171 Fairy Springs Road	Zoning: Commercial 5 (City Entranceway Tourism) Overlays and Constraints: Adjacent to state highway, streams and potential overland flowpaths	- Supported in draft FDS and accepted for fast-track consenting under the COVID-19 Recovery (Fast-track Consenting) Act 2020. However, this is considered of limited weight. - Requires structure plan and risk assessments under the RPS, which haven't been completed. - May need specific controls alongside zoning e.g. for overland flowpaths to be identified and protected, management of effects on state highway, integration and connection with neighbouring land.
Rangitaitaia Road	Zoning: Rural 1 Overlays and Constraints: Adjacent to Significant Natural Area and parts identified as Outstanding Natural Landscape (Lake Rotoiti), Lake flooding.	- May require specific responses to address natural and landscape values if development enabled through zoning. - Papakāinga amendments may provide for the type of development sought by the submitter.
Industrial Transitional Zone (located in Fairy Springs)	Zone: Industrial Transition	Requires consideration of future industrial land demands and interface with neighbouring industrial zoned land.
Rotorua Racecourse	Zone: Reserve 3 Zone Overlays and Constraints: Geothermal Systems Overlay, Significant Natural Area (SNA), Some areas of flooding	- Identified as a long-term opportunity in the draft FDS but development constrained by existing leases - Constraints may require specific management in addition to existing/proposed rules e.g. reserve areas, provision of access for SNA; reduced density and/or reserve areas for geothermal hazards; protection of overland flowpaths.

		Needs structure plans and risk assessments under RPS
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2.0 While some of these proposals may have merit, for the reasons outlined above, I consider that more analysis would be required before progressing to rezone these areas. No section 32 assessment or assessment under the requirements of the regional policy statement have been provided by the submitters.

3.0 I am also concerned about a lack of participation of landowners, neighbours and other potentially affected parties.

4.0 At the present time, I consider that the most appropriate way to achieve the objectives of the plan is to retain the current zonings.

8.12.4.5 Recommendation

1.0 I recommend that:

- a. Submission points summarised in 34.1, 26.46, 26.48 and 73.1 be rejected; and that the related further submissions be accepted or rejected accordingly as outlined in Appendix Three.
- b. No changes be made to the zoning of the areas identified in the above submissions.

8.12.5 Community Housing

1.0 This section has been prepared by Kim Smith and includes a summary and analysis of submissions received on PC9 that relate to community housing.

8.12.5.1 Scope of proposed amendments

1.0 This section considers submissions that sought amendments to the provisions for community housing.

2.0 PC9, as notified, did not amend the definition and status of community housing. Rather, some of the changes directed at building design and consistency of related standards are relevant to community housing in a limited way, as follows:

- a. PC9 proposes new objectives and policies for Residential, Commercial and City Centre Zones addressing amenity, the attractiveness of areas and quality living environments which are potentially relevant to various activities including community housing.
- b. PC9 amends bulk and location standards (such as yards) for all permitted activities in specific zones (for consistency with the changes to residential units and to give effect to Policy 5).
- c. Living environment standards (such as outdoor living space and outlook areas) and corresponding matters of discretion are sought to be aligned across various activities with a housing component, including community housing and the conversion of buildings to residential units.
- d. In the context of the increased density facilitated in Commercial and City Centre Zones, PC9 also seeks to ensure quality design by incorporating several changes that apply broadly to building in Commercial Zones. These include new policies, changes to the activity status and matters of discretion for new buildings and building alterations. These provisions may also apply to community housing.

8.12.5.2 Background & Statutory Context

- 1.0 Under the current (operative) provisions, community housing is listed as a specific activity in most zones with a status that aligns with the status of residential units. However, the scale of the activity is limited by the associated definition:

a place of residence for a maximum of eight persons (i.e. all residents including resident staff) where some element of care or support is provided for residents. The definition includes emergency housing (including temporary overnight accommodation) and rehabilitation centres, but excludes facilities where the movement of residents is legally restricted.

8.12.5.3 Submissions

- 1.0 Ara Poutama Aotearoa – the Department of Corrections (Ara Poutama) sought that the definition and provisions for Community Housing be deleted on the basis that this is just a residential activity. Ara Poutama reasoned that many residential activities receive some level of support (submission 71.4).
- 2.0 Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) sought changes to the definition and provision for community housing, which it considered would improve clarity about how emergency housing is provided for in the District Plan. HUD seeks (submission 63.2):
- a. That the definition of community housing is amended to remove the eight person threshold. Alternatively HUD seeks that the reference to emergency housing is removed from the definition, so that it falls to be considered as a residential activity (It also seeks the definitions of Residential Activity and Residential Unit as notified be retained)
 - b. That the zone based framework for community housing is amended, including by:
 - i. Introducing a maximum occupancy level in the Permitted Activity/Controlled Activity Performance Standards for Community Housing.
 - ii. Providing for non-compliance with this new performance standard as a Restricted Activity with relevant matters of discretion.
 - iii. Introducing/amending guiding objectives and policies across the residential and commercial zones to provide direction on the outcomes expected to provide guidance in determining appropriateness of such activities.
- 3.0 This was supported by Kainga Ora but opposed in a number of other further submitters. For example, D McPherson opposed the submission stating that the Ministry seems to be confused about transitional v emergency housing; that the intent seems to be to make longer stays in temporary accommodation permitted which should be resisted (further submission 64.7). S Gifford states it is beyond the scope of the plan change and shouldn't be allowed to slip through (further submission 150.26).
- 4.0 A Morrison sought that Community Housing be non-complying or prohibited in the Commercial 4 Zone (submission 85.1).
- 5.0 In addition to these small number of submissions directly seeking relief in relation to the provisions for community housing were a large number of submissions that generally expressed concern about the effects of social housing/community housing/emergency housing.

8.12.5.4 Evaluation

1.0 These submissions raise an issue of scope, which will be addressed in legal submissions. In terms of the merits of the submissions, I respond as follows:

- a. I agree with Ara Poutama that many residential activities involve some degree of care or support. In this regard, it may be difficult to identify when an activity is not a 'normal' residential activity in a residential unit but 'community housing'. However, the eight-resident threshold assists to provide a distinction; and the status and performance standards for activities up to this threshold aligns with residential units in any case.
- b. I agree with HUD that the placement of the scale threshold (maximum of eight residents) inside the definition is unusual. In the recent resource consent application for a number of larger community housing facilities it was agreed by parties that the activities should be assessed as non-complying activities in the relevant residential and commercial zones considered. However, as this relies on interpretation of multiple rules, it could create uncertainty.
- c. I do not support deleting the activity of community housing on the basis that the rules for residential activities are sufficient. The recent hearings on applications for larger community housing activities demonstrated that there are a range of effects to consider that are not addressed by the performance standards and matters of discretion for residential units. The non-complying status for larger community housing activities in the zones considered provided broad scope to impose a wide range of conditions.
- d. Given the wide range of effects of the larger scale activities considered in the recent hearings I would not support a restricted discretionary activity with guiding objectives and policies as sought by HUD for activities above a certain threshold; at least not without further input from stakeholders to understand the effects and outcomes sought, which has not been provided through the PC9 process.
- e. As the term 'emergency housing' (which is included in the definition of community housing) isn't defined, it creates uncertainty. There may be merit in creating a separate activity for emergency housing that is intended as a true short-term measure. However, the rules for temporary activity appear to cover this in any case. At this stage, I would not support the removal of the term without consideration by stakeholders of the wider implications, which has not been provided through this process.
- f. I also do not support amending the status of community housing to prohibited or non-complying at this stage. There may be some merit in clarifying the status with a specific rule for those that exceed the permitted activity threshold. However, there has not been opportunity for wider input on this issue.

8.12.5.5 Recommendation

1.0 I recommend no changes in response to these submissions and that the submissions be accepted or rejected as set out in the Appendix.

8.12.6 Additional Infrastructure, Education Facilities and Community Correct Activities

1.0 This section has been prepared by Rachel Morgan and includes a summary and analysis of submissions received on PC9 that seek amendments with respect to the definitions and activity status of education facilities and correction activities.

8.12.6.1 Scope of proposed amendments

1.0 PC9 did not propose any changes in this regard and only addressed such activities to a limited extent through amendments to bulk and location standards and objectives and policies for specific zones.

8.12.6.2 Background & Statutory Context

- 1.0 Under the operative District Plan there is no definition or specific rule framework for community corrections facilities. However, it would fall within the definition of ‘community facilities’. This is a permitted activity in the City Centre 1 Zone, controlled activity in the Commercial 1 Zone, restricted discretionary in the Commercial 6 Zone, non-complying activity in all Industrial Zones, and a controlled activity in the Business and Innovation 3 Zone.
- 2.0 Educational facilities are, however, defined under the operative provisions. Educational Facilities are currently a discretionary activity in all Residential Zones.

8.12.6.3 Submissions

8.12.6.3.1 Community Corrections Activity

- 1.0 Ara Poutama sought that the following definition be added to the District Plan for community corrections activity consistent with the National Planning Standards (submission 71.1):

community corrections activity means the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups.

- 2.0 They also sought that rules be inserted into the City Centre 1 Zone, Commercial 1 Zone, Commercial 6 Zone, Industrial 1 Zone, Industrial 1E Zone and Business and Innovation 3 Zone to enable “community corrections activities” as a permitted activity (submission 71.8). This was supported by Kainga Ora (further submission 97.61), but opposed by S Glifford, who argued that such fundamental changes shouldn’t be allowed to slip through (further submission 150.28).
- 3.0 Ara Poutama reason that community corrections activities are essential social infrastructure and that intensification and population growth in urban areas creates more demand for these types of facilities. Specifically with the higher population, the proportion of those people needing community corrections services will correspondingly increase. It is therefore important that provision is made to enable non-custodial community corrections sites to establish, operate and redevelop, within appropriate areas.

8.12.6.3.2 Additional Infrastructure and Education Facilities

- 1.0 The Ministry of Education sought the inclusion of the term ‘additional infrastructure’ throughout the operative District Plan and that the definition of educational facilities is amended. It is sought that the terms and definitions are consistent with the NPS-UD and National Planning Standards (submissions 52.2, 52.4, 52.3, 52.5, 52.3):

additional infrastructure means ... (d) social infrastructure, such as schools and healthcare facilities.

educational facilities includes learning activities such as pre-school, primary, secondary and tertiary institutions and institutions delivering educational services for groups such as unemployed people, youth, elderly or groups with special educational needs. means land or buildings used for teaching or training by child care services, schools, or tertiary education services, including any ancillary activities.

- 2.0 The Ministry also sought that Rule RESZ-R13 is amended to change the status of educational facilities from discretionary to permitted in Residential Zones up to a floor area of 200m² (submission 52.9)

3.0 The Ministry reasons that educational facilities are necessary social infrastructure that support the well-being of these residential communities and typically locate in residential zones to support the surrounding residential catchments; that the current Rule RESZ-R13 is unnecessarily restrictive; and that the change sought would enable educational facilities such as day care centres and childcare services of a smaller scale to establish in residential zones where required.

4.0 The Ministry also sought to delete Rule RESZ-R12 for daycare centres because, with the changes sought to the definition of educational facility, these would be covered under the RESZ-R13 (submission 52.8).

8.12.6.4 Evaluation

1.0 These submissions raise an issue of scope, which will be addressed in legal submissions. In terms of the merits of the submissions, I respond as follows.

8.12.6.4.1 Community Corrections Activity

1.0 I consider that the amendments sought by Ara Poutama in relation to community correction activities are not necessary for PC9 as they do not relate to the implementation of the MDRS or Policy 5 of the NPS-UD.

2.0 Firstly, in my view, the operative definition of community facilities activities appropriately provides for community corrections activities and no further changes are required.

3.0 I make the following comments on what in my view is the appropriate activity status for community facilities:

- (a) City Centre 1 – no changes are required as the activity is already permitted (CCZ-R19).
- (b) Commercial 1 – community services are a controlled activity with building design, natural hazards, parking, & turning and financial contributions being the matters to consider (COMZ-R30). In my view, permitted activity status may be appropriate for community services given that new buildings and alterations and additions to existing buildings are proposed to require resource consent as a restricted discretionary activity, however, this would apply to a wider range of activities than the definition sought by Ministry of Corrections and therefore I do not recommend any changes.
- (c) Commercial 6 – community services are a restricted discretionary activity within natural hazards, financial contributions and compliance with performance standards (COMZ-R30). However, for the same reasons as above, I do not consider that further changes are appropriate at this time.
- (d) Industrial 1E – community services are a non-complying activity in this zone (INZ-R48), and in my view, this continues to be appropriate in order to manage reverse sensitivity effects on the industrial activities occurring and enabled within the zone, and noting that community services would be more appropriately located within centres.
- (e) Business and Innovation 3 Zone – community services are a controlled activity in the same manner as the Commercial 1 zone. For the same reasons, in my view, no further changes are appropriate at this time.

4.0 In my view, this matter is more appropriately addressed as part of a full plan review as this would enable the potential effects of the range of activities that may fall within the definition of ‘community corrections activity’ to be considered within the context of each zone.

8.12.6.4.2 Additional Infrastructure and Education Facilities

1.0 I consider that the amendments sought by the Ministry of Education to include a new term and definition for ‘additional infrastructure’ and amend the definition for ‘educational facilities’ are

not necessary for PC9 as they do not relate to the implementation of the MDRS or Policy 5 of the NPS-UD.

- 2.0 I note that 'additional infrastructure' is not included in the operative District Plan, and consider that it would be necessary to review the District Plan comprehensively in order to determine the appropriate inclusion of this term. This is because the NPS-UD definition also includes a range of other land use activities that may have wider implications across the District Plan, including public open space and other types of social infrastructure, including healthcare facilities. In my view, it would be more appropriate to address this matter as part of a full plan review. I consider it would be appropriate to rely on the definition included in the NPS-UD, where this is relevant to inform resource management decisions, and note that PC9 does not preclude this.
- 3.0 In relation to the amendment of the definition for 'educational facilities', I note that the key difference between the definition under the operative District Plan and National Planning Standards is the exclusion of 'ancillary activities' under the District Plan. I therefore consider that it would be necessary to review the District Plan comprehensively to determine the appropriate assessment approach to avoid any unintended consequences. In my view, it would be more appropriate to address this matter as part of a full plan review.
- 4.0 In addition, I do not consider that it would be appropriate to provide for educational facilities up to a floor area of 200m² as a permitted activity under PC9. In my view, the site layout and design of buildings for educational facilities have the potential to affect the anticipated residential built character within Residential Zones due to the design of non-residential buildings and the location of parking areas and outdoor play areas. In the absence of detailed planning evaluation or Section 32AA evaluation, I do not recommend amendments to Rule RESZ-R13.
- 8.12.6.5 **Recommendation**
- 1.0 For the reasons given in the above assessment, no amendments are recommended to the operative District Plan framework in relation to the management of additional infrastructure, education facilities, and community correction activities.
- 2.0 Submissions to be accepted or rejected and individual responses to submission points are set out at **Appendix 3**.

9 Recommendation and Conclusion

9.1 Conclusion

- 1.0 Plan Change 9 ('PC9') seeks to enable additional housing capacity and choice through specific zoning, rule and policy changes. The proposed amendments seek to give effect to the National Policy Statement on Urban Development 2020 ('NPS-UD') and the Resource Management Act 1991 ('RMA')(as amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, through applying the Medium Density Residential Standards ('MDRS') to relevant residential zones and enabling greater intensification in areas close to the city centre and public transport. PC9 also incorporates new rules which modify the standards to accommodate qualifying matters, relating to historic heritage, the Residential 3 Zone and flooding; as well as other supporting or consequential changes to the implementation of the MDRS and/or Policy 5 of the NPS-UD.
- 2.0 Submissions have been received in support of, and in opposition to PC9.

9.2 Recommendation

- 3.0 Having considered all the submissions and reviewed relevant statutory and non-statutory documents, we recommend that the independent hearings panel recommend to Rotorua Lakes Council, under clause 99 of the RMA, that:
- a. PC9 be adopted with the amendments as set out in Appendix 1 and Appendix 2 of this report; and
 - b. Submissions (and associated further submissions) be accepted, accepted in part or rejected as set out in Appendix 3 of this report.

10 Appendices

Appendix 1:	Recommended Changes to the text of the District Plan
Appendix 2:	Recommended Changes to the District Plan Maps
Appendix 3:	Recommended Decisions on Submissions
Appendix 4:	Assessment of Existing Qualifying Matters
Appendix 5:	Areas Affected by Flood Risk Assessment – New Qualifying Matter
Appendix 6:	Legal Advice on Geothermal Hazards and the Building Act – Rice Speirs
Appendix 7:	Letter Regarding Geothermal Boundaries – GNS
Appendix 8:	Section 42A Authors Statements of Experience/CV's