ROTORUA
LAKES COUNCIL
Te Kaunihera o ngā Roto o Rotorua

Ngā Whakamāramatanga
me te Whakapakaritanga Ture

Proposed Plan Change 10
Definition and Rule Refinements

Section 42a Report
Prepared for Rotorua Lakes Council
September 2026



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EXECUTIVE SUMMARY

Purpose and Scope of Proposed Plan Change 10 (PC 10)

Proposed Plan Change 10 ("**PC 10**") addresses a series of refinements to definitions and rules within the District Plan that have arisen through plan implementation, statutory hearing processes, and evolving development practices. The purpose of this plan change is to improve the clarity, consistency, and usability of the Operative Rotorua District Plan (District Plan). This will be achieved by refining existing definitions and introducing or amending rules and performance standards.

The plan change involves the following:

1. replacement of the Tourist Accommodation definition with the National Planning Standards definition of Visitor Accommodation;
2. provision for boarding houses and other forms of communal or shared housing;
3. amendment of the Community Housing definition and associated activity provisions;
4. the default activity status for activities not otherwise provided for in the City Centre 1 and 2 Zones;
5. introduction of a Boundary Adjustment definition and associated rule refinements;
6. amendment of the Site definition;
7. introduction of the National Planning Standards Industrial Activity definition;
8. replacement of the Home-based Business definition with the National Planning Standards Home Business definition and transfer of performance standards into the relevant rules;
9. amendment of the vehicle turning provisions applying to rights of way and private ways; and
10. amendment of subdivision servicing provisions relating to wireless telecommunications.

27 submissions and 5 further submissions were received.

Below is a summary of the key issues raised and the recommended responses.

1. Tourist Accommodation

Submitters broadly supported the change, with some requesting clarification in relation to the types of ancillary activities that may form part of visitor accommodation, as well as clarification on emergency housing use of visitor accommodation.

Key recommendations:

- The National Planning Standards definition of Visitor Accommodation definition be retained as notified, without an express emergency housing inclusion, exclusion or occupation-duration test or other amendments.
- The relevant Residential Zone conversion rules be amended to provide for conversion of up to three Visitor Accommodation units on a site to residential units as a permitted activity where the applicable performance standards are met, with conversion of four or more units remaining restricted discretionary

2. Provision for Boarding Houses and other forms of Communal or Shared Housing

Submitters seek greater clarity and flexibility in the discretionary activity provisions, with some seeking deletion or permitted activity status, and others seeking additional assessment criteria addressing infrastructure, catchment, cumulative and cultural effects. A submission also seeks removal of the ground-floor qualification for other residential activities in the City Centre.

Key recommendations:

- The "Other Residential Activities not expressly stated" provisions as notified not be retained in their proposed form.
- A more targeted definition and new rule framework with an 8-person threshold adopted for permitted *Shared Residential Accommodation*, and for occupancy above that threshold for residential, a restricted discretionary activity status with defined matters of discretion.

3. Community Housing - Definition

Some submitters opposed the exclusion of occupants under restrictive legal orders, arguing that land use activities should be distinguished by land-use characteristics, not the circumstances of the residents. One submitter sought a more-enabling approach. Another submitter supported the change in full.

Key recommendations:

- The Community Housing definition be amended from the notified version to clarify the primary-purpose test and replace the broad legal-order exclusion with a narrower exclusion for prisons.

4. Community Housing - Activity Status and Scale

Submitters seek a more enabling approach to occupancy thresholds, including restricted discretionary rather than discretionary activity status for community housing exceeding eight persons. Some submitters also seek greater flexibility in Commercial and City Centre Zones and consideration of actual environmental effects rather than fixed occupancy thresholds.

Key recommendations:

- Retain Community Housing for up to eight persons, including resident staff, as a permitted activity.
- Amend the activity status for Community Housing accommodating more than eight persons to a restricted discretionary activity with defined matters of discretion.

5. City Centre 1 & 2 Zones – default activity status

Submitters oppose the proposed amendment and seek retention of the permitted activity status, noting concerns regarding unnecessary consenting costs, delays and

uncertainty. They consider any activities requiring additional control should be specifically identified and regulated.

Key recommendations:

- The notified amendment to rule CCZ-R1 not proceed and that the operative permitted activity default for activities not expressly listed in the City Centre 1 and 2 Zones be retained.

6. Boundary Adjustment

Submitters generally support the addition of a definition. Other submitters do support but want changes to the definition. One submitter seeks that the word "allotment" is replaced with "site".

The principal issue in contention what criteria should a boundary adjustment be assessed against where the boundary adjustment creates a lifestyle sized lot where one did not exist pre-subdivision (boundary adjustment)

Key recommendations:

- That the National Planning Standards Boundary Adjustment definition be retained as notified.
- That the clarification to the performance standards be retained as notified.
- Consideration of further refinement to the rule framework and provide a Restricted Discretionary rule with Matters of Discretion to address the rural lifestyle issue.

7. Site

Submitters broadly supported the inclusion of the notified updated definition. One submitter conditionally supports the update but is of the opinion that the full definition of the National Planning Standards should be used.

Key recommendations:

- Continue to recommend the amendments as notified.

8. Industrial

Submitters supported the change.

Key recommendations:

- Continue to recommend the amendments as notified.

9. Home-based Business

Submitters broadly supported the change, with one opposing the restriction on the sale of goods, and another requesting the retention of restrictions on non-resident employees, outdoor storage, and heavy vehicle parking.

Key recommendations:

- Continue to recommend the amendments as notified.

10. Reversing onto Rights of Way

Submitters broadly supported the change, with one requesting further consideration for access legs.

Key recommendations:

- It is recommended that the standard is amended to include right of way / private way (or similar).

11. Wireless Telecommunications

Submitters generally support the amendment but seek greater clarity and flexibility regarding wireless communications and reticulated gas requirements. Requests also include consideration of visual and cultural effects, and ensuring open-access fibre is provided where reasonably practicable.

Key recommendations:

- That the provision be amended, from the notified version, to clarify when wireless telecommunications can be established instead of underground services, without creating an opportunity for residential developers to put the onus on future occupants.

It is recommended that the Hearing Panel adopts PC 10 with amendments, as detailed in the report's annotated tracked changes version.

1. INTRODUCTION

1.1 Purpose of Report

1. This report has been prepared under section 42A of the Resource Management Act 1991 ("RMA") to assist the Hearings Panel in considering submissions and further submissions on Proposed Plan Change 10 – Definitions and Rule Refinements ("PC 10") to the Operative Rotorua District Plan ("District Plan").
2. The purpose of this report is to:
    a. Identify and summarise the key issues raised in submissions and further submissions;
    b. Assess those matters against the relevant statutory and policy framework; and
    c. Provide recommendations to the Hearings Commissioner on whether submissions should be accepted, accepted in part, or rejected.

1.2 Qualifications and Experience of Reporting Officer

1. This report has been prepared by:
    a. Craig Batchelar, Principal Planner, Cogito Consulting Limited;
    b. Jason Ward, Senior Planner, Cheal Consultants Limited; and
    c. Kayley Simmonds, Planner, Cheal Consultants Limited.
2. Craig Batchelar and Jason Ward led the preparation of PC 10 for Rotorua Lakes Council, including scoping, evaluation of options, drafting of provisions and consultation. They jointly prepared the Section 32 Report, with responsibilities broadly corresponding to the topics addressed by each author in this report.
3. Craig Batchelar has evaluated the submissions and made recommendations on the PC 10 provisions relating to Visitor Accommodation, Other Residential Activities, Community Housing, and associated residential and accommodation provisions and the default activity status for the City Centre Zones.
4. Jason Ward has evaluated the submissions and made recommendations on the PC 10 provisions relating to boundary adjustments, site definition, industrial activity definition, and vehicle turning provisions.
5. Kayley Simmonds has evaluated the submissions and made recommendations on the PC 10 provisions relating to the home-based business definition and the subdivision standards for wireless tele-communications.

Statement of Experience – Craig Batchelar

1. My full name is Craig Barry Batchelar. I am a planner in sole practice trading as Cogito Consulting Limited.
2. I hold a Bachelor of Regional Planning with First Class Honours from Massey University. I have been a full member of the New Zealand Planning Institute since 1988 and am also a member of the Resource Management Law Association.
3. I have approximately 40 years' professional planning experience in central and local government and private practice.

4. From 1989 to 2000 I was employed by Tauranga City Council in a range of planning roles, including management of the Council's Environmental Services Group. From 2004 to 2021 I was employed by Boffa Miskell Limited, where I was a Partner, managed the Bay of Plenty and Waikato offices and served for five years as the firm's National Technical Leader for Planning. I have practised through Cogito Consulting Limited since 2021.

5. My experience includes district plan preparation and implementation, plan changes, structure planning, urban growth and housing, resource consenting and expert evidence. I have undertaken planning work for local authorities and private-sector clients across the Bay of Plenty, Waikato and Hawke's Bay, including previous planning and plan change work for Rotorua Lakes Council.

6. My relevant experience also includes section 42A reporting relating to contracted emergency housing in Rotorua. That work involved assessment of the planning issues arising from the use of motels for emergency housing, including activity classification, scale and concentration effects, and the relationship between visitor accommodation, residential activity and community housing. This provides relevant background to my assessment of the corresponding PC10 provisions.

7. I was directly involved in the preparation of PC10 and the Section 32 Report and therefore have detailed knowledge of the implementation issues, alternatives considered and reasons for the notified provisions.

Statement of Experience – Jason Ward

1. My full name is Jason Timothy Ward. I am a planner in Cheal Consultants Limited.

2. I hold a Bachelor of Social Sciences with honours and a Post Graduate Diploma in Resource and Environmental Planning from Waikato University. I have been a full member of the New Zealand Planning Institute since 2005. I am also a certified commissioner under the Making Good Decisions Programme.

3. I have approximately 27 years' professional planning experience in central government, local government and private practice both in New Zealand and overseas.

4. I am currently practicing as a Planner and Principal for Cheal Consultants Limited in Rotorua. I manage the Bay of Plenty Cheal office.

5. From 2014 to 2025 I was employed by Rotorua Lakes Council as their Chief Planner and the Manager of Planning and Development. In this role I oversaw Spatial and Policy Planning, Resource Consenting and Building Act functions.

6. My experience included overseeing the Rotorua Future Development Strategy (2023), district plan preparation and implementation, plan changes, processing and decision making on resource consenting and expert evidence. I have undertaken planning work for local authorities and private-sector clients across the Bay of Plenty, Waikato, Coromandel and Hauraki Districts.

7. My relevant experience also includes processing and decision making relating to the Rotorua District Plan. This includes subdivision, industrial activities, home based businesses, on-site turning provision and considering servicing standards at the time of subdivision.

8. I was also the planning advisor for Rotorua Lakes Council relating to emergency housing, including the contracted emergency housing in Rotorua. Further, I was involved in the monitoring of the contracted and non-contracted emergency housing.

9. My experience with the Rotorua District Plan provides relevant background to my assessment of the corresponding PC 10 provisions. I have been at the coalface of interpreting these provisions as a processing officer and as a decision maker.

10. I was directly involved in the preparation of PC 10 and the Section 32 Report and therefore have detailed knowledge of the implementation issues, alternatives considered and reasons for the notified provisions.

Statement of Experience – Kayley Simmonds

1. My full name is Kayley Anne Lesley Simmonds. I am a planner in Cheal Consultants Limited.

2. I hold a Bachelor of Business and a Post Graduate Diploma in Planning from Massey University. I have been an associate member of the New Zealand Planning Institute since 2025.

3. I have approximately 4 years' professional planning experience in local government and private practice in New Zealand.

4. I am currently practicing as a Planner for Cheal Consultants Limited in Rotorua, since 2025.

5. In 2024 I was employed by the Western Bay of Plenty District Council as a Policy Planner. In this role I assisted with Plan Change 95, as well as the alignment of the District Plan with the National planning Standards, including the definitions, and the release of new natural hazard mapping.

6. In 2023 I was employed by Cheal Consultants as a Planner. In this role I was responsible for preparing consent applications for a range of land use activities, and subdivisions. I also processed consent applications on behalf of local authorities.

7. My relevant experience includes preparing resource consent applications for subdivisions, boundary adjustments, and land use activities including industrial, tourism, and home-based businesses, as well as my policy experience where I was involved in aligning the Western Bay of Plenty District Plan with the National Planning Standards.

1.3 Declaration of Authors

1. We confirm that we have read and understand the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and agree to comply with it in preparing this report and participating in the hearing.

2. The opinions expressed in this report are within our areas of expertise except where we expressly state that we rely on information or advice provided by others. We have considered all material facts known to us that might alter or detract from the opinions expressed.

3. We recognise that further evidence, information or submissions may be presented before or during the hearing. Where that information materially affects our evaluation, we may amend our opinions and recommendations accordingly.

1.4 Scope of Plan Change 10

1. PC10 is a focused plan change addressing a series of definition and rule implementation issues that have arisen through administration of the Operative Rotorua District Plan. Its purpose is primarily to improve clarity, consistency and usability rather than to reconsider the overall strategic direction of the District Plan.

2. PC10 addresses the following matters:

   - replacement of the Tourist Accommodation definition with the National Planning Standards definition of Visitor Accommodation;
   - provision for boarding houses and other forms of communal or shared housing;
   - amendment of the Community Housing definition and associated activity provisions;
   - the default activity status for activities not otherwise provided for in the City Centre 1 and 2 Zones;
   - introduction of a Boundary Adjustment definition and associated rule refinements;
   - amendment of the Site definition;
   - introduction of the National Planning Standards Industrial Activity definition;
   - replacement of the Home-based Business definition with the National Planning Standards Home Business definition and transfer of performance standards into the relevant rules;
   - amendment of the vehicle turning provisions applying to rights of way and private ways; and
   - amendment of subdivision servicing provisions relating to wireless telecommunications.

3. The issues addressed by PC 10 arose from plan implementation, statutory processes and changing development and accommodation practices. The notified plan change is therefore deliberately targeted rather than a comprehensive review of the District Plan.

4. While submissions may seek amendments to the notified provisions, any recommended changes must remain within the scope of PC 10 and the relief reasonably raised by submissions and further submissions.

5. PC 10 is a focussed review of the District Plan definitions and rules listed above. The plan change was informed by implementation and interpretation issues, but it is acknowledged that submissions may raise additional matters not anticipated at the time of notification.

1.5 Key Changes Proposed

1. Key proposals in PC 10 are summarised in the Section 32 Report as follows:

   1. **Visitor Accommodation:** Delete the operative Tourist Accommodation definition and replace it with the National Planning Standards definition of Visitor Accommodation, with Bed and Breakfast and Holiday Rental Accommodation continuing to be separately defined and managed.

   2. **Other Residential Activities:** Introduce new discretionary activity provisions for residential activities not otherwise expressly provided for in the Residential, Commercial and City Centre Zones, and remove non-comply activity default status

   3. **Community Housing:** Replace the operative definition, remove the eight-person limit from the definition itself, provide for Community Housing accommodating up to eight persons as a permitted activity and more than eight persons as a discretionary activity,

and add reference to public safety to the Residential Zone objectives applying to non-residential activities.

4. **City Centre default activity status:** Change the default status for activities not expressly listed in the City Centre 1 and 2 Zones from permitted to discretionary.

5. **Boundary Adjustment:** Insert the National Planning Standards definition of Boundary Adjustment and associated rule refinements.

6. **Site definition:** Insert part of the National Planning Standards definition of site.

7. **Industrial Activity:** introduction of the National Planning Standards definition of Industrial Activity.

8. **Home-based Business:** Replace the operative definition with the National Planning Standards Home Business definition and transfer of performance standards from the existing definition into the relevant rules;

9. **Reversing onto Rights of Ways:** insert clear provisions to allow rights of ways and private ways to be used for on-site turning of vehicles.

10. **Wireless telecommunications:** to amend the provisions to provide for other forms (wireless) of telecommunication services.

2. PURPOSE AND CONTEXT

2.1 Purpose of the Plan Change

1. The Section 32 Report explains that PC10 is intended to improve the clarity, consistency and usability of the Operative Rotorua District Plan by refining existing definitions and introducing or amending rules and performance standards.

2. A significant part of the rationale for PC10 arises from implementation experience. In several cases, the wording or structure of existing provisions has required interpretation beyond what should reasonably be necessary for routine plan administration or has produced activity-status outcomes that are inconsistent between zones.

3. The housing and accommodation provisions provide a particular example. Application of the operative Tourist Accommodation and Community Housing definitions highlighted uncertainty about the distinction between temporary visitor accommodation, residential occupation, supported accommodation and communal or shared forms of housing. The Section 32 Report identifies these issues as generating uncertainty and inconsistent regulatory outcomes.

4. PC10 therefore seeks to improve the District Plan framework without undertaking a wider reconsideration of the underlying strategic direction of the Plan.

2.2 District Plan Context

1. Development in Rotorua is managed through the Rotorua District Plan, most of which became operative on 10 July 2016 following a full review. In July 2021, the District Plan was restructured to align with the National Planning Standards. The Plan has also been amended through a number of plan changes, most recently PC 9 – Housing for Everyone, which was notified in

August 2022 and introduced the Medium Density Residential Standards (MDRS) and PC 8 which was notified in July 2025 and amended the provisions relating to natural hazards.

2. The District Plan includes the Lakes A Zone, which applies to land surrounding the Rotorua lakes, as shown in Figure 2.2.1. The Lakes A Zone provisions were developed in the late 1990s and early 2000s and made operative in 2005, earlier than much of the remainder of the District Plan and were incorporated as a discrete planning framework. As a result, the Lakes A Zone contains its own objectives, policies and rules, and has not been comprehensively updated through subsequent plan changes or at the time of the 2021 restructuring. PC 10 does not propose any changes to the Lakes A Zone.

3. Several of the housing and accommodation matters addressed by PC10 have arisen against the background of significant changes in the way existing accommodation has been used in Rotorua.

4. In particular, the widespread use of motels and other visitor accommodation for emergency housing brought the interpretation of the operative Tourist Accommodation definition into focus. The operative definition required accommodation to be temporary and not the guest's normal place of residence. The Section 32 Report records Council's interpretation that emergency housing falls outside that definition where the accommodation becomes the resident's normal place of residence.

5. The review also identified an anomaly in the operative Tourist Accommodation definition through the inclusion of boarding houses and similar forms of accommodation that may, in practice, operate as a person's principal place of residence. The District Plan otherwise contains limited express provision for boarding houses and other forms of communal or shared residential accommodation.

6. The same implementation experience highlighted related issues with the existing Community Housing provisions. The operative definition incorporated a maximum occupancy of eight persons, included emergency housing and rehabilitation centres, and excluded facilities where residents' movement was legally restricted. Questions arose about the intended nature of the care or support required, the meaning and scope of the exclusion, whether more than one community housing residence could occur on a site, and the consequence of the eight-person threshold.

2.3 Statutory and Planning Context

1. The Section 32 Report provides a summary of the legislative and planning context for PC 10, including the relevant provisions of the RMA and Iwi Management Plans, which we continue to support.

2. As of 18 September 2026, there are no relevant changes to the legislative framework.

2.3.1 "Plan Stop" Amendment to the RMA

1. The Resource Management (Consenting and Other System Changes) Amendment Act 2025 introduced a "Plan Stop" amendment, restricting notification and decisions on most RMA plan changes from August 2025, pending introduction of the new resource management system. Council applied to the Minister for RMA Reform, the Honourable Chris Bishop, and has been granted an exemption to proceed with P C 10 in accordance with section 80W(2)(b) of the Resource Management Act 1991. RLC gave public notice that PC 10 was exempt from the "plan stop" provisions with its notification for submissions in February 2026.

2.3.2 The Plan Change Process

1. PC 10 is a standard district plan change prepared and processed in accordance with Schedule 1 of the RMA.

2. The table below summarises the key statutory steps and associated timeframes undertaken following the public notification of PC 10.

Step	Date
Public Notification for Submissions (clause 5, Schedule 1 RMA).	21 February 2026
Submissions Period Closed (clause 6, Schedule 1, RMA).	23 March 2026
Public Notice of Submissions & Opportunity for Further Submissions.	4 April 2026
Further Submissions Period Closed (clause 8 and 8A, Schedule 1, RMA) Closed	20 April 2026

2.4 Consultation and Engagement

1. Due to the nature and scale of PC 10 engagement occurred in response to submissions on the housing and accommodation provisions.

2. In particular, Council officers and the reporting planners met with representatives of Kāinga Ora – Homes and Communities (Kāinga Ora), Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD), and Ara Poutama Aotearoa – Department of Corrections (Ara Poutama) to better understand the practical implications of the notified provisions and to identify whether areas of disagreement could be narrowed.

3. This engagement focused principally on:

    - the proposed addition of public safety to Residential Zone objectives;
    - the scope and wording of the Community Housing definition;
    - the activity status for Community Housing accommodating more than eight persons;
    - the proposed “Other Residential Activities” provisions; and
    - the relationship between Visitor Accommodation, residential activity and emergency housing.

4. A without-prejudice discussion paper was subsequently prepared to test possible alternative drafting approaches. The paper did not represent a final Council position but assisted in identifying the areas where the notified provisions could be refined in response to submissions.

5. Further discussion also occurred internally with Council’s Building Team regarding the separate Building Act implications that may arise where visitor accommodation is converted to residential use. Council’s Building Team confirmed that Building Act change-of-use requirements may be triggered in some circumstances and that this is a separate issue from District Plan activity status.

6. Discussions were also held between Council officers, the reporting planner and planners from Stratum Consultants, McKenzie and Co Consultants Ltd (MCCL), Luke Nelson and Hao Boutique Hotel Group.

7. The outcomes of this engagement are considered in the relevant submission evaluations in Section 3 of this report.

2.5 Overview of Submissions

1. A total of 27 original submissions were received on PC 10, including one late submission (accepted on 7 Apri 2026).
2. Five further submissions were received, from HUD, Kainga Ora, Ara Poutama, Hao Boutique Hotel Group and MCCL.
3. Submissions addressed all the topics within PC10. The housing and accommodation provisions attracted a significant level of detailed comment, particularly from central government housing and justice agencies, accommodation-sector interests, planning consultants and community interests.
4. The principal matters raised in relation to the topics addressed by Craig Batchelar were:
    - whether the National Planning Standards Visitor Accommodation definition appropriately distinguishes visitor accommodation from residential occupation and emergency housing;
    - whether the proposed "Other Residential Activities" provisions are sufficiently certain and whether discretionary activity status is justified;
    - whether the notified Community Housing definition appropriately distinguishes supported residential living from institutional or care-based activities;
    - whether Community Housing accommodating more than eight persons should be discretionary, restricted discretionary or permitted in particular zones;
    - whether public safety is an appropriate RMA matter to include within Residential Zone objectives; and
    - whether the plan provisions appropriately manage the environmental effects of supported, communal and emergency accommodation without regulating activities by reference to the identity, legal status or personal circumstances of occupants.
5. These matters are addressed by topic in Section 3.
6. The principal matters raised in relation to the topics addressed by Jason Ward were:
    - Whether the boundary adjustment rules appropriately specifically manage lifestyle lots or whether the existing rule already provides suitable assessment criteria.
    - Whether there should be additional assessment criteria for fragmentation in particular nutrient discharge implications, catchment-level effects, reverse sensitivity impacts and protection of density circumvention;
    - Whether the amended boundary adjustment criteria are sufficiently certain, in particular the activity status and assessment criteria for the creation of a lifestyle sized lot;
    - Include reference to "sites" in place of "allotments"
    - Delete the word "relocation"
    - Adopt the National Planning Standard for "site" in full;

- Whether the sale of goods from a home-based business should be provided for as a permitted activity;
- Also remove the requirement for gas reticulation;
- Whether the plan provisions should require hard wired telecommunications to be impracticable or provide the user with the choice.

7. The principal matters raised in relation to the topics addressed by Kayley Simmonds were:
   - Whether the sale of goods from a home-based business should be provided for as a permitted activity;
   - Whether the plan provisions should require hard wired telecommunications to be impracticable or provide the user with the choice.
   - Also remove the requirement for gas reticulation;
8. These matters are addressed by topic in Section 3.

3. EVALUATION OF SUBMISSIONS

3.1 Evaluation Requirements

Schedule 1 – Decision-Making on Submissions

1. PC 10 is processed under Schedule 1 of the RMA. Under Clauses 10 and 29, the Hearings Commissioner must consider all submissions and further submissions and make decisions confined to matters raised, with reasons provided for accepting or rejecting submissions.

Sections 32 and 32AA – Evaluation

2. PC 10 was informed by an evaluation of efficiency, effectiveness, costs and benefits under section 32 undertaken prior to notification. In considering submissions, the Hearings Commissioner must also have regard to section 32AA, which requires a further evaluation where changes to the notified proposal are more than minor or materially different.
3. Section 32AA matters are addressed in this report through the evaluation of submissions and recommended amendments set out below. Appendix 2 also sets out, in table format, an evaluation against section 32AA for key recommendations that differ from the proposal notified for submissions.

National and Regional Policy Direction

4. Under section 75(3), district plans must give effect to relevant National Policy Statements (NPSs) and the applicable Regional Policy Statement(s) (RPSs) and where appropriate the National Planning Standards that provides nationally consistent definitions where they do not alter the effect or outcomes of the district plan.

Purpose, Principles and Functions

5. All submissions must ultimately be assessed against the purpose of the RMA in section 5, with regard to sections 6, 7 and 8, and be within the scope of the Council's functions under section 31. The submissions have also been assessed against the relevant objectives and policies of the District Plan. These matters are addressed, where relevant, within the evaluation of individual submission points, principally through consideration of relevant national and regional direction.

3.2 Visitor Accommodation

3.2.1 Existing Approach and Proposed Amendments

1. The Operative District Plan defines "Tourist Accommodation" as temporary accommodation for paying guests where the accommodation is not their normal place of residence. The definition includes a range of specified accommodation types, including motels, hotels, boarding houses, private hotels, guest houses, backpacker lodges and youth hostels.

2. Implementation of the definition has identified two principal issues. First, the term "tourist" does not accurately describe all persons who use short-term commercial accommodation. Secondly, the inclusion of boarding houses and some other accommodation types is difficult to reconcile with the requirement that the accommodation is not the occupant's normal place of residence. The Section 32 Report discusses these issues in detail. (Rotorua Lakes Council Plan Change 10 Section 32 Report paragraph 3.2).

3. PC10 proposes to delete the Tourist Accommodation definition and replace it with the National Planning Standards definition of Visitor Accommodation and also add an exclusion for Bed and Breakfast and Holiday Rental Accommodation, as these activities are separately defined and managed under the District Plan

> *Visitor Accommodation means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.*
>
> *Visitor Accommodation excludes Bed and Breakfast and Holiday Rental Accommodation.*

3.2.2 Evaluation of Matters Raised in Submissions

Submissions

1. Kāinga Ora supports adoption of the Visitor Accommodation definition as notified, noting its consistency with the National Planning Standards. Hao Boutique Hotel Group also supports the change in principle but seeks examples of the ancillary activities that may form part of visitor accommodation. (S_23_03), (S_25_01)

2. Ngāti Pikiao Environmental Society supports greater definitional certainty but seeks express clarification that emergency or transitional housing and occupation extending beyond 28 consecutive days are not Visitor Accommodation. The Society also seeks confirmation that boarding houses are residential activities. (S_10_02)

3. Central government submitters have raised the converse concern. In subsequent engagement, HUD questioned whether emergency housing use of otherwise conventional visitor accommodation should necessarily be characterised as residential activity and that similar environmental effects should be subject to similar planning controls. (F_28_01)

4. Other submissions seek a more proportionate response to different accommodation types. Submissions from Mikail Nicolaas Steens seeks clearer differentiation between commercial visitor accommodation and small-scale owner-occupied short-stay accommodation, while Lauren James seeks a planning framework that does not impose a greater regulatory burden on supported or community housing than on visitor accommodation. (S_11_01)

Evaluation

5. I continue to support the replacement of the definition of Tourist Accommodation with Visitor Accommodation. The National Planning Standards definition is concise, nationally consistent

and avoids the internal contradiction created by expressly including boarding houses and other accommodation that may constitute the occupants' normal place of residence.

6. A more difficult issue is whether emergency housing falls within the Visitor Accommodation definition. In my view, that is primarily an issue of activity classification rather than comparative environmental effects. The fact that two activities may generate similar effects does not determine whether they fall within the same defined term.

7. The relevant question under the proposed definition is whether the premises are being used for accommodating visitors. Where a person occupies premises as their place of residence because they have no other accommodation, there is a significant question whether that person is properly characterised as a "visitor" in the ordinary meaning of that term. In my view, the Ministry position tends to answer an effects question when the threshold issue is one of definition and activity characterisation.

8. RLC is actively enforcing non-compliant use of motels for emergency housing.

9. I do not recommend inserting an express provision to address emergency housing use of Visitor Accommodation, a fixed 28-day threshold under the Visitor Accommodation definition or including examples of ancillary activities.

10. Emergency housing is not, in itself, a land use capable of meaningful definition for District Plan purposes. It is a social policy and funding concept that may change over time and may be delivered through a range of different accommodation arrangements. The planning task is therefore to classify the actual use of land and buildings by reference to its factual characteristics.

11. Occupation of visitor accommodation can occur in a range of circumstances, and an arbitrary duration threshold would create its own interpretation and boundary issues.

12. Additional provisions or qualifiers within the definition would also move away from the consistency of using the definition provided in the National Planning Standards. This would only be justified if there were specific local issues that applied that differentiated Rotorua from other jurisdictions. I don't think this is the case here.

13. I have considered adding general visitor-accommodation management standards that were suggested through engagement with submitters. However, those provisions could only apply prospectively to new Visitor Accommodation activities. They would not apply retrospectively to the existing motel stock that gave rise to the principal Rotorua emergency housing concerns.

14. Some of the suggested standards would also be difficult to administer as permitted activity standards because they rely on broad requirements to avoid, remedy or mitigate effects rather than measurable performance standards.

15. In my view, a practicable alternative is to provide a clear pathway where part of an existing visitor accommodation site is to be converted to a residential use.

16. The District Plan already provides a framework in Residential Zones through RESZ-R8 that enables conversion (i.e. a change of use) of visitor accommodation to residential units as a restricted discretionary activity. The equivalent Commercial Zone and City Centre provisions go even further and enable the conversion of any building to residential units as a restricted discretionary activity.

17. I recommend that the Residential Zones provisions be amended to permit conversion of up to three visitor accommodation units on a site to residential units, subject to compliance with the applicable residential performance standards and a mechanism for confirming compliance

before the change of use occurs. Conversion of four or more units, or conversion that does not comply with the relevant standards, would remain subject to the current restricted discretionary consent pathway.

18. The three-unit threshold aligns with the structure of the residential intensification provisions, where three residential units are permitted, while four or more residential units trigger a higher level of assessment as a Restricted Discretionary Activity.

19. This approach would not require determination of whether a particular use is or isn't Visitor Accommodation. It provides a practical alternative where the factual use of accommodation is residential in character.

20. It is arguable that the District Plan already permits the conversion of up to three Visitor Accommodation units to residential units under Rule RESZ-R3. However, Rule RESZ-R8 is a more specific rule dealing expressly with the conversion of Visitor Accommodation to residential units and would ordinarily prevail over the more general residential activity provision. The recommended amendment would remove that interpretive uncertainty.

21. I also note that a change from visitor accommodation to residential occupation may separately engage Building Act change-of-use requirements. Those requirements are administered independently of District Plan activity status and do not need to be duplicated in the planning provisions. However, an Advice Note may be of value such as:

    Advice Note: A change from Visitor Accommodation to residential use may constitute a change of use under the Building Act 2004. Building Act requirements apply independently of the activity status under this rule.

    Advice Notes are a drafting technique already used sparingly in the District Plan to alert plan users to relevant requirements or provisions outside the immediate rule framework.

22. I consider the recommended amendment to RESZ-R8 is within the scope of PC10 and the submissions.

23. PC10 expressly addresses the distinction between Visitor Accommodation and residential occupation, and submissions raised uncertainty about when accommodation ceases to be visitor accommodation and the planning consequences of that change. The recommended amendment does not introduce a new planning issue; it refines an existing conversion rule to provide a clearer and more proportionate pathway where Visitor Accommodation is converted to residential use, consistent with the plan change's purpose of improving certainty, effectiveness and efficiency.

3.2.3 Recommendation

1. I recommend that the National Planning Standards definition of Visitor Accommodation be retained as notified, without an express emergency housing exclusion or occupation-duration test or other amendments.

2. I recommend that the relevant Residential Zone conversion rules be amended to provide for conversion of up to three Visitor Accommodation units on a site to residential units as a permitted activity where the applicable performance standards are met, with conversion of four or more units remaining restricted discretionary as set out below:

RESZ-R8	Conversion of ~~tourist~~ visitor accommodation to residential units		[4.5(11)]
Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	1. **Activity Status**: Permitted Where: a. There are no more than 3 residential units per site. b. Prior to commencement of the residential use, the owner or occupier has provided the Council with information demonstrating compliance with the applicable performance standards. Performance Standards: a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-S6A. g. Residential 4 Zone: Reflectivity RESZ-S6.	2. **Activity Status**: Restricted Discretionary **Where:** a. There are no more than 3 residential units per site. b. Compliance is not achieved with the performance standards for RESZ-R8(1). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the 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; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Natural hazards RESZ-MD1; and d. Financial contributions RESZ-MD2.	
Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	3. **Activity Status:** Restricted Discretionary Where: There are four or more residential units per site. **Performance Standards:** a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; and f. Design and landscaping RESZ-S6A; and g. Residential 4 Zone: Reflectivity RESZ-S6. **Matters of Discretion:** a. As for Four or more residential or rest home units RESZ-MDB;	4. **Activity Status:** Restricted Discretionary **Where:** a. There are four or more residential units per site. Compliance is not achieved with the performance standards for RESZ-R8(3). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the 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; b. Residential units and rest homes – specific non-compliance matters RESZ-MDA; c. As for Four or more residential or rest home units RESZ-MDB; d. Natural hazards RESZ-MD1; and	

	b. Natural hazards RESZ-MC5; and **c.** Financial contributions RESZ-MC6.	e. Financial contributions RESZ-MD2.
Advice Note: *A change from Visitor Accommodation to residential use may constitute a change of use under the Building Act 2004. Building Act requirements apply independently of the activity status under this rule.*		

3.3 Boarding Houses, Shared Housing and Other Residential Activities

3.3.1 Existing Approach and Proposed Amendments

1. The District Plan defines Residential Activity as the use of land and buildings for people's living accommodation and defines a Residential Unit by reference to occupation exclusively by one household.
2. The Section 32 Report identified a gap for residential accommodation that does not neatly fit the Residential Unit definition, including boarding houses, shared housing, student-style accommodation and other forms of living with shared facilities. In most zones, an activity that is not expressly stated defaults to non-complying activity status.
3. PC10 responds by introducing new rules for "Other Residential Activities not expressly stated in this table", with discretionary activity status in the Residential, Commercial and City Centre Zones.

3.3.2 Evaluation of Matters Raised in Submissions

Submissions

1. Kāinga Ora opposes RESZ-R8A on the basis that the broad catch-all could capture activities that are residential in nature and should be permitted. It seeks deletion of the rule and specific identification of any activities Council considers require greater control. (S_23_05)
2. Ara Poutama takes a similar position in relation to the Residential, Commercial and City Centre provisions. It considers that generic discretionary activity status is not justified by reference to identifiable environmental effects and seeks deletion of the rules or, alternatively, permitted activity status. HUD supports that approach. (FS_23_05),
3. Ngāti Pikiao supports the additional oversight provided by discretionary status but seeks additional assessment criteria addressing infrastructure capacity, lake catchment effects, cumulative concentration and cultural effects. (S_10_02)
4. Stratum Consultants Ltd supports provision for Other Residential Activities in the City Centre but seeks removal of the ground-floor qualification. Kāinga Ora and HUD oppose that submission on the basis that it does not address the underlying breadth and uncertainty of the rule. (S_12_02)

Evaluation

5. I remain of the view that there is a gap in the District Plan for residential accommodation that does not neatly fit the Residential Unit definition. I am less persuaded, following submissions, that the proposed Discretionary Activity catch-all is the best way of addressing that gap.

6. Although intended as a simple way to avoid the default to non-complying, "Other Residential Activities not expressly stated" does not describe an identifiable activity. Its practical application first requires a decision that an activity is residential in nature, followed by a second conclusion that it does not fall within another listed residential activity. It consequently risks capturing forms of ordinary residential occupation simply because the household or accommodation arrangement does not correspond neatly with a defined Residential Unit.

7. This outcome would be inconsistent with the objective of improving certainty and could create unnecessary consenting requirements for housing arrangements that have no materially different land-use effects. While Discretionary Activity status is more appropriate than the current non-complying default, I agree this is disproportionate to the level of effects that may arise, which are readily identifiable.

8. I therefore support a more targeted provision. The principal gap identified in the Section 32 Report concerns accommodation where sleeping accommodation is occupied separately, and residents share facilities such as kitchens, bathrooms or living areas. Boarding houses are the clearest example.

9. My recommended approach is therefore to replace the broad "Other Residential Activities" rules with provisions specifically addressing "Shared Residential Accommodation", supported by a definition that describes the physical and operational characteristics of the activity rather than the personal characteristics of its residents.

10. A possible definition is:

> *Shared Residential Accommodation means residential accommodation occupied as the principal place of residence of occupants, where bedrooms or sleeping accommodation are occupied separately and occupants share one or more kitchen, dining, bathroom or living facilities.*

11. This would encompass conventional boarding-house, student hostels and similar co-living arrangements while distinguishing them from a Residential Unit occupied by one household, and from Community Housing where specialised care or support is integral to the primary activity.

12. I support a permitted activity aligned with the current community housing scale threshold of 8 persons, with restricted discretionary activity status for larger scale activities.

13. The matters requiring restricted discretionary assessment relate principally to scale and intensity, site layout, residential amenity, traffic and servicing, noise and other operational land-use effects. These do not require unrestricted discretion over the activity.

14. I consider the recommended Shared Residential Accommodation definition and rule framework are within the scope of PC10 and the submissions.

15. PC10 specifically sought to address boarding houses and other communal or shared residential arrangements through the notified "Other Residential Activities not expressly stated" provisions. Submitters directly challenged the breadth, certainty and activity status of those provisions and sought their deletion or a more enabling and effects-based approach. The recommended provisions narrow and better define the activity originally sought to be regulated and provide a more proportionate rule framework. They do not extend PC10 into a new subject matter.

3.3.3 Recommendation

1. I recommend that the "Other Residential Activities not expressly stated" provisions as notified not be retained in their current form.

2. I recommend a more targeted definition and new rule framework with an 8-person threshold adopted for permitted Shared Residential Accommodation, and restricted discretionary activity status for occupancy above that threshold for residential, as set out below:

Definitions:

Shared Residential Accommodation

Means residential accommodation occupied as the principal place of residence of occupants, where bedrooms or sleeping accommodation are occupied separately and occupants share one or more kitchen, dining, bathroom or living facilities.

Residential Zones:

RESZ-R8A	**Shared Residential Accommodation ~~Other Residential Activities not expressly stated in this table~~**	
Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	1. **Activity Status:** Permitted Where: a. A maximum of 8 persons (including resident staff) reside on site. **Performance Standards**: a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-S6A and g. Residential 4 Zone: Reflectivity RESZ-S6.	2. **Activity Status:** Restricted Discretionary **Where**: Compliance is not achieved with the performance standards for RESZ-R8(1). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the 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; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Natural hazards RESZ-MD1; and d. Financial contributions RESZ-MD2.
Applicable Spatial Layers Residential 1, 2, 3 and 4 Zones	**3.** ~~**Activity Status:** Discretionary~~ ~~**Assessment Criteria**~~ ~~c. General RESZ-AC1~~ **Activity Status:** Restricted Discretionary Where: More than 8 persons (including resident staff) reside on site. **Performance Standards**: a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5;	

	f. Design and Landscaping RESZ-S6A; and g. Residential 4 Zone: Reflectivity RESZ-S6. **Matters of Discretion:** a. As for Four or more residential or rest home units RESZ-MDB; b. Natural hazards RESZ – MD1 c. Financial contributions RESZ - MD21.

Commercial Zones

COMZ-R33A	**Shared Residential Accommodation ~~Other Residential Activities not expressly stated in this table~~**	
~~**Applicable Spatial Layers**~~ ~~Commercial 1, 2, 3, 4 and 6 Zones~~	~~**1.**~~ ~~**Activity Status:** Discretionary~~ ~~**Where:**~~ ~~If in Commercial Zones 1, 2, 3 or 6 Zones they are not located on the ground floor.~~ ~~**Assessment Criteria:**~~ ~~a. COMZ-AC1 General~~	
Applicable Spatial Layers Commercial 1, 2 and 4 Zones	1. **Activity Status:** Permitted **Where:** a. A maximum of 8 persons (including resident staff) reside on site. b. The activity is not located on the ground floor **Performance Standards:** a. Height COMZ-S1; b. Yards COMZ-S2; c. Commercial 4 Zone (Mountain Road): Site coverage COMZ-S3; d. Residential unit design and landscaping COMZ-S5; e. Parking, access and turning COMZ-S6; f. Glazing COMZ-S7; and g. Verandahs COMZ-S8.	2. **Activity Status:** Restricted Discretionary **Where:** Compliance is not achieved with the performance standards for COMZ-R33A(1). Matters of Discretion: a. The reason for the non-compliance with performance standards and the 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; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Natural hazards COMZ-MD4; and d. Financial contributions COMZ-MD6.
Applicable Spatial Layers Commercial 1 ~~and~~ 2 and 4 Zones	**3.** ~~**Activity Status:** Discretionary~~ ~~**Assessment Criteria**~~ ~~d. General RESZ-AC1~~ **Activity Status:** Restricted Discretionary **Where**: a. More than 8 persons (including resident staff) reside on site; and b. The activity is not located on the ground floor. **Performance Standards**: a. Height RESZ-S1;	

	b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-S6A; and g. Residential 4 Zone: Reflectivity RESZ-S6. **Matters of Discretion:** a. General COMZ-AC1. b. As for Four or more residential or rest home units RESZ-MDB;
Applicable Spatial Layers Commercial 1, 2, and 43 4 and 6 Zones	**2.** **Activity Status:** Non-Complying **Where:** The activity is located on the ground floor.
Applicable Spatial Layers Commercial 3 Zone	**Activity Status:** Discretionary **Assessment Criteria:** a. General COMZ-AC1.
Applicable Spatial Layers Commercial 5 and 6 Zones	**Activity Status:** Non-Complying

City Centre Zones

CCZ-R16B	**Shared Residential Accommodation**	
Applicable Spatial Layers City Centre 1 Zone	**1.** **Activity Status:** Permitted **Where:** a. A maximum of 8 persons (including resident staff) reside on site. b. They are not located on the ground floor where the unit has frontage to a street or public open space. **Performance Standards:** a. Height CCZ-S1; b. Yards CCZ-S2; c. Residential unit design CCZ-S4; d. Servicing CCZ-S5A; e. Parking, access and turning CCZS5; f. Glazing CCZ-S6; g. Verandahs CCZ-S7; and h. Service lanes CCZ-S8	**2.** **Activity Status:** Restricted Discretionary **Where:** Compliance is not achieved with the performance standards for CCZ – R161). **Matters of Discretion:** a. Extent to which the activity will avoid, remedy or mitigate the effects of the noncompliance on achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matters of discretion; b. How the aspect of non-compliance will reduce the amenity of the zone and affect adjacent sites; c. How the activity provides more efficient and practical use of the remainder of the site; d. Building design and site layout CCZ-MDA; e. Natural hazards CCZ-MD1; f. Residential units – specific noncompliance matters CCZ-MD2; and g. Financial contributions CCZ-MD3.

	3..	**Activity Status**: Restricted Discretionary **Where:** a. More than 8 persons (including resident staff) reside on site, and, b. The activity is not located on the ground floor where the unit has frontage to a street or public open space. **Performance Standards:** a. Height CCZ-S1; b. Yards CCZ-S2; c. Residential unit design CCZ-S4; d. Servicing CCZ-S5A; e. Parking, access and turning CCZS5; f. Glazing CCZ-S6; g. Verandahs CCZ-S7; and h. Service lanes CCZ-S8. **Matters of Discretion** a. Building design and site layout CCZ-MDA; b. Noise CCZ-MDB; c. Parking, access and turning CCZMDC; d. Natural hazards CCZ-MD1; and e. Financial contributions CCZMD3.
Applicable Spatial Layers City Centre 1 Zone	4	**Activity Status:** Discretionary **Where** a. More than 8 persons (including resident staff) reside on site, and, b. The activity is located on the ground floor where the unit has frontage to a street or public open space. **Assessment Criteria** COMZ-AC1 General
Applicable Spatial Layers City Centre 2 Zone		**Activity Status**: Non-Complying

3.4 Community Housing - Definition

3.4.1 Existing Approach and Proposed Amendments

1. The operative definition of Community Housing provides for a maximum of eight persons where some element of care or support is provided, expressly includes emergency housing and rehabilitation centres, and excludes facilities where residents' movement is legally restricted.
2. The Section 32 Report identified uncertainty about the meaning of care or support, whether the activity is limited to one place of residence per site, the effect of the eight-person threshold and the breadth of the exclusion relating to legal restrictions.

3. PC10 proposes replacing the definition with:

> *a single place of residence located on a site where specialised care or support is provided to meet the social or physical needs of residents. This definition excludes facilities where residents are subject to legal orders that restrict their freedom of movement, such as custodial care, home detention, or probation-related accommodation.*

3.4.2 Evaluation of Matters Raised in Submissions

Submissions

1. Kāinga Ora and Ara Poutama oppose the exclusion based on restrictive legal orders. Both consider that planning provisions should distinguish activities by their land-use characteristics rather than by the legal circumstances of residents. (S_23_02), (S_24_01)
2. Hao Boutique Hotel Group supports the notified definition and considers that the exclusion provides useful clarity and is consistent with the operative definition. (S_25_03)
3. Lauren James seeks a more enabling approach to community and supported housing and opposes rigid distinctions that may constrain delivery of housing for people with support needs. (S_27_01)

Evaluation

4. I remain of the view that the operative definition requires amendment. In particular, the eight-person scale threshold should sit within the rules rather than the definition, and the definition should more clearly identify what distinguishes Community Housing from an ordinary Residential Activity.
5. Following submissions, I agree that the notified exclusion relating broadly to home detention, probation-related accommodation and other legal orders is too wide. The legal status of an occupant does not, of itself, determine the land-use character or environmental effects of accommodation.
6. I nevertheless consider that there remains a valid distinction between Community Housing and facilities that are fundamentally custodial in character. The clearest way to address that distinction is by reference to a "prison" as defined under the Corrections Act 2004 rather than the legal circumstances of individual residents.
7. I also consider that the key distinction between Community Housing and ordinary supported residential accommodation is the primary purpose and functional character of the activity. The Community Housing classification should only apply to an activity where specialised care, supervision or support is the primary purpose of the establishment and operation of the residence, rather than whenever a resident happens to receive support.
8. A residential activity receiving incidental support, where that support is not the primary purpose of the activity, would fall outside the definition of Community Housing.
9. This approach avoids attempting to distinguish activities according to whether support is intermittent, permanent or delivered by a particular agency. Instead, the distinction is based on the character and primary purpose of the land use.
10. This approach is consistent with the District Plan framework that categorises Community Housing as a "community facility" rather than as a "residential activity". Other activities in the "community facilities" category are institutional/support-service land use such as hospitals and medical centres, rest homes, daycare centres, educational facilities, funeral homes and 'other' community facilities.

11. I consider the recommended amendments to the Community Housing definition are within the scope of PC10 and the submissions.

12. PC10 expressly proposed replacement of the operative definition, including removal of the eight-person threshold from the definition and a new exclusion based on restrictions on residents' freedom of movement. Submitters challenged the breadth and basis of this exclusion and sought a clearer distinction between Community Housing and ordinary residential accommodation. The recommended primary-purpose test and narrower prison exclusion therefore refine the notified definition in direct response to those submissions and remain within the subject matter opened up by PC10.

3.4.3 Recommendation

1. I recommend that the Community Housing definition be amended from the notified version to clarify the primary-purpose test and replace the broad legal-order exclusion with a narrower exclusion for prisons.

   Means a single place of residence on a site where the primary purpose of the activity is the specialised care or support services to meet the social or physical needs of residents, and where residential accommodation is secondary to that care or support purpose.

   This definition excludes any type of prison as defined under the Corrections Act 2004.

3.5 Community Housing - Activity Status and Scale

3.5.1 Existing Approach and Proposed Amendments

1. Under the Operative District Plan, the scale of Community Housing is controlled through the definition itself, which limits the activity to a maximum of eight persons, including resident staff. The consequence is that an activity accommodating more than eight persons no longer falls within the defined activity and is instead subject to the default activity status applying in the relevant zone.

2. The Section 32 Report identifies this as an inefficient way of managing scale and notes that it produces inconsistent outcomes between zones.

3. For Community Housing within the eight-person definition, the operative activity status also varies between zones. It is generally permitted in the Residential and Rural Zones, while the Commercial and City Centre provisions contain a mixture of activity status pathways depending on the particular zone and, in the City Centre, the location of the activity within a building.

4. PC10 proposes to separate the definition of the activity from the management of its scale. The eight-person limit is therefore removed from the Community Housing definition and incorporated into the relevant activity rules.

5. Community Housing accommodating a maximum of eight persons, including resident staff, is generally provided for as a permitted activity, subject to the applicable zone performance standards. Community Housing accommodating more than eight persons is proposed to require resource consent as a discretionary activity.

6. In the City Centre 1 Zone, there is no limit on the scale of permitted Community Housing. However, Community Housing located on the ground floor is a Discretionary Activity.

7. The proposed approach is intended to retain the existing enabling framework for small-scale Community Housing while providing an explicit consent pathway for larger activities, rather than

allowing them to fall into the default non-complying activity status simply because they exceed a threshold contained within the definition.

8. It also seeks to provide greater consistency in the treatment of Community Housing across the Residential, Commercial, and Rural Zones, while retaining relevant zone-specific controls, including those applying to ground-floor activities in the City Centre.

3.5.2 Evaluation of Matters Raised in Submissions

Submissions

1. Kāinga Ora supports the notified permitted activity threshold of eight persons in the Residential Zones but seeks restricted discretionary rather than discretionary activity status where more than eight persons reside on the site. HUD supports that relief. (S_23_07)

2. Kāinga Ora seeks a more enabling approach in Commercial and City Centre locations and questions whether the same eight-person threshold is necessary in zones capable of accommodating greater scale. (S_23_09)

3. Ara Poutama similarly seeks restricted discretionary status for Community Housing above eight persons across the relevant zones. (S_24_11)

4. Subsequent engagement identified that the notified and discussion-draft provisions were not fully consistent between Residential, Commercial, City Centre and Rural Zones.

5. Lauren James seeks removal or reconsideration of fixed occupancy thresholds and a greater emphasis on actual environmental effects. (S_27_01)

Evaluation

6. I support retaining the eight-person permitted activity threshold. It is an established element of the operative District Plan framework and broadly corresponds with scale limits used in other jurisdictions for supported residential activities. It also provides a clear and readily administered threshold between small-scale activity and development requiring site-specific assessment.

7. I agree that full discretionary status for more than eight residents is unnecessarily broad. The effects associated with increased scale are reasonably identifiable and can be addressed through specified matters of discretion.

8. I therefore recommend restricted discretionary activity status for Community Housing accommodating more than eight residents in zones where Community Housing is otherwise enabled.

9. The recommended refinement to the Community Housing definition is relevant to the scope of the matters of discretion. Under the proposed definition, ordinary residential activity does not become Community Housing merely because residents receive support, supervision, monitoring or rehabilitative assistance. Community Housing is confined to activities where specialised care, supervision or support is the primary purpose for operation of the residence.

10. Larger Community Housing activities may have operational and built-form characteristics that differ from ordinary residential activity. These may include greater intensity of occupation, staff and service movements, visitor activity, access and parking demand, noise, lighting, fencing, surveillance or other security infrastructure, and different site-layout requirements.

11. On that basis restricted discretion should be confined to identifiable land-use effects associated with:

- the scale and intensity of the activity and its effects on the anticipated character and amenity of the zone;
- site layout, building design, privacy and the relationship with adjoining sites;
- vehicle access, parking, servicing and the frequency and timing of staff, visitor and service-provider movements;
- noise, lighting and other operational effects;
- infrastructure servicing, where not otherwise adequately addressed by applicable performance standards; and
- the location and interface of the activity with nearby sensitive activities or places, where the physical or operational characteristics of the Community Housing activity may give rise to adverse effects on those activities or places.

12. For the final matter of discretion listed above, it is important that the assessment is directed to the characteristics and operation of the land use, rather than assumptions about the identity, background or anticipated behaviour of residents.

13. Relevant considerations could include site layout, access arrangements, fencing or security measures, supervision arrangements insofar as they affect the operation of the site, lighting, and the spatial relationship between the activity and adjoining sensitive uses.

14. I acknowledge the submissions seeking removal of the occupancy threshold in Commercial zones. Those zones are generally more tolerant of intensity, and the effects of a larger Community Housing activity may be less significant than in a Residential Zone.

15. Nevertheless, a consistent eight-person trigger provides certainty and does not mean larger activities are discouraged. Under a restricted discretionary framework, larger activities would simply require assessment against a defined and limited set of effects in a more accommodating receiving environment.

16. I consider the recommended amendments to the Community Housing activity-status framework are within the scope of PC10 and the submissions.

17. PC10 expressly proposed to regulate scale through the rules by providing for Community Housing up to eight persons as permitted and requiring discretionary consent above that threshold. Submitters directly challenged the activity status above eight persons, sought a more enabling approach in Commercial and City Centre Zones, and questioned the appropriateness of a fixed threshold.

18. The recommended restricted discretionary pathway and defined matters of discretion are therefore refinements to the notified mechanism, directed to identifiable land-use effects and a more proportionate level of assessment.

3.5.3 Recommendation

1. I recommend retaining Community Housing for up to eight persons, including resident staff, as a permitted activity.

2. I recommend changing the activity status for Community Housing accommodating more than eight persons to a restricted discretionary activity as set out below.

3. I recommend adding a matter of discretion directed to the characteristics and operation of Community Housing as set out below:

RESZ-R9	**Community housing**		*[4.5(28)]*
Applicable Spatial Layers All Residential Zones	**1.** **Activity Status:** Permitted **Where:** A maximum of 8 persons (including resident staff) on site. **Performance Standards:** a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-6A; and g. Residential 4 Zone: Reflectivity RESZ-S6.	**2.** **Activity Status:** Restricted Discretionary **Where:** Compliance is not achieved with the performance standards for RESZ-9(1). **Matters of Discretion:** a. The reason for the non-compliance with performance standards and the 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; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Four or more residential or rest home units RESZ-MDB; d. Natural hazards RESZ-MD1; and e. Financial contributions RESZ-MD2.	
Applicable Spatial Layers All Residential Zones	**3.** **Activity Status:** Restricted Discretionary **Where:** More than 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height RESZ-S1; b. Yards RESZ-S2; c. Site coverage RESZ-S3; d. Residential unit density RESZ-S4; e. Parking, access and turning RESZ-S5; f. Design and Landscaping RESZ-S6A. **Matters of Discretion:** a. As for Four or more residential or rest home units RESZ-MDB; b. Natural Hazards RESZ-MD1; c. Financial Contributions RESZ-MD2; and d. Community Housing RESZ-MD4.	4 **Activity Status:** Discretionary **Where:** Compliance is not achieved with the performance standards for RESZ-9(3).	

RESZ-MD4 Community Housing

1. The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity.

Commercial Zones

COMZ-R24	**Community housing**	*[6.5(31)]*
Applicable Spatial Layers Commercial 1, 2, and 4 Zone	**1. Activity Status:** Permitted **Where:** A maximum of 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height COMZ-S1; b. Yards COMZ-S2; c. Commercial 4 Zone (Mountain Road): Site coverage COMZ-S3; d. Residential unit design and landscaping COMZ-S5; and e. Parking, access and turning COMZ-S6. f. Glazing COMZ-S7; and g. Verandahs COMZ-S8.	**2. Activity Status:** Restricted Discretionary **Where:** Compliance not achieved with the performance standards in COMZ-R24(1) or (2). **Matters of Discretion:** a. The extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance on achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matters of discretion; b. How the degree of non-compliance will reduce the amenity of the zone and affect adjoining sites; c. How the activity provides more efficient and practical use of the remainder of the site; d. Residential units - specific non-compliance matters COMZ-MD3; e. Natural hazards COMZ-MD4; and f. Financial contributions COMZ-MD6.
~~**Applicable Spatial Layers**~~ ~~Commercial 1 and 2 Zones~~	~~**2. Activity Status:** Controlled~~ ~~**Performance Standards:**~~ ~~a. Height COMZ-S1;~~ ~~b. Yards COMZ-S2;~~ ~~c. Residential unit design and landscaping COMZ-S5;~~ ~~d. Parking, access and turning COMZ-S6;~~ ~~e. Glazing COMZ-S7; and~~ ~~f. Verandahs COMZ-S8.~~ ~~**Matters of Control:**~~ ~~g. Mitigation of adverse effects in relation to adjacent sites zoned Residential;~~ ~~h. Provision of private outdoor space and outlook, especially to the north, east or west;~~ ~~i. Building design, amenity COMZ-MC1;~~ ~~j. Natural hazards COMZ-MC2;~~	

	~~k. Parking, access and turning COMZ-MC3; and~~ ~~l. Financial contributions COMZ-MC4.~~		
Applicable Spatial Layers Commercial 1, 2 and 4 Zones	**3** **~~Activity Status:~~** ~~Discretionary~~ **~~Where:~~** ~~More than 8 persons (including resident staff) reside on site.~~ ~~Assessment Criteria:~~ ~~a. General RESZ-AC1.~~ **Activity Status:** Restricted Discretionary **Where:** More than 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height COMZ-S1; b. Yards COMZ-S2; c. Commercial 4 Zone (Mountain Road): Site coverage COMZ-S3; d. Residential unit design and landscaping COMZ-S5; e. Parking, access and turning COMZ-S6; f. Glazing COMZ-S7; and g. Verandahs COMZ-S8. **Matters of Discretion:** e. Building Design and Site Layout COMZ-MD1; f. Natural Hazards COMZ-MD4; g. Financial Contributions COMZ-MD6; and ~~**h.**~~ Community Housing COMZ MD7	4	**Activity Status:** Discretionary **Where:** Compliance is not achieved with the performance standards for RESZ-9(3).
Applicable Spatial Layers Commercial 1, 2, and 4 Zones	**2.** **Activity Status: Non-complying** **Where:** The activity is located on the ground floor.		
Applicable Spatial Layers Commercial 3 Zone	**4.** **Activity Status: Non-Complying** **Assessment Criteria:** a. General COMZ-AC1		

Applicable Spatial Layers Commercial 5 and 6 Zones	**5. Activity Status:** Non-Complying

COMZ-MD7 Community Housing

The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity.

City Centre Zones

CCZ-R17	**Community housing**	*[5.5.1(26)]*
Applicable Spatial Layers City Centre 1 Zone	**1. Activity Status:** Permitted **Where:** a. The community housing is not located on the ground floor, where the unit has frontage to a street or public open space. b. A maximum of 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height CCZ-S1; b. Yards CCZ-S2; c. Residential unit design CCZ-S4; d. Parking, access and turning CCZ-S5; e. Glazing CCZ-S6; f. Verandahs CCZ-S7; and g. Service lanes CCZ-S8.	**2. Activity Status:** Restricted Discretionary **Where:** Compliance not achieved with the performance standards in CCZ-R17(1). **Matters of Discretion:** a. Extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance on achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matters of discretion; b. How the aspect of non-compliance will reduce the amenity of the zone and affect adjacent sites; c. How the activity provides more efficient and practical use of the remainder of the site; d. Building design and site layout CCZ-MDA; e. Natural hazards CCZ-MD1; f. Residential units – specific non-compliance matters CCZ-MD2; and g. Financial contributions CCZ-MD3.
Applicable Spatial Layers City Centre 1 Zone	3 ~~**Activity Status:** Discretionary~~ ~~**Where:**~~ ~~a. The community housing is not located on the ground floor, where the unit has frontage to a street or public open space.~~ ~~B. More than 8 persons (including resident staff) reside on site.~~ ~~Assessment Criteria:~~ ~~General RESZ-AC1.~~ ~~Activity Status:~~ Restricted Discretionary **Where:**	4 **Activity Status:** Discretionary **Where:** Compliance is not achieved with the performance standards for CCZ-R17(3).

	a. More than 8 persons (including resident staff) reside on site; and b. the activity is not located on the ground floor where the unit has frontage to a street or public open space. **Performance Standards:** a. Height CCZ-S1; b. Yards CCZ-S2; c. Residential unit design CCZ-S4; d. Servicing CCZ-S5A; e. Parking, access and turning CCZS5; f. Glazing CCZ-S6; g. Verandahs CCZ-S7; and h. Service lanes CCZ-S8. **Matters of Discretion:** a. Building design and site layout CCZ-MDA; b. Parking, access and turning CCZ-MDB; c. Noise CCZ-MDC; d. Natural hazards CCZ-MD1; and e.Financial contributions CCZ-MD3. f. Community Housing CCZ-MD4.	
CCZ-MD4 The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity.		

Rural Zones

RURZ-R17	**Community housing**	*[9.5(33)]*
Applicable Spatial Layers All Rural Zones	**1. Activity Status:** Permitted **Where:** A maximum of 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height RURZ-S1; b. Yards RURZ-S2; c. Site coverage RURZ-S3; d. Residential unit density RURZ-S4; e. Parking, access and turning RURZ-S5;	**2. Activity Status:** Restricted Discretionary **Where:** Compliance not achieved with the performance standards in RURZ-R17(1). **Matters of Discretion:** a. The 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; b. The extent to which not meeting the performance standard will have reverse

	f. Reverse sensitivity RURZ-S6; and g. Parklands Estate and Ōtaramarae RURZ-S9.	sensitivity effects on existing lawful activity or existing infrastructure can be avoided, remedied or mitigated; c. The extent to which the activity adversely affects the character and amenity values of the zone; d. Natural hazards RURZ-MD1; e. Parklands Estate RURZ-MD2; and f. Financial contributions RURZ-MD3.
Applicable Spatial Layers All Rural Zones	**3. Activity Status:** Restricted Discretionary **Where:** More than 8 persons (including resident staff) reside on site. **Performance Standards:** a. Height RURZ-S1; b. Yards RURZ-S2; c. Site coverage RURZ-S3; d. Residential unit density RURZ-S4; e. Parking, access and turning RURZ-S5; f. Reverse sensitivity RURZ-S6; and g. Parklands Estate and Ōtaramarae RURZ-S9 **Matters of Discretion:** h. Natural Hazards RURZ-MD1 i. Financial Contributions RURZ-MD3 j. Community Housing RURZ-MD5.	**4 Activity Status: Discretionary** **Where:** Compliance not achieved with the performance standards in RURZ-R17(3).
RURZ MD5 The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity.		

3.6 Residential Zone Objectives - Public Safety

3.6.1 Existing Approach and Proposed Amendment'

1. PC 10 proposes to add "public safety" to objectives RESZ-O7, RESZ-O14 and RESZ-O17, which address non-residential activities in Residential Zones.
2. The proposal arose in the context of recent experience with emergency housing and concerns raised by communities about crime, disorder and other social effects. The Section 32 Report identifies these matters as part of the background to the proposed amendment.

3.6.2 Evaluation of Matters Raised in Submissions

Submissions

1. Stratum, Kāinga Ora and Ara Poutama oppose the amendment. They are concerned that "public safety" could lead to planning decisions based on anticipated behaviour, legal status or characteristics of residents rather than environmental effects arising from land use. HUD supports deletion of the proposed wording. (S_12_02), (S_23_05), (FS_24_03)

2. Ngāti Pikiao supports consideration of safety provided that it is effects-based and does not stigmatise residents. (S_10_03)

3. During subsequent engagement, an alternative formulation referring to "effects of activities on the health and safety of the surrounding environment" was tested. The central government agencies remained concerned that the wording was uncertain and could continue to introduce matters such as crime and anticipated behaviour into resource management decision-making.

Evaluation

4. There are circumstances where land-use activities can generate effects relevant to health and safety. Those effects can and should be addressed where they are identifiable resource management effects, for example traffic safety, site design, noise, hazardous activities or the interface between incompatible land uses.

5. However, I accept that the difficulty with adding the generic term "public safety" to the Residential Zone objectives is that it does not identify the land-use effect being managed. In the context in which the amendment arose, there is a possibility that it could be interpreted as extending to anticipated criminal or antisocial behaviour, or assumptions about particular groups of occupants.

6. The alternative wording tested through the discussion paper with submitters does not resolve that issue. It remains broad and adds little to the existing ability of the District Plan to manage identifiable effects on amenity, character and safety through specific rules and assessment criteria.

7. I acknowledge that "public safety" is already referenced in the Commercial Zone objectives and policies. That was part of the rationale for proposing equivalent wording in the Residential Zone objectives.

8. On further consideration, consistency of terminology between zones is not, by itself, sufficient justification for the amendment. Further, in the Commercial Zones, references to safety sit within a broader policy framework concerned with the design and operation of commercial centres, public spaces, streets, pedestrian activity and the efficient functioning of the transport network. In the commercial context, the safety outcome is therefore connected to identifiable land-use and urban-design related effects

9. I therefore consider that the operative wording of the objectives should be retained.

3.6.3 Recommendation

1. I recommend that the proposed addition of "public safety" to RESZ-O7, RESZ-O14 and RESZ-O17 be deleted and the operative wording retained.

3.7 Default Activity Status - City Centre 1 and 2 Zones

3.7.1 Existing Approach and Proposed Amendment

1. Under operative rule CCZ-R1, an activity not expressly listed in the City Centre 1 and 2 activity tables is permitted, subject to compliance with the applicable performance standards.

2. PC10 proposes to change the default to discretionary activity status with assessment against CCZ-AC1.

3. The Section 32 Report records that the operative permissive framework was deliberate and intended to support flexibility, investment and a diverse range of activities in the City Centre. The proposed change was prompted by implementation experience with some unanticipated activities and concerns that built-form standards alone did not provide adequate control over all potential activity effects.

3.7.2 Evaluation of Matters Raised in Submissions

Submissions

1. Stratum opposes the amendment and seeks retention of the permitted default. It considers the City Centre should remain enabling and that the proposed change would create consenting cost, delay and uncertainty without a sufficiently demonstrated problem. It suggests that activities of concern should instead be specifically identified and regulated. Kāinga Ora supports that submission. (S_12_03)

2. HUD also supports retention of the permitted default and considers that a blanket discretionary rule is not supported by sufficiently targeted effects-based analysis. (F_28_32)

3. Hao Boutique Hotel Group supports Stratum's relief and raises similar concerns regarding the breadth of the change and its relationship with other City Centre provisions. (S_25_04)

Evaluation

4. On further consideration, I am not persuaded that the notified amendment to CCZ-R1 is necessary or sufficiently beneficial to justify changing the default activity status from permitted to discretionary.

5. The proposal was developed in part in response to implementation issues associated with accommodation activities, including the use of backpacker and other central city accommodation premises for residential accommodation including emergency housing. This is proposed to be addressed by other changes in P C 10.

6. However, changing the default activity status will have limited practical effect on those issues where the relevant activities are already established or have an existing planning history. New provisions are not retrospective.

7. The recommended provisions for "Shared Residential Accommodation" in the City Centre Zone will provide appropriate performance standards and assessment criteria for the establishment of any new activities of this type.

8. The range of activities expressly provided for in the City Centre 1 and 2 Zones is otherwise already extensive. The Section 32 Report itself acknowledges that unspecified activities are likely to be rare and unusual.

9. In that context, the additional regulatory control provided by a discretionary default is likely to be used infrequently.

10. I am also concerned about the broader signal sent by the change. CCZ-I1 expressly describes a permissive regulatory environment as part of the means of encouraging development, reducing vacancy and enabling a diverse range of activities in the City Centre.

11. A change from permitted to discretionary status for all unspecified activities appears, on its face, to be a substantial tightening of that framework. Its practical effect is considerably less significant because so many activities are already expressly provided for, but that distinction will not necessarily be apparent to investors and developers considering the planning framework.

12. The proposed change risks creating a perception of a more restrictive City Centre planning environment for relatively little regulatory benefit.

13. If experience identifies a particular activity that generates effects not adequately managed by the existing framework, I agree that the better response is to identify and regulate that activity directly rather than impose a discretionary default on the small residual category of activities not otherwise listed.

3.7.3 Recommendation

1. I recommend that the notified amendment to rule CCZ-R1 not proceed and that the operative permitted activity default for activities not expressly listed in the City Centre 1 and 2 Zones be retained.

3.8 Boundary Adjustments

3.8.1 Existing Approach and Proposed Amendments

1. The Operative District Plan does not have a definition of boundary adjustment. The boundary adjustment is defined through the rule framework. This, combined with the existing standards, has caused confusion in interpretation for plan users.

2. The issue with the implementation of boundary adjustment stems from when a lifestyle sized lot is being created, where pre-boundary adjustment, there were no entitlements to lifestyle lots. The District Plan provides for lifestyle lots (allocations) through a variety of mechanisms based on age and size of title and if not through that mechanism then through environmental enhancement – such as land use change within the Lake Rotorua Catchment, protection of Significant Natural Areas, riparian planting etc.

3. PC 10 proposed to:

a. Provide the National Planning Standards definition of Boundary Adjustment as follows:

Boundary adjustment means a subdivision that alters the existing boundaries between adjoining allotments, without altering the number of allotments.

b. Add clarification to the boundary adjustment performance standards.

SUB-S11 Boundary adjustments

1. The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries between adjoining lots except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d). Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:

a. No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created; and

b. The adjustment or relocation of boundaries shall leave the resulting Computer Register (Certificate of Title) with similar areas to that existing prior to subdivision; and

c. The adjustment or relocation of boundaries shall not increase the degree of noncompliance of any existing Computer Register (Certificate of Title) or lease area, with the site design performance standards contained in this part for the zone.

d. In rural zones, the adjustment or relocation of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.

3.8.2 Evaluation of Matters Raised in Submissions

Submissions

1. Submitters generally support the addition of a definition (Luke Nelson; Stratum Consultants Ltd; Hamiora Werahiko, Kainga Ora; Ngāti Pikiao Environmental Society). Other submitters do support but want changes to the definition. MCCL support the definition in part. MCCL seeks that the words "allotment" are replaced with "site". (S_04_04), (S_12_05), (S_18_04), (S_23_01), (S_10_05), (S_22_01),
2. There is general agreement with providing more certainty in the processing of rural subdivisions by way of boundary adjustments.
3. The areas of contention are summarised as follows:
    1. Whether introducing a "lifestyle lot" sized lot through a boundary adjustment is still an adjustment, or whether this should be assessed against the lifestyle lot provisions;
    2. Activity status for these types of boundary adjustments;
    3. Whether the notified provisions create more certainty or increase the degree of uncertainty.

4. Submitters MCCL, Stratum, Luke Nelson all raise issues with singling out lifestyle lots within the standards for boundary adjustments and that this will cause more uncertainty. Their view is that where a subdivision is a boundary adjustment there is already scope to address the effects without including additional standards pertaining solely to lifestyle lots. In their view all standards have equal standing (MCCL submission). Further, MCCL is of the opinion that boundary adjustments are inherently different from other subdivisions as they involve reciprocal exchanges of land between existing titles. The discretionary activity status then applies and allows for all effects to be assessed.

Evaluation

5. I continue to support the National Planning Standards definition. This definition is concise, nationally consistent and avoids having the rule also acting as a definition. By including a definition this will allow boundary adjustments to continue to be boundary adjustments when they do not comply with all of the performance standards. There is agreement with the submitters to this approach.
6. The principal issue in contention is whether the boundary adjustment standards and activity status provides sufficient scope for Council to assess all effects when a proposal does not comply with all of the standards - in particular relating to the creation of a lifestyle lot where one did

not exist prior to the boundary adjustment. The District Plan provides a pathway to create a lifestyle lot – through either an existing entitlement or by creating an entitlement through environmental enhancement. The objectives and policies provide the direction for this method and they are strong on environmental enhancement, particularly improving lake water quality.

7. To assist with the understanding of how rural subdivisions are assessed under the District Plan a subdivision of a single lot in the rural zone starts as a Discretionary Activity. Where there is no lifestyle lot allocation the subdivision defaults to non-complying. However, a rural boundary adjustment starts as a Controlled Activity and becomes a Discretionary Activity where a performance standard is not met. Further, there is a general expectation, via the objectives and policies, that rural subdivision will provide positive environmental benefits. There has been considerable debate between planners acting for rural landowners and planners processing resource consents. The debate centres around whether a boundary adjustment that introduces a lifestyle lot to the environment should include positive effects, such as improvements to water quality.

8. The notified version attempts to address this issue. In evaluating the submissions, the question is whether this notified version achieves the purpose of clarifying the rules to achieve consistent administration of the District Plan. Also, whether lifestyle lots need to be further addressed by the standards for the creation of lifestyle lots or should be addressed by the Discretionary Assessment criteria.

9. In my opinion, the District Plan provides an 'easier' (Controlled Activity) pathway for subdivision where it is adjusting the boundary between two existing adjoining lots (records of title). This is intended to align with the limited effects associated with the boundary adjustment. However, Where there is potential to introduce additional effects (additional development rights / change in character) the activity status changes to Discretionary to allow for greater assessment. Whether or not this includes positive effects is a matter of assessment taking into account the particular circumstances and scale of effects. That said, it has been confirmed through a notified resource consent application that a boundary adjustment that creates a lifestyle sized lot is not and cannot be assessed against the full subdivision performance standards for the creation of lifestyle lots. I note that this is not always and issue, but it is an issue where the effects are significantly changing through the boundary adjustment.

10. The following boundary adjustment performance standard applies to Rule SUB-R26 in the Operative District Plan:

    SUB-S11 Boundary Adjustment

    1. *The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries between adjoining lots. Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:*
        a. *No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created; and*
        b. *The adjustment or relocation of boundaries shall leave the resulting Computer Register (Certificate of Title) with similar areas to that existing prior to subdivision; and*
        c. *The adjustment or relocation of boundaries shall not increase the degree of non-compliance of any existing Computer Register (Certificate of Title) or lease area, with the site design performance standards contained in this part of the zone.*
        d. *In rural zones, the adjustment or relocation of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.*

11. P C 10 proposed the following underlined insertion:

SUB-S11 Boundary adjustments

2. *The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries between adjoining lots, except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d) . Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:*
    - e. *No additional lots or lease areas for which a Computer Register (Certificate of Title) can be issued shall be created; and*
    - f. *The adjustment or relocation of boundaries shall leave the resulting Computer Register (Certificate of Title) with similar areas to that existing prior to subdivision; and*
    - g. *The adjustment or relocation of boundaries shall not increase the degree of non-compliance of any existing Computer Register (Certificate of Title) or lease area, with the site design performance standards contained in this part of the zone.*
    - h. *In rural zones, the adjustment or relocation of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.*

12. However, submissions from (MCCL, Luke Nelson, Stratum Consultants) raised the fact that the above inserted additional wording conflicts with the purpose of a boundary adjustment. While I understand why they may form that view, I remain of the opinion that at times Council may need to consider further assessment criteria for boundary adjustments that increases the degree of non-compliance and therefore effects.

13. The rule and standards need to provide a pathway to an easy and efficient method of achieving a boundary adjustment. I am of the opinion that the rules achieves this, where the effects are similar in intensity and scale. The standards are aimed at ensuring that the effects are similar before and after the boundary adjustment. Where a performance standard is not met, the application defaults to a Discretionary Activity. By virtue of a Discretionary Activity, the scope is not limited and any resource management effect associated with the non-compliance can be assessed. If for example a boundary adjustment results in a lifestyle sized lot, where one did not existing pre-subdivision, the effects can be fully assessed. Put another way, it is the effects of the non-compliance that needs to be assessed, not whether the adjustment can comply with other standards or not.

14. While the above is consistent with the legal tests for a Discretionary Activity, this has often led to difference of opinions between processing planners and those planners for applicants. I understand, from discussions with current consent planners and through my experience as a decision maker, that the difference of opinion stems from the applicable assessment and whether the decision should require some form of positive effects for a boundary adjustment.

15. This difference of professional opinion has often led to the inefficient processing of resource consents.

16. Having prepared the relevant sections of the Section 32 report, interviews with consent processing staff and reviewing the submissions I offer the following planning observations:

    a. That either the existing provisions of SUB-S11 or those within the notified version of SUB-S11 allows the consent planner to consider positive effects as part of the decision making under Section 104 of the Resource Management Act. Whether the proposal needs to include positive effects is a matter of professional judgement based on the level of effects.

The objectives and policies provide the ability for an application for a Discretionary Activity to assess the effects on water quality and other environmental factors.

b. The current framework of SUB-S11 is proving problematic for both Council and consultant planners.

c. There is the opportunity to provide greater certainty through P C 10. This may be in the form of a new Restricted Discretionary Activity Rule and assessment criteria (matters of discretion) for those boundary adjustments that increase the areas of non-compliance and / or create a lifestyle sized lot where an allocation was not previously available.

3.8.3 Recommendation

17. Having considered the submissions, evidence of Mrs Lorelle Barry, and the purpose of this plan change, I recommend retaining the clause added in the notified provisions to SUB-S11 as shown in red below. (Note: I have also recommended additional changes to remove "computer register" and replace with "record of title" consistent with the proposed amendments to the definition of Site.

The subdivision standards for the zone shall not apply to subdivision undertaken for the adjustment of boundaries between adjoining lots, except that the subdivision standards shall apply when compliance is not achieved with SUB-S11(1)(d). Subdivision undertaken for the purposes of a boundary adjustment shall comply with the following:

i. No additional lots or lease areas for which a record of title ~~Computer Register (Certificate of Title)~~ can be issued shall be created; and

j. The adjustment or relocation of boundaries shall leave the resulting record of title ~~Computer Register (Certificate of Title)~~ with similar areas to that existing prior to subdivision; and

k. The adjustment or relocation of boundaries shall not increase the degree of non-compliance of any existing record of title ~~Computer Register (Certificate of Title)~~ or lease area, with the site design performance standards contained in this part of the zone.

l. In rural zones, the adjustment or relocation of boundaries shall not result in lifestyle-sized lots (less than 4 hectares) for which there was not an allocation.

18. I recommend that the National Planning Standards Boundary Adjustment definition be retained as notified.

19. I have assessed the submissions, including those submissions that seek the deletion of the notified amendments to SUB-S11. In my opinion and based on the evidence at the time of writing, the preferred option is to retain the notified version of SUB-S11. This, as identified by the evidence of Lorelle Barry, will provide Council with the ability to assess all effects of a boundary adjustment that creates a lifestyle sized lot where one does not already exist.

3.9 Site Definition

3.9.1 Existing Approach and Proposed Amendments

1. The Operative District Plan contains a definition of "site". The existing definition refers to the old terminology of 'certificate freehold register' and does not refer to the Unit Titles Act 2010.

2. The Operative District Plan's definition of site is:

a. an area of land which is the smaller land area of either:

i. land comprised in a single lot held in one Computer Freehold Register (as that term is defined in the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002);.

ii. land comprised in a single lot or the balance area on an approved subdivision scheme plan for which a separate certificate of title can be issued without further Council involvement.

b. an area of land comprising two or more adjoining lots held in one certificate of title that cannot be treated separately without the Council granting its consent.

c. An area of land comprising two or more adjoining lots held in two or more certificates of title where the titles are:

i. subject to Section 75 of the Building Act 2004: "Construction of building on 2 or more allotments" or Section 37 of the Building Act 1991: "Construction of building on 2 or more allotments"; or

ii. held together in such a manner that they cannot be assessed individually without the consent of the Council.

d. An area of Māori freehold land that either:

i. is land created by way of partition under Sections 297 and 301 of Te Ture Whenua Māori Act 1993 (The Māori Land Act 1993) and held in one Māori Land Court Title, or

ii. is land defined by survey and created by way of partition into one parcel to be held by an owner who is a member of the same hapu, or owners who are members of the same hapu, or

iii. is land defined by survey and held in a Māori Land Court Title and for which ownership can be determined, or

iv. is land defined by survey and created by way of partition for a site for a dwelling under Section 296 of Te Ture Whenua Māori Act 1993 (The Māori Land Act 1993).

e. an area of Māori Customary Land.

f. is land defined by survey and reserved under the Reserves Act 1977 or Te Ture Whenua Māori Act 1993 (The Māori Land Act 1993).

g. notwithstanding paragraphs 1 – 6 above, where land has been subdivided under the cross lease or company lease systems (other than unit titles), a site means an area of land containing:

i building(s) for residential, commercial and industrial activities with an accessory building(s) and land exclusively set aside for the occupants / users of the building(s); or

ii any share in the fee simple which creates a vacant part of the whole for future cross lease or company lease purposes; and

h. notwithstanding paragraphs 1 – 6 above, any land subdivided under the Unit Titles Act 1972 (other than unit titles) a site shall mean either:

i. The area of land containing the principal unit (or proposed unit) on the unit plan, and any identified accessories to that principal unit, or

ii. *The underlying certificate of title of the land containing the unit titles, immediately prior to subdivision.*

iii. *In addition to the above, the following shall apply:*

iv. *Where a site is divided by the district boundary, the area of the site remaining within the district shall be considered the site. "*

3. The scope of the plan change was to correct the references to "Certificate freehold register" and the unit Titles Act 2010. PC 10 proposes to adopt part of the National Planning Standards definition to address these areas that are now out of date. The scope of the plan change did not include replacing the whole definition of "site" due to other unintended consequences that may flow on through the remainder of the District Plan.

3.9.2 Evaluation of Matters Raised in Submissions

Submissions

1. Submitters' Luke Nelson, MCCL, Ngāti Pikiao Environmental Society supports the inclusion of the notified updated definition. Stratum Consultants conditionally supports the update but is of the opinion that the full definition of the National Planning Standards should be used. (S_04_01), (S_22_03), (S_10_06)

2. The area of contention is summarised as follows:

- Whether the full National Planning Standards definition should be used compared with just updating record of title and Unit Titles Act.

Evaluation

3. It is noted that the National Planning Standard (NPS) provides for a standardised definition of "site". The issue with replacing the Operative definition with the full NPS definition is that the term "site" is referred to multiple times throughout the District Plan. Analysing whether there are any implications and unintended consequences of using the full NPS definition of "site" is outside the scope of this plan change.

3.9.3 Recommendation

1. I continue to recommend the amendments as notified.

3.10 Industrial Activity

3.10.1 Existing Approach and Proposed Amendments

1. The Operative District Plan does not define industrial activity. PC 10 proposes to add a definition consistent with the National Planning Standards definition of Industrial Activity. This is:

Industrial Activity

Means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or goods. It includes any ancillary activity to the industrial activity.

3.10.2 Evaluation of Matters Raised in Submissions

Submissions

2. Submitters Ngāti Pikiao Environmental Society (S_23_03), Stratum Consultants Limited (S_12_07) and MCCL (S_22_04) support the addition of the Industrial Activity Definition and seek that it be retained. No other submissions were received on this definition.

Evaluation

3. It is noted that the National Planning Standard provides for a standardised definition of "industrial activity".

3.10.3 Recommendation

1. I continue to recommend the amendments as notified. This is supported by the submissions received.

3.11 Home Based Business

3.11.1 Existing Approach and Proposed Amendments

The Operative District Plan

1. The proposal is to ensure there are appropriate linkages between the rule framework and assessment criteria in the District Plan for home-based business and that there is the ability to control home-based businesses that may affect residential amenity, such as those that may generate excessive noise.

2. The definition of "Home based business" within Part 1 'Interpretation' section of the District Plan is:

   any home arts and crafts, professional, trade or consultancy business, other than Prohibited Activities, which is carried out by a resident or residents incidentally to the primary use of the site and complies with the following in all respects:

   a. The performance standards for the Zone in which the business is located;

   b. No more than one person living away from the site can be employed on site at any one time;

   c. The business does not involve outdoor storage of goods, or waste materials;

   d. The business does not involve the parking of heavy vehicles on site; and

   e. No display or retail of goods for sale may take place from the site; and

   Except that in the Residential 3 zone this definition shall be expanded to include the sale or display in the Whakarewarewa Village and in Ōhinemutu of traditional Māori food, traditional and contemporary Māori crafts, and souvenirs; where the area used for such purpose or purposes does not exceed 80m2.

3. The Operative District Plan lists home-based businesses as an activity in the Residential zones.

4. The activity status for a home- based business in the Residential Zones and City Centre 1 and 2, is a Permitted activity as per RESZ-R20 and CCZ-R15.

5. The definition and the rules for home -based businesses both contain performance standards. The definition contains further performance standards that are applicable to only home- based businesses. If an activity does not comply with all of the standards listed in the definition the activity is no longer a home- based business.

6. The best practice approach is that performance standards for activities are contained within the rules.

7. Under the current provisions, a person wishing to undertake a home-based business would need to assess the activity listing in the Residential Zone, comply with the listed performance standards and any other applicable rules, such as noise, and comply with the standards contained within the definition.

8. This leads to inefficiencies and a risk of inconsistencies in the application of the various standards.

9. In practical terms, a business operated from a residential unit (home) that does not comply with all performance standards should still be defined as a home- based business. This needs to be clear to the reader of the District Plan. The District Plan should also be clear about the assessment that needs to be carried out if the activity does not fully comply with the standards.

10. The National Planning Standards provides a definition for home business as follows:

Home business means a commercial activity that is:

(a) Undertaken or operated by at least one resident of the site; and
(b) Incidental to the use of the site for a residential activity.

Proposed Provisions

11. PC 10 proposes to insert the National Planning Standard definition of 'home business' and include all applicable performance standards in the relevant activity table.

12. The defined term would change from 'Home based business' to 'Home business', therefore requiring amendment to rule RES-R20, CCZ-R15 and consequential amendments elsewhere in the District Plan.

13. The proposed amendments are: (underlined text is proposed, strike through text is proposed to be deleted)

- Delete the Definition of 'Home based business' as follows:
~~*any home arts and crafts, professional, trade or consultancy business, other than Prohibited Activities, which is carried out by a resident or residents incidentally to the primary use of the site and complies with the following in all respects:*~~

~~*a. The performance standards for the Zone in which the business is located;*~~

~~*b. No more than one person living away from the site can be employed on site at any one time;*~~

~~*c. The business does not involve outdoor storage of goods, or waste materials;*~~

~~*d. The business does not involve the parking of heavy vehicles on site; and*~~

~~*e. No display or retail of goods for sale may take place from the site.*~~

~~*Except that in the Residential 3 zone this definition shall be expanded to include the sale or display in the Whakarewarewa Village and in Ōhinemutu of traditional Māori food, traditional and contemporary Māori crafts, and souvenirs; where the area used for such purpose or purposes does not exceed 80m2.*~~

- Insert the National Planning Standards Definition of "Home business" as follows:
Home business means a commercial activity that is:

a. Undertaken or operated by at least one resident of the site; and
b. Incidental to the use of the site for a residential activity.

- Amend Rules RES-R20 and CCZ-R15 as follows:

RESZ-R20	**Home ~~based~~ business**	*[4.5(33)]*
Applicable Spatial Layers All Residential Zones	**1. Activity Status:** Permitted **Performance Standards:** a. No more than one person living away from the site can be employed on site at any one time; b. The business does not involve outdoor storage of goods, or waste materials; c. The business does not involve the parking of heavy vehicles on site; and d. No display or retail of goods for sale may take place from the site. e. Except that in the Residential 3 zone this standard shall be expanded to include the sale or display in the Whakarewarewa Village and in Ohinemutu of traditional Māori food, traditional and contemporary Māori crafts, and souvenirs, where the area used for such purpose or purposes does not exceed 80m^2. f. Height RESZ-S1; g. Yards RESZ-S2; h. Site coverage RESZ-S3; i. Residential unit density RESZ-S4; j. Parking, access and turning RESZ-S5; k. Design and Landscaping RESZ-6A; and l. Residential 4 Zone: Reflectivity RESZ-S6.	**2. Activity Status:** Restricted Discretionary **Where:** Compliance is not achieved with the performance standards for RESZ-R20(1). **Matters of Discretion** a. The reason for the non-compliance with performance standards and the 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; b. The extent to which the activity adversely affects the character and amenity values of the zone; c. Natural hazards RESZ-MD1; and d. Financial contributions RESZ-MD2.

14. The City Centre 1 and 2 Zones also provides for home- based businesses within established residential units. For consistency and to ensure applicability with the National Planning Standard's definition for home business similar amendments are proposed to CCZ-R15.

CCZ-R15	**Home ~~based~~ business within established residential units**	*[5.5(1)(23)]*
Applicable Spatial Layers City Centre 1 and 2 Zones	**1. Activity Status:** Permitted **Performance Standards:** a. No more than one person living away from the site can be employed on site at any one time; b. The business does not involve outdoor storage of goods, or waste materials; c. The business does not involve the parking of heavy vehicles on site; and d. No display or retail of goods for sale may take place from the site. e. Height CCZ-S1; f. Yards CCZ-S2; g. Residential unit design CCZ-S4; h. Parking, access and turning CCZ-S5; i. Glazing CCZ-S6; j. Verandahs CCZ-S7; and k. Service lanes CCZ-S8.	**2. Activity Status:** Restricted Discretionary **Where:** Compliance not achieved with the performance standards in CCZ-R15(1). **Matters of Discretion:** a. Extent to which the activity will avoid, remedy or mitigate the effects of the non-compliance on achieving the purpose of the relevant performance standard and the objectives and policies relevant to the matters of discretion; b. How the aspect of non-compliance will reduce the amenity of the zone and affect adjacent sites; c. How the activity provides more efficient and practical use of the remainder of the site; d. Natural hazards CCZ-MD1; and e. Financial contributions CCZ-MD3.

3.11.2 Evaluation of Matters Raised in Submissions

Submissions

1. Submitters Stratum Consultants (S_12_08) and Hamiora Werahiko (S_18_02) support the changes for home based businesses as notified.

2. Submitters Michelle (S_06_01), Marnel (S_09_01) and Ngāti Pikiao Environmental Society (S_10_08) support the changes in part as notified.

3. Michelle (S_06_01) opposes the restriction on the sale of goods from a home-based business and "believes that an operator should be able to sell goods from your home-based business noting that this is what helps keeps these businesses being able to survive by having the extra income"

4. Ngāti Pikiao Environmental Society (S_10_08) supports the proposal with amendments. The submitter seeks the retention of "non-resident employees, outdoor storage and heavy vehicle parking".

Evaluation

5. It is noted that the National Planning Standard provides for a standardised definition of “Home Business”. The scope of the plan change is to insert the NPS definition for home-based business and to "tidy" up the performance standards. The Operative District Plan's definition included performance standards. This caused issues that where say part of the definitions ‘performance standard’ was not me, is the activity still a home-based business? These should not be within the definition but should be under rules as performance standards.

6. Michelle's submission goes beyond the scope of the plan change and due to natural justice considerations (i.e. these changes were not included in the section 32 report as an option). The plan change, in relation to home based business, was to amend the definition to remove the "performance standards" that formed part of the definition. The plan change does not have scope to introduce additional activities to the definition or performance standards.

3.11.3 Recommendation

1. I continue to recommend the amendments as notified.

3.12 Reversing onto Rights of Way

3.12.1 Existing Approach and Proposed Provisions

1. The proposal is to insert clear provisions to allow rights of ways and private ways to be used for on-site turning of vehicles.

2. The performance standards / assessment criteria[1] of the applicable rule requires parking, access and turning to be designed in accordance with Appendix APP1 – Parking, Access and Turning.

3. The District Plan requires any vehicle access, on-site parking and turning that is required to be carried out in accordance with the Zone performance standards, including Appendix APP1 – Parking Turning and Access[2].

4. There are varying requirements to provide on-site turning areas. The circumstances where on-site turning is required are contained within Appendix 1 – Parking Turning and Access – where cars will enter a site, on-site turning shall be provided so vehicles can enter and exit the site in a forward motion.” (Appendix 1. 2.Turning Standards a. Requirement to provide on-site turning). This is to ensure that vehicles exit onto the road in a forward direction.

5. The rule framework supports the following objectives and policies:

   Policy RESZ-P22 Ensure the design and location of access, on-site parking and turning areas do not detract from the safe and efficient functioning of the transport network or dominate the streetscape.

---

[1] Performance standards and assessment criteria: RESZ-S5, RESZ-MC4, RESZ-AC1, RURZ-S5, RURZ-MC2, RURZ-AC1, INZ-S4, INZ-MC2, INZ-AC1, CNSZ-S3, CNSZ-AC1, DSTZ-S3, DSTZ-A1, CAZ-S3, CAZ-AC1, WTRZ-S1, WTRZ-A1, WHDA-MC5-MD5-AC5, COMZ-S6, COMZ-MD5, COMZ-MC3, BIZ-S4, BIZ-MC2, BIZ-AC1, CCZ-S5, CCZ-MC2, CCZ-MDC, CCZ-MD8, CCZ-AC1.

[2] SUB-S1.4 Residential Zones site design performance standards, Access, on-site parking and turning areas;

Policy RESZ-P32 Avoid, remedy or mitigate the potential adverse effects of non-residential activities, including community activities, through the provision of:

- *Sufficient on-site parking, loading and turning*
- *Landscaping to maintain and enhance the quality of residential amenity, primarily the streetscape*
- *Noise mitigation measures*

6. Appendix 1.2.a has been interpreted such that where a site is accessed via a right of way, the right of way cannot be used for the purpose of on-site turning, unless the right of way serves more than 8 residential units.

7. To provide for the most efficient use of the site, the right of way is often able to be used as part of the area for vehicle manoeuvring. However, this is seen as a non-compliance and triggers the need for a resource consent.

8. The relevant standard, contained in 'Appendix 1.2.a Requirement to provide on-site turning', is as follows:

2. Turning Standards

This part outlines where on-site turning is required.

a. Requirement to provide on-site turning

Where cars will enter a site, on-site turning shall be provided so vehicles can enter and exit the site in a forward motion. There are varying requirements to provide on-site turning areas along the different roads. The requirements are as follows:

i. Sites adjacent to Urban Primary, Urban Secondary and Rural Primary Arterials, Rural Collector and Urban Collector Roads as identified as EiT Energy, infrastructure and Transport are required to provide on-site turning

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 serving more than 8 residential units. In this case, a turning area shall be required to prevent reverse manoeuvres onto the road network. The area may be located within the private access.*
2. *The vehicle entrance is within 15m from the edge of the carriageway of any street intersection (including the opposite side of any "T" junction; and*
3. *The vehicle entrance is within 15m of any traffic calming or traffic control structures.*
4. *For the purpose of this rule a traffic calming structure includes any speed hump or chicane, and a traffic control structure includes a central median or island, traffic lights, stop sign, or give way sign.*

Proposed Provisions (Section 32(6))

9. P C 10 proposes to amend the District Plan Turning Standards as follows:

App1. 2. Turning Standards

This part outlines where on-site turning is required.

a. Requirement to provide on-site turning

Where cars will enter a site, on-site turning shall be provided so vehicles can enter and exit the site in a forward motion. Where a site's access is provided via a right of way / private way, the right of way / private way may be used as part of the on-site turning. There are varying requirements to provide on-site turning areas along the different roads. The requirements are as follows:

i. Sites adjacent to Urban Primary, Urban Secondary and Rural Primary Arterials, Rural Collector and Urban Collector Roads as identified as EiT Energy, infrastructure and Transport are required to provide on-site turning

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

5. *The site is accessed by a private access serving more than 8 residential units. In this case, a turning area shall be required to prevent reverse manoeuvres onto the road network. The area may be located within the private access.*
6. *The vehicle entrance is within 15m from the edge of the carriageway of any street intersection (including the opposite side of any "T" junction; and*
7. *The vehicle entrance is within 15m of any traffic calming or traffic control structures.*
8. *For the purpose of this rule a traffic calming structure includes any speed hump or chicane, and a traffic control structure includes a central median or island, traffic lights, stop sign, or give way sign.*

3.12.2.Evaluation of Matters Raised in Submissions

Submissions

1. Stratum Consultants (S_*12_09*), McKenzie & CO Consultants Limited (S_22_05) and Kainga Ora Homes and Communities (S_22_05) all support the plan change's amendments for reversing of vehicles.

2. Luke Nelson (S_04_05) supports in part. The amendment Luke Nelson seeks is that consideration is also given to referencing "Access leg" or similar.

Evaluation

3. The purpose of the plan change is to allow the shared access to be used as part of the manoeuvring (on-site turning) of vehicles.

4. Luke Nelson (S_04_05) is the opinion that there are more situations than just right of way / private ways. I am of the opinion that this submission point should be accepted, in part, as it adds further clarification to the criteria.

3.12.3 Recommendation

1. It is recommended that the standard is amended as follows (in blue)

App1. 2. Turning Standards

This part outlines where on-site turning is required.

a. Requirement to provide on-site turning

Where cars will enter a site, on-site turning shall be provided so vehicles can enter and exit the site in a forward motion. Where a site's access is provided via a right of way / private way, (or similar) the right of way / private way (or similar) may be used as part of the on-site turning. There are varying requirements to provide on-site turning areas along the different roads. The requirements are as follows: …

3.13 Wireless Telecommunications

1. The District Plan does not specifically provide for wireless telecommunications. In order to meet the District Plan's standards, telecommunications, including broadband needs to be supplied up to the frontage of the site and be installed underground. It is now common for telecommunications to be supplied either by a physical connection (underground) or by way of a wireless connection at the time of establishing the dwelling. There are now alternative wireless providers that were not available at the time the current District Plan became operative.

3.13.1Existing Approach and Proposed Amendments

1. The District Plan states the following requirement SUB-S9(3)(c) for the provision of services on subdivision:

c. Requirements for electricity, telecommunications and gas

I. Adequate provision shall be made for the supply and installation of electricity, telecommunication including broadband capability and gas services (where available within 100m of the subdivision) for every site and building within the subdivision up to the frontage of the site, or lease area;

II. Electricity, telecommunication, and services shall be installed underground unless that is demonstrated to be impractical;

III. The following shall be the minimum requirements for electricity servicing of new sites or lease areas created by subdivision:"

2. The Section 32 Report identified that the District Plan does not specifically provide for wireless telecommunications, and that, in order to meet the District Plan's standards, telecommunications must be supplied to the frontage of the site and installed underground. Over time, it has become common for telecommunications to be supplied by way of a wireless connection when the dwelling is established. Standard SUB-S9(3)(c) contains wording that requires that the infrastructure will be in the ground at the time of Section 224(c). Clarification is required that providing wireless telecommunications is a satisfactory means of compliance.

3. PC 10 proposes to change the standard to allow for the provision of wireless technologies where underground services are not practicable.

c. Requirements for electricity, telecommunications and gas

I. Adequate provision shall be made for the supply and installation of electricity, telecommunication including broadband capability and gas services (where available within 100m of the subdivision) for every site and building within the subdivision up to the frontage of the site, or lease area;

II. Electricity, telecommunication, and gas shall be installed underground unless that is demonstrated to be impractical, *or telecommunication is to be provided by wireless technology where underground services are not practicable;*

III. The following shall be the minimum requirements for electricity servicing of new sites or lease areas created by subdivision: …

3.13.2 Evaluation of Matters Raised in Submissions

Submissions

1. Luke Nelson partially supports the amendment but requests that the amendment is extended to remove the requirement for the applicant for provide for reticulated gas, and also requests that the provision be separated from the rest of the standard, as he considers that wireless communications are the best option for rural properties. (S_24_02)

2. MCCL partially support the amendment, but request that the amendment should make more explicit reference to clarify that wireless technology is an acceptable form of service for subdivisions in rural zones, regardless of whether there are underground services available or nearby. They consider that the term 'not practicable' is not a suitable parameter to determine compliance, and they note that wireless communications have been accepted for some time, and whether underground services are available is of no consequence. (S_22_06)

3. Ngāti Pikiao partially support the amendment, but request that the standard is further amended to require an assessment of visual and cultural effects when the infrastructure is visible from marae or culturally significant landscapes. (S_10_09)

4. Stratum support the amendment. Hamiora Werahiko also supports the amendment and notes that improved digital infrastructure is a priority for rural Māori land and marae, and the amendment enables that. (S_12_10)

5. Chorus seeks amendments to ensure that open access fibre is required where it is reasonably practicable to install it at subdivision stage. Chorus submits that the proposed wording unintentionally enables developers to default to wireless solutions even where fibre installation is straightforward, efficient, and expected by consumers. (S_16_01)

Evaluation

6. I support the amendment to SUB-S9(3)(c) to allow for wireless telecommunications where underground services are not practicable. Technology has evolved since this standard was included in the District Plan, and this amendment seeks to recognise that by enabling the use of alternative technologies when the preferred underground service connection is not practical.

7. The difficulty lies with the term 'not practicable'. As submitters have identified, it is difficult to ascertain what 'not practicable' might mean. In my view, a number of factors could influence the practicality of providing underground services, including cost, the size of the site and distance from the house site to the boundary, and whether the service is actually available. Any of these issues could result in underground servicing not being practicable. The risk is that the

lack of a categorical measure may result in a similar ad-hoc approach to what has led to this amendment being considered in the first place.

8. 'Not practicable' is not quantifiable and ultimately requires a further decision to be made in this context, i.e. a residential developer may consider that any level of cost involved in providing a fibre connection is 'not practicable' when the onus could be placed on the future occupant at no cost to the developer. In the context of New Zealand, it is reasonable to expect that any habitable dwelling is adequately serviced with no further investment required from the occupant. The occupant of a rental property would not anticipate having to invest in a wireless connection upon moving into a new house.

9. With that in mind, I am inclined to agree with the submitters that a more targeted provision is required.

10. I therefore recommend a provision along the following lines:

> *c. Requirements for electricity, telecommunications and gas*
>
> *i. Adequate provision shall be made for the supply and installation of electricity, telecommunication including broadband capability and gas services (where available within 100m of the subdivision) for every site and building within the subdivision up to the frontage of the site, or lease area;*
>
> *ii. Electricity, telecommunication, and gas shall be installed underground unless that is demonstrated to be impractical, or telecommunication is to be provided by wireless technology where open access fibre is not available, or where wireless technology can provide a higher level of service than reticulated networks.*
>
> *iii. The following shall be the minimum requirements for electricity servicing of new sites or lease areas created by subdivision: …*

11. This approach avoids creating the need for a further decision, by providing easily measurable metrics.

12. I also note that Luke Nelson submits that the requirement for gas connections be removed. As this change was not notified, I do not consider that there is scope to include it in PC 10. However, I agree that gas connections should not be required, because electricity is the primary source of energy, and gas is an optional, 'nice to have' energy source.

3.13.3 Recommendation

1. I recommend that the provision be amended from the notified version to clarify when wireless telecommunications can be established instead of underground services, without creating an opportunity for residential developers to put the onus on future occupants.

4. CONCLUSION

1. PC 10 seeks to improve the clarity, consistency, and usability of the Operative Rotorua District Plan (District Plan). This will be achieved by refining existing definitions and introducing or amending rules and performance standards.

2. 27 submissions and 5 further submissions were received.

3. Having considered all the submissions and reviewed relevant statutory and non-statutory documents, we (the section 42A authors) recommend that the Hearings Commissioner:

    a. adopt PC 10 with the amendments as set out in Appendix 1 and Appendix 3 of this report;

    b. approve consequential amendments to the Rotorua District Plan where a defined term is replaced with a new defined term by PC 10;

    c. accept, accept in part or reject submissions (and associated further submissions) as set out in this report and Appendix 5.

APPENDICES

Appendix 1: Recommended Changes to the District Plan Text (Annotated Changes).

Appendix 2: List of Submitters and Submitter ID#

Appendix 3: Recommended Decisions on Submissions