



TRANSPOWER

Keeping the energy flowing

Transpower House
96 The Terrace
PO Box 1021
Wellington 6140
New Zealand
P 64 4 495 7000
F 64 4 495 7100
www.transpower.co.nz

14 June 2022

Upper Hutt City Council

Intensification Planning Instrument (IPI) for the Upper Hutt City District Plan

Attention: Emily Thomson

By email: Emily.Thomson@uhcc.govt.nz

Dear Emily

Feedback by Transpower NZ Ltd on the Intensification Planning Instrument (IPI) for the Upper Hutt City District Plan

The following relates to the feedback invited by Council on the upcoming plan change (IPI) to the Operative Upper Hutt District Plan, to give effect to the National Policy Statement on Urban Development 2020, and the Resource Management Enabling Housing Supply and Other Matters) Amendment Act 2021 (“the **Amendment Act**”).

Transpower New Zealand Limited (“**Transpower**”), the owner and operator of New Zealand’s national electricity transmission network (“the **National Grid**”), appreciates the opportunity to provide feedback on the upcoming IPI.

The purpose of this letter is to provide feedback on:

- Recognition of the National Grid as a qualifying matter, and
- Provide specific comments on the draft IPI provisions for which feedback has been invited.

National Grid provisions as a Qualifying Matter

The Operative Upper Hutt District Plan (“**District Plan**”) includes land use and subdivision rules that regulate activities within a corridor around National Grid transmission lines and National Grid support structures. The District Plan provides a definition of “Transmission line”¹ which is referenced within the plan as the “Electricity

¹ has the same meaning as in section 3 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.

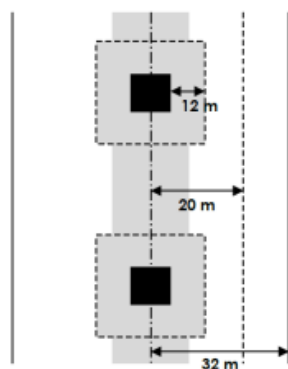
Transmission Corridor”², within which land use and subdivision is managed.

Within the operative General Residential Zone rule GRZ-R16 provides that buildings or structures within 12-20m (of the centre line) of high voltage transmission lines are a restricted discretionary activity, and rule GRZ- R23 provides that buildings or structures within 12m are a non-complying activity. Subdivision which creates building platforms within 20m of the transmission lines is a restricted discretionary activity under Rule SUB-RES-R7.

The (National Grid) Electricity Transmission Corridors are existing qualifying matters in terms of section 77K(3) of the RMA, as they:

- are a matter required to give effect to the National Policy Statement on Electricity Transmission 2008 (the “NPSET”), being a national policy statement (other than the NPSUD)³; and
- are a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure⁴; and
- are currently operative, and so will be operative in the relevant district plan when the IPI is notified.

There is no ambiguity as to whether Electricity Transmission Corridors are qualifying matters. See, for example, the Report of the Environment Committee on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill dated December 2021, which noted at page 15: “*the qualifying matters set out in new section 77[1] include a matter of national importance and a matter required to ensure that nationally significant infrastructure operates safely or efficiently and avoid reverse sensitivity concerns. This could include ensuring residential housing is safely set back*



■ = Tower support structure

Note: The measurement of setback distances from electricity transmission lines shall be taken from the centre line of the electricity transmission line and from the outer edge of any support structure. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span. The diagram above depicts setback distances.

² In terms of application, the 12m applies to land use, the 20m applies to subdivision within residential and commercial/city centre/industrial areas, and the 32m applies to subdivision with rural zones.

³ Resource Management Act 1991, s 77I(b).

⁴ Resource Management Act 1991, s 77I(e).

from high voltage transmission lines, and other infrastructure such as airport noise areas, in order to avoid reverse sensitivity concerns”.

Transpower considers it is not an efficient use of resources for the operative National Grid provisions to be relitigated as part of Council’s incorporation of the Medium Density Residential Standards. As an existing qualifying matter, the Electricity Transmission Corridors within affected residential zones should be included and notified in Council’s IPI without change.

Attached as **Appendix A** is supporting information to assist Council’s assessment for the incorporation of the National Grid corridor as a qualifying matter in the IPI, as required by Section 77K of the Amendment Act.

Feedback on draft IPI provisions

Transpower has a number of transmission line assets within Upper Hutt. Specific to the IPI, the Haywards – Upper Hutt A (HAY-UHT A) 110kV double circuit line on towers, and Masterton – Upper Hutt A (MST-UHT A) 110kV double circuit line on towers, are relevant. The assets are located north of the Hutt River and traverse through the General Residential zoned areas in the operative District Plan. The IPI retains the label of ‘General Residential Zone’ for the relevant areas which contain existing National Grid assets.

Specific comments on the draft IPI are as follows:

Definitions

The provision of a definition for *Qualifying matter* is supported, as is the specific listing of those matters which are a *Qualifying matter area*. In particular Transpower supports provisions (n) and (o)

(n) The areas within 20 metres of a high voltage (110kV or greater) electricity transmission line;

(o) The areas within 12-32m of a high voltage (110kV or greater) electricity transmission line;

Part 2 - District-Wide matters, Strategic Direction

Transpower supports the explicit reference to qualifying matters within proposed strategic directive UFD-P2 as it provides a clear policy directive in relation to qualifying matters:

FD-P2

Provide for heights and densities of urban built form that enable more people to live in, and more businesses and community services to be located in, the City’s urban environments, by:

...

while avoiding inappropriate locations, heights and densities of buildings and development within qualifying matter areas as specified by the relevant qualifying matter area provisions.

In particular Transpower support the strong policy directive to avoid inappropriate development as specified by the relevant qualifying matter area provisions. Specific to the National Grid, the NPSET mandates a corridor for this protection. Specifically, Policy 11 of the NPSET requires that local authorities consult Transpower to identify an appropriate buffer corridor within which sensitive activities (such as residential development) will generally not be provided for in plans and/or given resource consent. Policy 10 requires that decision-makers must, to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised. Both Policy 10 and 11 are very directive in their wording and intent.

Policies

Within the operative District Plan, the NPSET is given effect to through issue NU-I5 and SUB-GEN-I10, policies NU-P3 and NU-P4⁵ (which is specific to the National Grid) and SUB-GEN-P10.

The draft IPI does not propose any changes to the above provisions and Transpower therefore supports their retention as operative provisions.

While Transpower is aware Schedule 3A of the Amendment Act specifies objectives and policies to be inserted into the District Plan through the IPI, Transpower would support specific policy direction in relation to qualifying matters⁶. Such policy direction would give effect to the draft IPI strategic direction FD-P2, and also provide an appropriate policy directive should there be a qualifying matter. While draft IPI policy GRZ-P18 does reference qualifying matters and Transpower is aware the operative policy directives in relation to qualifying matters would continue to apply, it is submitted plan interpretation and application would be improved through some clear policy directive to reconcile the strong 'enabling' policy directive provided under the Amendment Act and the 'avoid' and 'manage' directive under policies NU-P3 and NU-P4.

A suggested policy approach for the National Grid as a qualifying matter is:

Avoid inappropriate development within qualifying matter areas.

⁵ NU-P4 To manage development within close proximity to existing high voltage (110kV or greater) electricity transmission lines to protect both:

- (1) the safe, secure and efficient use and development of the electricity transmission network; and
- (2) the safety and amenity values of the community.

A corridor management approach involves setting minimum buffer distances from high voltage electricity transmission lines to manage development both in the immediate proximity of and adjacent to the lines.

⁶ Section 77G(5)(b)(i) of the Amendment Act provides a specified territorial authority may include objective and policies to ... provide for matters of discretion to support the MDRS.

Rules

Specific to the General Residential zone, Transpower supports the retention of rules GRZ-R16, GRZ-R23 and SUB-RES-R7. However, in order to assist with plan interpretation and application, it is recommended clarity be provided as to the relationship between the IPI provisions and operative qualifying matter provisions. This would assist with plan interpretation and application and is particularly important given the permitted activity status under the draft IPI.

With respect to land use, while draft IPI rule GRZ-R5a is supported in that it gives effect to the Amendment Act, Transpower recommends it would benefit from clarity that operative rule GRZ-R16 and GRZ-R23 prevails (in that they are more restrictive rules) in respect of the National Grid. It is suggested a note be inserted in the draft IPI rule (and any other relevant rules) as follows:

Note: Rules GRZ-R16 and GRZ-R23 cover building and structures within the Electricity Transmission Corridor.

As an alternative to a note within specific rules, Transpower would support some clear commentary as a precursor to the rules that users should refer to the Electricity Transmission Corridor rules GRZ-R16 and GRZ-R23 for any development within the Electricity Transmission Corridor.

Transpower thanks Council for the opportunity to proactively engage in the IPI process and appreciates the opportunity to comment on the draft provisions. Should you require clarification of any matter, please contact Pauline Whitney at Transpower (0210 236 4245), or on the following email: Environment.Policy@transpower.co.nz

Yours faithfully

Pauline Whitney

Senior Environmental Planner



Transpower NZ Ltd

M: 0210 236 4245

E: Environment.Policy@transpower.co.nz

Appendix A - Information supporting the National Grid Electricity Transmission Corridor as a qualifying matter

PROCESS FOR EXISTING QUALIFYING MATTERS

To assist the Council's incorporation of the National Grid corridor as an existing qualifying matter in the IPI, Transpower has provided the following supporting detail required by section 77K(1) of the RMA in the following sections of this letter.

(A) IDENTIFY BY LOCATION (FOR EXAMPLE, BY MAPPING) WHERE AN EXISTING QUALIFYING MATTER APPLIES

The National Grid transmission lines are clearly identified on the Operative Plan planning maps. When read together with the rules for Electricity Transmission Corridors, the Operative Plan maps identify, by location, where these qualifying matters will apply.

(B) SPECIFY THE ALTERNATIVE DENSITY STANDARDS PROPOSED FOR THOSE AREAS WHERE AN EXISTING QUALIFYING MATTER APPLIES

Land use Density in the National Grid Electricity Transmission Corridor

In the Electricity Transmission Corridor, Transpower does not propose any alternative density standards with respect to land use.

Subdivision in the National Grid Electricity Transmission Corridor

Transpower does not consider it appropriate to specify within the IPI alternative density standards in the 20m Electricity Transmission Corridor relating to subdivision. In this 'Subdivision Corridor', a case-by case assessment (by way of a subdivision consent process) is essential in order to ensure that any consequential development can be carried out safely and without compromising the assets, or access to the National Grid. This means that in some areas of the Electricity Transmission Corridor the MDRS will be appropriate and can be fully enabled (that is, there will be no impact on density at all), but in other areas limits on density will be necessary. The operative rule SUB-RES-R7 is supported.

(C) IDENTIFY WHY THE COUNCIL CONSIDERS THAT ONE OR MORE EXISTING QUALIFYING MATTERS APPLY TO THE IDENTIFIED AREAS

As set out above, the National Grid corridors are an existing qualifying matter in terms of section 77K(3) of the RMA, as they:

- are a matter required to give effect to the NPSET being a national policy statement (other than the NPS-UD)⁷; and
- are a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure⁸; and

⁷ Resource Management Act 1991, s 77I(b).

⁸ Resource Management Act 1991, s 77I(e).

- are currently operative, and so will be operative in the relevant district plan when the IPI is notified.

Giving effect to the NPSET

The NPSET confirms the national significance of the National Grid and addresses its effects. Importantly, it also addresses effects on the National Grid – including the activities of others (for example residential development) and requires that these do not compromise the operation, maintenance, upgrading and development of the National Grid.⁹

The NPSET mandates a corridor for this protection. Specifically, Policy 11 of the NPSET requires that local authorities consult Transpower to identify an appropriate buffer corridor within which sensitive activities (such as residential development) will generally not be provided for in plans and/or given resource consent. This outcome is appropriate and was tested through a comprehensive section 32 analysis undertaken by the Ministry for the Environment (when the NPSET was developed) and a Board of Inquiry hearing.

Ensuring the safe or efficient operation of nationally significant infrastructure

Development under and near high voltage transmission lines presents risks to the safe and efficient operation of the National Grid and needs to be managed carefully. It is critical that any development near the National Grid occurs in an appropriate and safe way. Transpower seeks to ensure that risks such as electrical shocks are minimised to the greatest extent possible, access for vital maintenance and upgrade work is not constrained, and reverse sensitivity and direct effects are managed, so that its nationally significant infrastructure can continue to operate in the long-term, keeping the lights on across New Zealand.

Transpower is not opposed to residential development and understands the intent of the recent reforms to address issues with New Zealand's housing supply and affordability. Transpower is working with developers and individuals across New Zealand on a daily basis in an effort to accommodate and support new development in a manner which takes the National Grid assets fully into account. If new land uses are properly designed and managed, effects on the safe and efficient operation of the National Grid can be reasonably managed.

Transpower prefers, wherever possible, to manage such risks and effects proactively. Proactive management through appropriate planning rules such as buffer corridors or setbacks is the most effective way of ensuring development occurs in a manner that is compatible with the National Grid, and is consistent with the policy direction in the NPSET and the resulting buffer corridor approach within district plans throughout New Zealand.

While assisting Councils to give effect to the NPSET, the Electricity Transmission Corridor protect the safe and efficient operation of the National Grid by:

⁹ National Policy Statement on Electricity Transmission, Policy 10

- ensuring that sensitive activities such as residential development will generally not be provided for in close proximity to the lines;
- partially minimising the risk of inadvertent contact with the lines including the risk of flashovers (where an electrical discharge ‘jumps’ the air gap between an object and the line);
- helping to reduce nuisance impacts on landowners and subsequent complaints about the lines;
- partially protecting the lines from activities and development that could have direct or indirect effects on them;
- partially protecting access to the National Grid by ensuring development activities cannot occur close to the National Grid and prevent Transpower’s access to it; and
- partially enabling efficient and safe operation, maintenance, upgrade and development of the lines.

Despite the NPSET being gazetted over 12 years ago, and compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) being mandatory, underbuild and inappropriate and unsafe development continues to occur under and around National Grid assets.

Corridors and associated provisions are operative

The Electricity Transmission Corridor and associated provisions in the Operative Plan were made fully operative in October 2012 as part of Plan Change 32.

(D) DESCRIBE IN GENERAL TERMS FOR A TYPICAL SITE IN THOSE AREAS IDENTIFIED UNDER PARAGRAPH (A) THE LEVEL OF DEVELOPMENT THAT WOULD BE PREVENTED BY ACCOMMODATING THE QUALIFYING MATTER, IN COMPARISON WITH THE LEVEL OF DEVELOPMENT THAT WOULD HAVE BEEN PERMITTED BY THE MDRS AND POLICY 3

Land use development in the National Grid Electricity Transmission Corridor

The Operative District Plan provides that new buildings and structures within the General Residential Zone are a non-complying activity within 12m of high voltage transmission lines, and a restricted discretionary within 12-20m National Grid Electricity Transmission Corridor in relevant residential zones. This means that the level of development that would be prevented by the qualifying matter is likely to be all development.

While resource consent can technically be applied for, an applicant is unlikely to meet the threshold test in section 104D of the RMA in respect of the 12m setback. Residential density will in practice be zero (that is, development would be completely excluded). As explained above, this restriction on development in the Electricity Transmission Corridor is justified by reference to Policy 11 of the NPSET which requires that local authorities consult Transpower to identify an appropriate buffer corridor within which sensitive activities (such as residential development) will generally not be provided for in plans and/or given resource consent.

Subdivision in the National Grid Electricity Transmission Corridor

Subdivision has the potential to significantly impact the National Grid. This is because subdivision provides the framework for future land use, and if poorly configured, can prevent access to the National Grid for maintenance and result in new allotments that cannot be safely built on.

As a result, all subdivision within the National Grid Electricity Transmission Corridor requires resource consent in the Operative Plan. This Subdivision Corridor and the associated provisions enable Transpower to be recognised as an affected party that needs to be notified of, and consulted with on, any application. Once part of the consenting process, Transpower is then able to provide specialist technical and engineering input relating to the safe location of housing, including construction methodology. Transpower has a team dedicated to this task, along with an online enquiry portal.

The level of development that may be prevented by the National Grid Subdivision Corridor (as a qualifying matter) is therefore difficult to assess in the abstract – a case by case assessment is required to determine whether proposed development can be carried out safely and sufficient access to structures enabled. As explained above, in some areas of the National Grid Subdivision Corridor the MDRS will be appropriate and can be fully enabled (that is, there will be no impact on density at all), but in other area limits on density will be necessary. Transpower supports the existing rule SUB-RES-R7 and accompanying restricted discretionary activity status.



16 June 2022

Upper Hutt City Council
838 – 842 Fergusson Drive
Upper Hutt

By email to: planning@uhcc.govt.nz

UPPER HUTT CITY COUNCIL'S HOUSING PLAN CHANGE

- 1 I am writing on behalf of the Retirement Villages Association of New Zealand (RVA)¹ in relation to the work being undertaken by Upper Hutt City Council (Council) to prepare its plan change (*Housing Plan Change*) to respond to the National Policy Statement on Urban Development 2020 (NPSUD) and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Act*).
- 2 The RVA and its members have a significant interest in how the implementation of the NPSUD and the Enabling Housing Act will support the Government's long term vision for housing. Their particular interest is addressing the housing and care needs of New Zealand's growing ageing demographic.
- 3 The Council will be acutely aware of New Zealand's rapidly increasing ageing population (including in Upper Hutt and in the wider Wellington region). The demand for appropriate accommodation and care for older people is currently outstripping supply, with many older residents living in unsuitable accommodation. Such circumstances are affecting their health, safety and social wellbeing.
- 4 Retirement villages play an important role in addressing the health, safety and social wellbeing issues by providing accommodation that meets the physical needs of older people, as well as better providing for their mental health. The ageing population, coupled with a trend towards people wishing to live in retirement villages, means that the demand for retirement accommodation and aged care will continue to grow. The demand and corresponding lack of supply is already critical and needs to be addressed.
- 5 In light of the above, the RVA has prepared a position paper to help inform councils as they prepare changes to their district plans in response to the NPSUD and Enabling Housing Act (**attached**). The RVA's position paper includes details on New Zealand's ageing population demographics and the housing and care crisis

¹ The RVA is a voluntary industry organisation that represents the interests of the owners, developers and managers of registered retirement villages throughout New Zealand. Today, the RVA has 407 member villages throughout New Zealand, with approximately 38,520 units that are home to around 50,000 older New Zealanders. This figure is 96% of the registered retirement village units in New Zealand. There are also almost 6,000 occupation right agreements on care suites as part of the aged care system. The RVA's members include all five publicly-listed companies (Ryman Healthcare, Summerset Group, Arvida Group, Oceania Healthcare, and Radius Residential Care Ltd), other corporate groups (such as Metlifecare and Bupa Healthcare), independent operators, and not-for profit operators (such as community trusts, religious and welfare organisations).

facing older people. It outlines the role of retirement villages in responding to that crisis. It then sets out the current challenges faced by retirement village operators when obtaining resource consents and provides planning solutions to address these challenges through the Enabling Housing Act plan change processes.

- 6 We are very keen to engage with you further to discuss how the Council can help to address the retirement living crisis. A summary of what the RVA considers the Council's Housing Plan Change must deliver for retirement villages generally is set out below.

What the Housing Plan Change must deliver for retirement villages

- 7 The Council's Housing Plan Change represents a huge opportunity to better enable a diverse range of retirement housing and care options in Upper Hutt. The RVA considers it imperative that the Council seize this opportunity so that it can properly provide for its community, and meet its legal obligations under the NPSUD.
- 8 The Enabling Housing Act builds on the NPSUD as part of the Government's response to reduce barriers to housing supply. The Act not only requires the Council to implement the medium density requirements, but also to give effect to Policy 3 of the NPSUD regarding intensification of urban environments.
- 9 To meet these requirements, the RVA considers that the Council's Housing Plan Change must specifically and appropriately enable and provide for retirement villages. The RVA considers this outcome can only be achieved by providing for a retirement village- specific objective, policy and rule framework. A bespoke approach is required because retirement villages are residential in nature, but are different to typical housing due to a range of functional, operational and locational requirements.
- 10 The retirement village-specific framework sought by the RVA is set out at **Appendix 1** of its position paper. The RVA seeks that the Council implement this framework as part of its Housing Plan Change.

Next steps

- 11 The RVA looks forward to engaging with the Council throughout its preparation of the Housing Plan Change.
- 12 We would be keen to adopt a collaborative approach where we meet your team to discuss our proposals and exchange views and information. We have found this approach very helpful in other districts, particularly as officers are often not overly familiar with retirement village operations. We also often find it helpful for officers to visit retirement villages in the district so they can get a better understanding of the unique features and layout of modern retirement villages and the residents that live in them. We are happy to arrange a village tour.
- 13 Can you please advise when you are available to meet the RVA and its members to discuss the above in more detail?
- 14 The RVA looks forward to hearing from you soon.

Yours faithfully

John Collyns
Executive Director

Contact details:

Retirement Villages Association

P O Box 25-022, Featherston St, Wellington 6142

Telephone: 04 499 0449 | Email: john@retirementvillages.org.nz



Enabling Housing Supply Plan Changes

Retirement Villages Association of New Zealand

June 2022

RETIREMENT VILLAGES ASSOCIATION'S POSITION ON THE ENABLING HOUSING SUPPLY PLAN CHANGES

- 1 This paper has been prepared on behalf of the Retirement Villages Association of New Zealand Incorporated (RVA) to inform councils as they prepare changes to their district plan to respond to the National Policy Statement on Urban Development 2020 (NPSUD) and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (*Enabling Housing Supply Act*).
- 2 In 2021, the Government recognised the ageing population as one of the key housing and urban development challenges facing New Zealand in its overarching direction for housing and urban development – the Government Policy Statement on Housing and Urban Development (*GPS-HUD*).¹ The GPS-HUD records that "*[s]ecure, functional housing choices for older people will be increasingly fundamental to wellbeing*".²
- 3 The government strategy *Better later life – He Oranga Kaumatua 2019 to 2034* outlines what is required to have the right policies in place for our ageing population, including creating diverse housing choices and options.³ The strategy notes that "*[m]any people want to age in the communities they already live in, while others wish to move closer to family and whānau, or to move to retirement villages or locations that offer the lifestyle and security they want.*"⁴
- 4 This document introduces New Zealand's ageing population demographics and the housing and care crisis facing older persons. It then outlines the role of retirement villages in responding to that crisis. Finally, it sets out what is needed to address the challenges faced by retirement village operators in consenting new villages and give effect to the NPSUD through the Enabling Housing Supply plan change processes.
- 5 The RVA looks forward to engaging with councils throughout the Enabling Housing Supply plan change process to ensure their district plan responds effectively to New Zealand's retirement housing and care crisis.
- 6 The contact details for the RVA in relation to this paper are:

John Collyns

Retirement Villages Association
P O Box 25-022
Featherston St
Wellington 6142

Telephone: 04 499 0449

Email: john@retirementvillages.org.nz

¹ The GPS-HUD was issued in September 2021 ([available online](#)).

² Ibid, page 10.

³ *Better Later Life – He Oranga Kaumatua 2019 to 2034* ([available online](#)).

⁴ Ibid, page 32.

Table of Contents

THE RVA	4
A REGULATED INDUSTRY	4
AGEING POPULATION AND THE RETIREMENT HOUSING CRISIS	5
New Zealand’s ageing population	5
The retirement housing and care crisis	6
Social issues arising from the shortage of housing and care for older people	7
Suitability of accommodation	7
Mental wellbeing	8
THE ROLE OF RETIREMENT VILLAGES	9
Addressing the retirement housing and care crisis	9
Providing a range of accommodation options to suit different needs	10
Retirement villages’ role in addressing the general housing crisis	10
Other benefits of retirement villages	11
WHAT THE ENABLING HOUSING SUPPLY PLAN CHANGES MUST DELIVER FOR RETIREMENT VILLAGES	12
Better enable housing and care for the ageing population	12
Recognise that retirement villages are a residential activity	13
Provide for retirement villages in all residential zones	13
Provide for change to existing urban environments	15
Recognise the intensification opportunities provided by larger sites	17
Recognise the unique internal amenity needs of retirement villages	17
Provide clear and focused matters of discretion	19
Provide appropriately focused notification rules	19
Use the MDRS Framework as a guideline	20
Provide for retirement villages in commercial and mixed use zones	21
Rationalised financial and development contributions	21
APPENDIX 1 – PROPOSED RETIREMENT VILLAGE PLANNING FRAMEWORK	22
OBJECTIVES	22
POLICIES	22
RULES	23
DEFINITIONS	25
APPENDIX 2 – NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT	26
National Policy Statement on Urban Development	26
Enabling nature of the NPSUD	26
Enabling a variety of housing types and densities	27
Urban environments are expected to change over time	28

THE RVA

- 7 The RVA is a voluntary industry organisation that represents the interests of the owners, developers and managers of registered retirement villages throughout New Zealand.
- 8 The RVA was incorporated in 1989 by a group of entrepreneurs to:
 - 8.1 Represent the interests of retirement village owners, developers and managers, to government;
 - 8.2 Develop operating standards for the day-to-day management of retirement villages; and
 - 8.3 Protect their residents' wellbeing.
- 9 Today, the RVA has 407 member villages throughout New Zealand, with approximately 38,520 units that are home to around 50,000 older New Zealanders. This figure is 96% of the registered retirement village units in New Zealand.⁵
- 10 The RVA's members include all five publicly-listed companies (Ryman Healthcare, Summerset Group, Arvida Group, Oceania Healthcare, and Radius Residential Care Ltd), other corporate groups (such as Metlifecare and Bupa Healthcare) independent operators, and not-for profit operators (such as community trusts, and religious and welfare organisations).
- 11 The membership by unit number is divided roughly into 66% corporate (listed companies, plus major operators), 16% trusts, religious and welfare villages, and 18% independently-owned villages.

A REGULATED INDUSTRY

- 12 The retirement village industry is regulated by the Retirement Villages Act 2003 (*RV Act*), as well as associated regulations and codes of practice established through the RV Act. The regulatory regime is focussed on consumer protection via a comprehensive disclosure regime, so that residents make an informed decision to move to a village.
- 13 This regulatory regime includes the following:
 - 13.1 Registration of retirement villages with the "Registrar of Retirement Villages". The Registrar places a memorial on the land title. The memorial means that the village can only be sold as a retirement village and that the residents' tenure is ranked above all other creditors to the village. The residents have absolute rights to live in their units and have access to the village amenities.
 - 13.2 Retirement village operators are required to appoint a "Statutory Supervisor" whose job is to protect residents' interests and report to the Registrar and the Financial Markets Authority that the village is being operated in a financially prudent manner.

⁵ There are also almost 6,000 Occupation Right Agreements for care suites as part of the aged care system.

- 13.3 Operators are required to provide intending residents with a disclosure statement that sets out the village’s ownership, financial position, status, and a range of other important information. This statement provides comprehensive guidance to ensure that a resident’s decision to move into a retirement village is an informed one.
- 13.4 Before signing a contract (an “Occupation Right Agreement” or “ORA”), an intending resident must consult a solicitor who must explain the details of the contract and sign an affirmation that they have provided that advice.
- 14 The codes of practice that regulate the industry include a code of practice and a code of residents’ rights.⁶ The Code of Practice is administered by the Ministry of Business, Innovation and Employment, and it governs the day-to-day management of the village. The Code sets out the minimum standards for the operation of retirement villages. These standards address a wide variety of matters, including documents that operators must provide to intending residents, staffing policies and procedures, safety and security policies, fire and emergency procedures, the frequency and conduct of meetings between residents and operators, complaint procedures, as well as communications with residents.
- 15 The Code of Residents’ Rights is set out in the RV Act.⁷ The Code is a summary of the minimum rights conferred on retirement village residents. It ensures that residents are respected and consulted on material matters that affect their contracts.⁸

AGEING POPULATION AND THE RETIREMENT HOUSING CRISIS

New Zealand’s ageing population

- 16 The proportion of older people in our communities compared to the rest of the population is increasing. Soon, there will be more people aged 65+ than children aged under 14 years.⁹ By 2034, it is expected that New Zealand will be home to around 1.2 million people aged 65 and over, just over a fifth of the total population.¹⁰
- 17 The growth in the 75+ age bracket is also increasing exponentially (as illustrated by the graph below). It is estimated that 332,000 people in New Zealand were aged over 75 in 2020. By 2048, the population aged 75+ is forecasted to more than double to 833,000 people nationally.¹¹

⁶ Both codes are available online ([Code of Practice](#) and [Code of Residents Rights](#)).

⁷ Schedule 4.

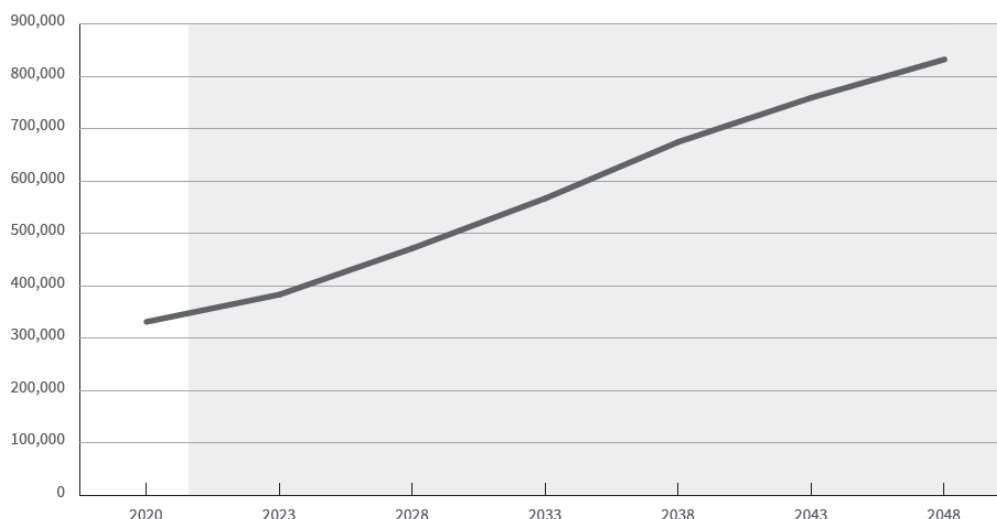
⁸ The Code sets out a resident’s rights to services, information, and consultation, the right to complain, the right to a speedy and efficient process for resolving disputes, the right to use a support person or representative in dealings with the operator or other residents at the village, the right to be treated with courtesy, and the right not to be exploited by the operator.

⁹ Better Later Life – He Oranga Kaumatua 2019 to 2034, page 6.

¹⁰ Ibid.

¹¹ Jones Lang LaSalle, NZ Retirement Villages and Aged Care Whitepaper, June 2021, page 7.

Figure 1 75+ years population 2020 - 2048



Source: JLL Research and Consultancy; Statistics New Zealand (medium forecast scenario)

- 18 The ageing population of New Zealand reflects the combined impact of:
- 18.1 Lower fertility;
 - 18.2 Increasing longevity (due to advances in medical technology and increased survival rates from life-threatening diseases); and
 - 18.3 The movement of the large number of people born during the 1950s to early 1970s into the older age groups.
- 19 The largest increases in the 65+ age group will occur in the 2020s and 2030s, when the large birth cohorts of the 1950s and 1960s (the “baby boomers”) move into this age group.

The retirement housing and care crisis

- 20 The under-provision of retirement living and aged care in New Zealand is at crisis point, with the growing ageing population facing a significant shortage in appropriate accommodation and care options. This problem is immediate, and projected to worsen in the coming decades as older age groups continue to grow.
- 21 The demand for quality living options is significantly higher than the current supply. The supply is decreasing due to closures of older style small and poor quality aged care homes, which are usually conversions of old houses. These usually do not offer the living standard that residents deserve. At the same time, demand for retirement housing and care is increasing at a growing rate.
- 22 This crisis is evidenced by the increasing number of RVA members’ villages that have waiting lists (including existing villages and those under construction). Most RVA members’ have waiting lists of up to 7 years. These lists are comprised of people who have expressed an interest in living in a retirement village. The waitlists show the desperate need in New Zealand for more retirement living and care options.
- 23 The ageing population and longer life expectancy, coupled with a trend towards people wishing to live in retirement villages that provide purpose-built accommodation, means that demand is continuing to grow. This is creating a severe

and growing shortage of retirement villages, as supply cannot match demand. The national penetration rate for retirement villages (i.e. the percentage of the population aged 75+ who choose to live in a village) is 14.3%. If the existing penetration rate continues, we can expect an increase of approximately 34,000 residents, and a national demand for an additional 26,000 retirement village units by 2033.¹² In reality, the demand will be higher as the penetration rate continues to grow.

24 This increasing demand is reflected in the development pipeline.¹³ In 2020, there was a total of 211 villages in the development pipeline.¹⁴ This development pipeline, if realised, will help ease the short-term anticipated shortfall in supply of quality retirement living and aged care options in New Zealand. However, further development of new villages, beyond the current pipeline, is needed to meet the longer-term predicted shortfall. It is anticipated that at least 10 new large scale villages each year are going to be required across New Zealand, just to keep up with demand over the next 20 years.

25 Further, the COVID-19 pandemic has exacerbated this issue. Overall, retirement villages performed remarkably well in protecting the most vulnerable by providing safe communities and companionship during the tough periods of lockdown. This performance has resulted in an even stronger demand to access retirement villages and further limited stock available.¹⁵

26 As discussed in more detail in subsequent sections of this paper, a key barrier to meeting the increasing demand is the significant delay between the consenting and construction stages of developments. Even if the resource consent process goes smoothly, the development of a retirement village is around a 10 year project for most new villages. But, many retirement villages face years of delays during the consenting process. Delays are frustrating and costly for all involved, and are especially prejudicial to the wellbeing of older persons who are living in unsuitable accommodation while waiting for a retirement village to be completed.

Social issues arising from the shortage of housing and care for older people

27 Providing appropriate accommodation and care for older persons is a critical social issue facing New Zealand. A failure to recognise and provide for appropriate housing and care for the ageing population in future planning will impact on the mental and physical health and wellbeing of some of society's most vulnerable members, and have flow on effects that will impact the wider community as a whole.

Suitability of accommodation

28 Many of New Zealand's older residents are currently living in unsuitable accommodation. "Unsuitable accommodation" in this context can mean a couple or a single person living in a large house that is expensive and difficult to maintain and heat properly, has barriers to mobility such as stairs, or is built on a hill, or has a garden that they cannot maintain. Unsuitable accommodation could also include housing that is of such a distance from key services and amenities that it limits their access to their community and care needs.

¹² Jones Lang LaSalle, NZ Retirement Villages and Aged Care Whitepaper, June 2021, page 16.

¹³ The 'development pipeline' refers to the development of new villages (both actual and planned).

¹⁴ Jones Lang LaSalle, NZ Retirement Villages and Aged Care Whitepaper, June 2021, page 17.

¹⁵ Ibid, pages 5 and 25.

- 29 In this context, it is important to note that retirement villages have a very different new-build pattern than the rest of the country's new-build housing stock.¹⁶ New Zealand's general housing stock is dominated by three or more bedroom dwellings, with the average size of new builds increasing from around 115 m² in 1976 (33 m² per person) to 200 m² in 2013 (71 m² per person).
- 30 In contrast, the retirement village industry is building units that match the needs of smaller households, with approximately 90% of retirement village units providing one or two bedrooms.¹⁷
- 31 Retirement units are also purpose-built for older people. They are accessible for those with mobility restrictions, are modern, warm and comfortable, and responsibility for their upkeep and maintenance falls on the village operator rather than the resident.
- 32 Further, retirement villages generally offer extensive on-site amenities, such as pools, gyms, theatres, libraries, bars and restaurants, communal sitting areas, activity rooms, bowling greens, and landscaped grounds. These amenities are provided to meet the specific needs of retirement village residents, leading to significant positive benefits for residents.

Mental wellbeing

- 33 Mental wellbeing issues are also growing, including isolation, loneliness, and related depression due to many older people living alone, and often also being separated from family and friends due to their increasing mobility restrictions.
- 34 This presents a serious social issue for New Zealand. There is little doubt that older people are particularly vulnerable to social isolation or loneliness because friends and family have either died or moved away, or they have restricted mobility or income. This isolation impacts on the individual's quality of life and wellbeing, adversely affecting their health and increasing their use of health and social care services. In exploring the prevalence of this issue, one study estimates that between 5 and 16% of people aged 65+ report loneliness, while 12% feel socially isolated.¹⁸
- 35 Based on recent data collected by UMR Research New Zealand,¹⁹ the most important factors for people when deciding to move into a retirement village are 'security and safety', 'peace of mind' and 'hassle-free lifestyle'. Importantly, the data also shows that retirement villages deliver on these important factors. Villages provide a community of interest for their residents and directly combat isolation and loneliness felt by so many older people.
- 36 Longitudinal studies into recorded lifespans show that older people who were part of a social group have a better chance of living longer than those who did not.

¹⁶ CRESA, Retirement Village Housing Resilience Survey (June 2014), and Equity Release – Realities for Older People (August 2016).

¹⁷ CRESA, Equity Release – Realities for Older People, August 2016.

¹⁸ Social Care Institute for Excellence, Research Briefing number 39, Preventing loneliness and social isolation: Intervention and Outcomes, October 2011.

¹⁹ UMR Research New Zealand, 'Residents Survey – Retirement Villages Association', January 2021. The results were based on questions asked in an online survey distributed to 100 retirement villages across New Zealand.

Australian studies suggest that retirement village residents live longer and happier lives than the same cohort who live elsewhere.²⁰

- 37 Retirement villages are an important way to fight social isolation and loneliness effectively. Facilitating the development of appropriate accommodation and care for the ageing population and enabling older people to move into purpose built, comfortable and secure dwellings not only improves the quality of life of these older people, but also has wider benefits for the community as a whole. The improved health and wellbeing of retirement village residents alleviates pressure placed on health and social care services freeing up these resources for other community members. The movement of older people into retirement villages also releases existing housing stock for other people, as addressed in more detail below.

THE ROLE OF RETIREMENT VILLAGES

Addressing the retirement housing and care crisis

- 38 Retirement villages already play a significant part in housing and caring for older people in New Zealand. As previously noted, currently 14.3% of the 75+ age group population live in retirement villages, a penetration rate that has risen from around 9.0% of the 75+ age population at the end of 2012.²¹ It is likely that this rate will continue to increase over time.
- 39 Currently, RVA's members have 407 villages across the country, providing homes for around 50,000 residents. Over the next 5 to 10 years, that is anticipated to grow significantly with 86 new villages and 130 expansions to existing villages, providing 22,200 homes for approximately additional 28,900 residents. Retirement villages therefore will play a growing role in addressing the retirement housing and care crisis.
- 40 The RVA's members have established reputations for building high quality villages to address the needs of residents and employing professional and caring staff. Through this experience, retirement village operators have developed in depth and specialist knowledge and expertise in the development of purpose built retirement villages. Importantly, retirement village operators are not developers, and have a long term interest in their villages and residents.
- 41 Retirement villages also cater to a wide range of residents with differing levels of health and independence, offering a range of housing options and care to meet the specific needs of the residents. These are features that distinguish retirement village operators from typical residential developers who generally do not deliver purpose built environments for the ageing population.
- 42 Retirement village operators are therefore well placed to help to address the retirement housing and care crisis. To do so, it is critical that the construction, operation and maintenance of retirement villages are appropriately provided for in planning regimes.

²⁰ For example, studies undertaken by the Illawarra Retirement Trust, a retirement village operator based in Wollongong, NSW.

²¹ Ibid, page 15.

Providing a range of accommodation options to suit different needs

- 43 Retirement villages provide appropriate accommodation and care for a vulnerable sector of our community with different housing and care needs compared to the rest of the population.
- 44 Retirement villages allow older people to continue living in their established community, while down-sizing to a more manageable property (i.e. without stairs or large gardens). Retirement village living provides security, companionship and peace of mind for residents.²² Residents will also, in most cases, have easy access to care and other support services.
- 45 The RVA has seen a marked change in retirement accommodation over the last 20 years. In the past, lifestyle villages without care were relatively common. As the population ages, the retirement village industry is seeing a greater demand for a 'continuum of care' in one location - from independent units through to hospital and dementia care. Today, many villages are being developed with some degree of residential care in their campus. Some villages are committed to a full continuum of care, while others focus on providing a smaller number of rest home beds that are available for residents if they are needed.
- 46 Another important trend is for operators to build serviced apartments, where a resident moves in and out of care as required but without having to physically move from their apartment. These developments are a direct response to market demands. The sector is focused on providing a mix of independent living units and care options to meet the range of financial, social and other resources our residents have.
- 47 A number of operators also focus on providing social housing as part of their villages. This can be a mix of affordable Occupation Right Agreements and rental units.
- 48 'Care only' facilities are increasingly rare. This is because under the current government funding regime for health care provision, it is not possible to justify the capital cost of building stand-alone residential care facilities. As a result, no residential care facilities, apart from extensions to existing facilities, have been built in the last five years or so.
- 49 Ultimately, the retirement village industry provides appropriate accommodation to address the specific needs of the older population, including a range of large and smaller scaled retirement villages and aged care homes with differing services, amenities and care. This variety enables differing price points and options, which are vital to enabling choices for the growing ageing population.

Retirement villages' role in addressing the general housing crisis

- 50 Retirement villages also help to ease demand on the residential housing market and assist with the housing supply shortage in New Zealand. That is because growth in retirement village units is faster than growth in the general housing stock. And, the majority of new villages are located in major urban centres. The retirement village

²² PWC 'Retirement village contribution to housing, employment, and GDP in New Zealand' (March 2018). Brown, N.J., "Does Living Environment Affect Older Adults Physical Activity Levels?". Grant, Bevan C. (2007) 'Retirement Villages', *Activities, Adaptation and Aging*, 31:2, 37-55.

sector therefore also contributes significantly to the development of New Zealand's urban areas, and the particular challenges urban areas face.

- 51 New build data from Statistics NZ shows that retirement village units constituted between 5% and 8% of all new dwellings between June 2016 and June 2021.
- 52 The retirement village sector allows older New Zealanders to free up their often large and age-inappropriate family homes and move to comfortable and secure homes in a retirement village. The RVA estimates that around 5,500 family homes are released back into the housing market annually through new retirement village builds. This represents a significant contribution to easing the chronic housing shortage. A large scale village, for example, releases approximately 300 houses back onto the market to be more efficiently used by families desperate for homes. To illustrate, retirement units are generally occupied by an average of 1.3 people per unit, compared to an average of 2.6 people per standard dwelling.

Other benefits of retirement villages

- 53 In addition to the important role of retirement villages in addressing the housing crisis and providing the ageing population with housing and care tailored to their needs, the retirement village sector also produces other broader benefits:
- 53.1 The sector employs approximately 19,000 people to support day-to-day operations. Between 2018 and 2026, approximately 9,500 new jobs will have been created from construction of new villages. The sector contributes around \$1.1 billion to New Zealand's GDP from day-to-day operations.²³ More recently, and importantly, the sector has generated jobs in industries that have been impacted by COVID-19 (such as hospitality and accommodation).
- 53.2 The contribution of retirement village construction is also substantial. For example, a large scale new village will cost in the order of \$100-\$200 million to construct. Retirement village construction is also expected to employ approximately 5,700 FTEs each year.²⁴
- 53.3 Retirement villages also support district health boards by providing health care support for residents that would otherwise be utilising the public healthcare system thereby reducing "bed blocking" in hospitals.
- 53.4 Due to the lower demand for transport (including because of on-site amenities), retirement villages contribute proportionately less to transport emissions than standard residential developments. Operators also invest in a range of other methods to reduce carbon emissions from the construction and operation of villages.

²³ PWC 'Retirement village contribution to housing, employment, and GDP in New Zealand' (March 2018) page 4.

²⁴ Ibid.

WHAT THE ENABLING HOUSING SUPPLY PLAN CHANGES MUST DELIVER FOR RETIREMENT VILLAGES

Better enable housing and care for the ageing population

- 54 As explained above, promoting the wellbeing of older persons within our communities requires district plans to better enable the construction of new retirement villages. In the experience of RVA members, cumbersome, rigid and uncertain resource management processes and practices are a major impediment to delivering necessary retirement housing and care. In particular, resource consent processes take too long, are unnecessarily complex, and often do not provide for retirement living options properly because the relevant plans are not fit for purpose.
- 55 This Enabling Housing Supply plan change process represents a huge opportunity to better enable the provision of a diverse range of retirement housing and care options. If this opportunity is not taken now, the existing consenting challenges facing retirement village operators are likely to be perpetuated for many years.
- 56 In fact, councils must take this step in order to give effect to the NPSUD through this plan change process. The NPSUD specifically recognises that well-functioning urban environments enable all people and communities to provide for their wellbeing, health and safety (Objective 1). For the reasons explained in detail above, achieving this wellbeing objective in relation to older persons within our community means providing for the specific housing and care needs of those people.
- 57 The NPSUD also states that contributing to well-functioning urban environments means enabling a “*variety of homes*” to meet the “*needs ... of different households*” (Policy 1), and that cannot be achieved in our major centres without enabling significant intensification of our urban environments (Policy 3). These NPSUD policies therefore require district plans to specifically respond to the need to provide suitable and diverse housing choices and options for our ageing population as part of the intensification of urban environments. More details on the requirements of the NPSUD are set out in **Appendix 2**.
- 58 The Enabling Housing Act builds on the NPSUD as part of the Government’s response to reduce barriers to housing supply. The Enabling Housing Act puts in place specific requirements to provide for medium density housing as a minimum in all relevant residential zones (*MDRS Framework*). However, it is important to emphasise that the Enabling Housing Act does not only require Tier 1 councils to implement the medium density requirements but also to give effect to Policy 3 of the NPSUD regarding intensification of urban environments.²⁵ Accordingly, this Enabling Housing Supply plan change will not meet the requirements of the Enabling Housing Act if it is limited to implementing the Act’s medium density housing requirements.
- 59 In order to meet the Enabling Housing Act requirements, to give effect to the NPSUD, and respond to the significant health and wellbeing issues created by the current retirement housing and care crisis, the Enabling Housing Supply plan changes must ensure that district plans specifically and appropriately provide for and enable retirement villages.
- 60 The RVA considers this outcome can only be achieved by providing for a retirement village-specific objective, policy and rule framework. In the experience of RVA members, without a specific framework, retirement village proposals face material

²⁵ RMA, s77G.

uncertainty and consenting barriers as council officers attempt to apply general residential approaches that are not fit-for-purpose to retirement villages.

- 61 The retirement village-specific framework sought by the RVA is set out at **Appendix 1**. The framework is front-ended by an objective to recognise and enable the housing and care needs of the ageing population. This objective is supported by policies and rules (including notification rules and standards). The following sections explain the key aspects of the framework.

Recognise that retirement villages are a residential activity

- 62 A key issue with many existing district plans is their failure to explicitly recognise that retirement villages are a residential activity. This issue has resulted in consenting challenges with members of the community, and sometimes even council officers, taking the view that retirement villages are non-residential activities that should only be provided for in non-residential zones or seeking to assess different parts of a village in a different manner (such as a commercial activity).
- 63 Retirement villages are clearly a residential activity²⁶ as they provide permanent homes for the residents that live there. Retirement villages do provide a range of ancillary services, however those services are provided for residents only and complement the residential function of retirement villages by meeting the particular needs of older residents. The residential nature of retirement villages is reflected in the definition, which recognises the key function of villages as a "*residential complex or facilities*" for the provision of "*residential accommodation for people who are retired*".²⁷
- 64 The retirement village-specific framework sought by the RVA therefore includes rules that provide for each retirement village as a whole as a residential activity, and ensures that proposals are not treated in a fragmented way because they include some components that might not typically be associated with standard housing (such as for example medical facilities). More specifically, the framework includes:
- 64.1 A rule that permits the use and operation of retirement villages, recognising that this activity is expected and encouraged in residential zones;
- 64.2 A rule that regulates the construction of retirement villages, recognising that this activity is anticipated in residential zones with limited matters requiring assessment; and
- 64.3 A rule that precludes public notification of retirement village proposals given they are anticipated and encouraged as residential activities in residential zones.

Provide for retirement villages in all residential zones

- 65 The RVA members' experience is that older people want to stay in the communities in which they currently live, and have lived for many years, during their retirement. This is called 'ageing in place'. It allows residents to remain close to their families, friends, familiar amenities and other support networks. It allows residents to continue to play an integral part in the communities that they helped establish. For

²⁶ The definition of 'residential activity' as set out in the National Planning Standards is: "*means the use of land and building(s) for people's living accommodation*".

²⁷ National Planning Standard, page 62.

this reason, the majority of retirement village residents come from dwellings located in surrounding suburbs.

- 66 It is noted that the Christchurch Replacement District Plan Independent Hearings Panel (chaired by a former High Court judge, with members including another former High Court judge, an Environment Court judge and experienced independent commissioners) acknowledged the importance of ageing in place:²⁸

[332] Dr Humphrey's evidence stressed the clear health and social evidence of people ageing in their own communities. We have also taken particular note of Dr Humphrey's evidence as to the importance of providing choice for ageing in place. That evidence was supported by the evidence of Mr de Roo. We find that ageing in place, whereby older persons have choices to downsize from their family homes yet remain within their familiar neighbourhoods, is important not only for the wellbeing of our older citizens but also for the communities of which they should continue to contribute to and be part of. In addition to providing choice, assisting affordability is also important. Those priorities are also generally reflected in the Statement of Expectations.

- 67 Similar issues were recognised in the Proposed Auckland Unitary Plan section 32 evaluation:²⁹

Existing legacy plans do not provide the flexibility required by retirement villages to construct buildings that are 'fit for purpose' in terms of providing for a range of housing and care choices for older people and those requiring care or assisted living. As Auckland's population continues to grow, it is important that a choice of housing is provided for older people, particularly in locations that provide good amenity and access to community services and facilities.

- 68 Both the Auckland Unitary Plan and Christchurch District Plan provide for the construction of retirement villages as a restricted discretionary activity in the key residential zones.
- 69 The RVA members' experience is that traditional intensification models (increasing density opportunities as you move closer to centres and public transport hubs) fail to recognise the need for older people to 'age in place'. Such models restrict retirement villages to certain centres and corridors, and do not provide for the acknowledged health and social wellbeing benefits that are achieved when providing older people with access to housing and care options in their existing communities. Furthermore, retirement village residents do not gain the same benefits as younger people from traditional intensification models as residents' mobility often limits their ability to access amenities and public transport on foot.
- 70 Furthermore, sites in existing residential areas that are appropriate for retirement villages are extremely rare. Sites of the required size and in good locations are highly unique and valuable resources in our larger cities.
- 71 The need to provide for older persons to 'age in place', the inappropriateness of traditional intensification models, and lack of appropriate sites for retirement villages, means that achieving the objective of providing appropriate housing and

²⁸ Decision 10 – Residential (part) (and relevant definitions and associated planning maps) (10 December 2015).

²⁹ Auckland Unitary Plan Section 32 Report, Part 2.50.

care for older persons requires a planning framework that enables retirement villages in all residential zones.

- 72 The retirement village-specific framework sought by the RVA accordingly enables retirement villages in all relevant residential zones (as defined in the Enabling Housing Act). As set out above, the enabling approach means permitting retirement villages as a use/activity, with construction of retirement village buildings regulated as a restricted discretionary activity.

Provide for change to existing urban environments

- 73 There are key differences between retirement villages and 'typical' residential dwellings. These differences mean that retirement villages do change the existing urban environment, and this has not been acknowledged properly in planning frameworks leading to a range of consenting challenges.
- 74 Because of their functional and operational needs, retirement village and aged care facilities tend to be larger (in height and bulk) than 'typical' residential housing in order to properly cater for resident needs.
- 75 To illustrate, retirement villages contain a range of unit types to cater for the different care and mobility needs of the residents. The accommodation ranges from independent townhouses and apartments, through to serviced apartments, hospital beds and dementia rooms. While independent living villas, townhouses and apartments will include full kitchens, bathrooms, lounges and other household amenities, serviced apartments and care rooms will not always have these amenities. These factors may be a key driver for the layout and amenities within a unit and also within a village. For example, serviced apartments and care rooms need to have quick, accessible, and all weather access to communal living and dining areas. In the experience of RVA members', council officers often attempt to redesign village layouts based on what they think might be suitable, without proper knowledge of villages and residents' needs.
- 76 In addition, retirement villages often include a wide range of amenities and services for resident needs and convenience. Services range from communal indoor and outdoor amenity areas, pools, gyms, libraries, reflection spaces, hairdressing services and cafés and bars through to welfare and medical facilities. These are important amenities and services as many retirement village residents are frail or have mobility restrictions (making it more difficult for them to travel to access amenities and services). They also provide a better quality of life for residents than could be offered without these communal amenities and services. For example, a townhouse would not have space for a pool or gym.
- 77 Retirement villages also use new, low maintenance building products and design techniques to ensure their efficient operation. These design requirements can result in change when compared to surrounding neighbourhoods that were built many decades in the past.
- 78 The experience of RVA members' is that communities (particularly neighbouring landowners seeking to preserve status quo interests) and council officers often can have an expectation as to how sites are going to be used. Typically, that expectation is not for medium or higher density retirement accommodation. In part, this is because, traditionally, planning provisions have ignored the unique features of retirement villages. Further, the significant positive effects and community benefits of retirement villages are sometimes not given sufficient weight.

- 79 The failure of district plans to recognise the functional and operational needs of retirement villages, and provide for change to the character and amenity of existing neighbourhoods to enable the benefits of retirement villages, has created significant consenting challenges.
- 80 The NPSUD now requires district plans to provide for this change to existing urban environments. It creates an expectation that “*New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations*” (Objective 4). Further, the NPSUD recognises that amenity values can differ among people and communities, and also recognises that changes can be made via increased and varied housing densities and types, noting that changes are not, of themselves, an adverse effect (Policy 6).
- 81 The importance of this direction is also clearly set out in the Ministry for the Environment’s (*MfE*) and the Ministry of Housing and Urban Development’s (*HUD*) final decisions report on the NPSUD, which provides that:³⁰
- Urban areas are dynamic and complex, continually changing in response to wider economic and social change. The current planning system can be slow to respond to these changing circumstances and opportunities, which can lead to a mismatch between what is enabled by planning and where development opportunity (or demand) exists. This can lead to delays in supply, or incentivise land banking.
- 82 The Enabling Housing Act further supports this need for change by enabling medium density housing to be developed as a minimum in all relevant residential zones. Although the MDRS Framework generally captures retirement villages under the umbrella of residential activities, the framework fails to recognise the unique operational, functional and locational features of retirement villages. Specific provision is therefore necessary to enable much needed retirement housing and care.
- 83 The Enabling Housing Supply plan change needs to provide for change to existing urban environments in order to achieve the intensification envisaged in Policy 3 of the NPSUD. And, in order to respond to the significant issues created by the retirement housing and care crisis, this provision for change should also explicitly acknowledge that the functional and operational needs of retirement villages are a driver of appropriate and necessary change.
- 84 The retirement village-specific framework sought by the RVA therefore includes:
- 84.1 A policy that recognises the need for change over time to the existing character and amenity of neighbourhoods to provide for the diverse and changing needs of the community;
- 84.2 A policy (and supporting matter of discretion) that recognises the need to provide for a range of housing and care options for older people and to recognise the functional and operational needs of retirement villages;
- 84.3 A policy that directs that density standards are to be used as a baseline for the assessment of the effects of developments; and

³⁰ MfE and HUD, “*Recommendations and decisions report on the National Policy Statement on Urban Development*” (Wellington, 2020), page 59.

84.4 As previously mentioned, a rule that precludes public notification of retirement village proposals given they are anticipated and encouraged residential activities in residential zones.

Recognise the intensification opportunities provided by larger sites

85 As discussed above, sites in existing residential areas that are appropriate for retirement villages are extremely rare, due to the need for sites to be large enough to accommodate all parts of a village and be located in close proximity to community services and amenities. Given large sites are a rare resource, it is important they are developed efficiently to maximise the benefits from their development. This approach is consistent with the enabling intensification approach of the NPSUD.

86 As well as providing intensification opportunities, large sites also provide unique opportunities to internalise potential impacts of intensification on neighbours and the neighbourhood. For example, additional height can be located towards the centre of a site without adverse dominance, shading or privacy effects.

87 The retirement village-specific framework sought by the RVA therefore includes a policy (and supporting matter of discretion) that recognises the intensification opportunities provided by larger sites and need to provide for more efficient use of those sites.

88 This approach was adopted in the Auckland Unitary Plan, with the residential zones including a policy to enable more efficient use of larger sites.³¹

Recognise the unique internal amenity needs of retirement villages

89 A key consenting challenge faced by the RVA members is an expectation from council officers that the internal amenity controls used for traditional housing typologies (e.g. outlook, sunlight, privacy, outdoor living spaces, landscaping and the like) are appropriate for retirement villages.

90 This approach fails to recognise the unique functional and operational needs of retirement villages (discussed above). For example, residents have access to a wide range of communal spaces as well as their individual homes, so their amenity is provided by the village as a whole rather than an individual space. This means that internal amenity standards, such as outlook space, do not have the same level of relevance to retirement villages as to typical residential housing. Other factors, such as proximity to communal spaces, may be more relevant to the overall level of amenity experienced by residents.

91 This approach also fails to recognise that retirement village operators have a long and positive track record and understanding of what works for their residents. Over many years they have provided high quality environments for their residents – significantly better than typical housing typologies have delivered. Retirement village operators rely on their reputation, which would be quickly diminished by bad publicity. The quality of life provided to residents is therefore paramount to the RVA's members.

³¹ H3.3(8), H4.3(8), H5.3(9).

- 92 These points were accepted by the Christchurch Replacement District Plan Independent Hearing Panel:³²

[331] Considering costs, benefits and risks, we have decided against imposing internal amenity controls on retirement villages. On this matter, we accept the position of Ryman and the RVA that there is no evidence at this time that there is a problem requiring intervention. We have also borne in mind the caution expressed by Mr Collyns as to the untested impacts of such regulation on the cost of delivering the affordable housing end of the retirement village market. Having said that, we are also mindful that it is at this “affordable” end of the market where residents have the least market power and hence, greatest vulnerability. However, on the basis of Mr Collyns’ evidence, we have assumed that the RVA’s members would act responsibly. Also, we have noted that the Council did not seek to address this topic in its closing submissions and took from that some concurrence with the retirement village sector position as to the lack of any need for regulatory intervention at this time. However, we record that this is a matter where the Council, as plan administrator, has an ongoing plan monitoring responsibility.

- 93 Similarly, a number of internal amenity standards in the Auckland Unitary Plan apply to dwellings, but not to retirement units.³³

- 94 There are two internal amenity standards in the Enabling Housing Act that the RVA considers require amendment when applied to retirement villages:

94.1 *Outdoor living space:* Retirement villages provide a range of private and communal outdoor areas that can be enjoyed by residents. All of these areas should be counted towards this amenity standard. In addition, retirement village residents tend to spend a significant amount of their recreational time inside, given their sensitivity to temperature extremes. A proportion of these indoor areas should also be counted towards this amenity standard to reflect the actual usage patterns of village residents.

94.2 *Outlook space:* The standard is not workable for all units across a comprehensive site. Furthermore, such a standard is simply not needed. Residents of a village have a much greater degree of choice of ‘living rooms’ than residents of typical residential dwellings (including communal sitting areas, dining rooms, a library, activity room and chapel). These communal spaces are typically well orientated for daylight and enjoying an outlook into a large and attractive outdoor space.

- 95 The retirement village-specific framework sought by the RVA therefore includes:

95.1 A policy that recognises the unique layout and internal amenity needs of retirement villages to cater for the requirements of residents as they age;

95.2 Internal amenity standards that are limited to the controls necessary or appropriate for retirement villages; and

³² Decision 10 – Residential (part) (and relevant definitions and associated planning maps) (10 December 2015).

³³ For example, H4.6.12, H4.6.13 and H4.6.15.

95.3 A rule that precludes limited notification for villages that do not comply with internal amenity standards (given those standards are not relevant to impacts on neighbours).

Provide clear and focused matters of discretion

96 The RVA's members have faced significant cost and delay in consenting retirement villages in residential zones. Often, the process requirements are significantly out of proportion with the adverse effects of the activity, and do not recognise its substantial benefits.

97 An example of this issue is excessive and extraneous information requests. Over time, the amount of information that is required to support an application for consent has substantially increased. Council officers often request information that is not relevant to the assessment of the effects of a retirement village proposal, such as information regarding electricity supply, internal lighting, hallway width, planter box size, and outdoor furniture. It is not uncommon to receive unsolicited design change requests from council urban designers. These requests add cost and delay, and distract from the key issues. Council officers have too much discretion to require applicants to provide further information, and have the ability to wield the threat of notification if the requested information is not provided. By way of example, one RVA member received seven requests for further information following lodgement of an application, which resulted in a five month delay in the decision being issued. Another application resulted in four further information requests and a four month delay.

98 It is therefore important that matters of discretion for decision-making are clear and focused on the aspects that matter.

99 The retirement village-specific framework sought by the RVA therefore includes matters of discretion that:

99.1 Recognise the positive effects of retirement villages;

99.2 Focus effects assessments on exceedances of relevant standards, effects on the safety of adjacent streets or public open spaces, and effects arising from the quality of the interface between the village and adjacent streets or public open spaces. These matters of discretion closely reflect the policy framework within the Enabling Housing Act; and

99.3 Enable the need to provide for efficient use of larger sites and the functional and operational needs of retirement villages to be taken into account when assessing effects.

100 It is important that other rules do not render retirement villages discretionary or non-complying and therefore losing the benefit of clear and focused matters of discretion.

Provide appropriately focused notification rules

101 A key issue for RVA members is the overly cautious approach that most councils take when making notification decisions. Public participation is a significant cause of the cost and delay of consenting processes. RMA processes currently provide multiple opportunities for opposition to projects, which is the reason for significant delays in processing consents, and does not ensure good outcomes. Notification is often a cause of much angst for developers. 'NIMBYism' is rife. Self-interested

neighbours can create huge delays and disputes for no material environmental benefit.

- 102 Although public participation has an important role in the RM system, it must be proportional to the issues at hand. It is only beneficial, and should only be required, where notification is likely to uncover information that will assist the decision-making process. The costs of public notification are too high for it to be required simply for persons to 'be heard'.
- 103 Applications for residential activities that are anticipated in residential zones (i.e. through restricted discretionary activity status) should not be publicly notified. Rather, the time for public participation is at plan making stage where residential zones and appropriate/inappropriate activities can be clearly identified. This approach aligns with the Enabling Housing Act which precludes public notification for residential proposals.
- 104 Limited notification should remain available as it provides for neighbours to participate when they are likely to be impacted by a next-door development. However, given the significant costs associated with notification, it should only be required where it will benefit the decision-making process. Where an application meets the expectations for development in an area (i.e. through compliance with external amenity standards), there should be no need for limited notification. This approach aligns with the Enabling Housing Act which precludes limited notification for residential proposals that comply with relevant standards.
- 105 The retirement village-specific framework sought by the RVA therefore includes:
- 105.1 A rule that precludes public notification of retirement village proposals;
 - 105.2 A rule that allows consideration of limited notification of retirement village proposals only where there is a breach of a relevant external amenity standard.

Use the MDRS Framework as a guideline

- 106 The Enabling Housing Act sets medium density residential standards that guide when residential activities require closer assessment and when limited notification of proposals can be available. The retirement village-specific framework sought by the RVA takes a similar approach with the standards informing matters of discretion and limited notification presumptions.
- 107 The Enabling Housing Act will result in a level of standardisation that will set expectations for the scale of development across the country. The standards have been deemed to 'cover the ground' in relation to the key matters relevant to residential proposals. With some amendments to reflect the specific nature of retirement villages, the RVA considers the standards also set a relevant baseline for identifying standards relevant for the construction of retirement villages.
- 108 Furthermore, it is important this Enabling Housing Supply plan change does not inadvertently make retirement village developments more difficult than standard residential development. Such an outcome would significantly exacerbate the retirement housing and care crisis that is already resulting in poor wellbeing outcomes for older people.

- 109 The retirement village-specific framework sought by the RVA therefore includes:

109.1 For medium density areas:

- (a) Standards on external amenity that reflect the MDRS Framework;
- (b) Standards on internal amenity that are based on the MDRS Framework with some amendments to reflect the functional and operational needs of retirement villages (as discussed above).

109.2 For high density areas, retirement village-specific standards have not been provided in this paper. It is expected that external amenity standards for such locations will be more enabling than the MDRS. As for medium density areas, amendments to any internal amenity standards that apply in high density areas are likely to be required to reflect the functional and operational needs of retirement villages.

Provide for retirement villages in commercial and mixed use zones

- 110 RVA's members generally seek to locate their villages in established, good quality residential areas, as these locations are most suited for residents to 'age in place'. However, due to the lack of suitable sites in existing residential areas and need to respond to the retirement living and care crisis, the RVA's members also operate retirement villages in some commercial and mixed use zones where there is good access to services and amenities.
- 111 It is important to note that the Enabling Housing Act is not limited to residential zones and also requires councils to ensure district plans provide for intensification of urban non-residential zones through the Enabling Housing Supply plan changes.
- 112 City centre, metropolitan centre, neighbourhood centre, local centre and town centre zones in particular provide opportunities for retirement villages as these areas serve the surrounding local communities and provide close access for amenities to residents who are often unable to walk long distances. Many general business areas are also located between centres and residential areas and therefore potentially suitable for retirement villages.
- 113 The RVA therefore seeks a retirement village-specific framework (equivalent to that provided for residential zones) within all commercial and mixed use zones that contemplate some level of residential development.

Rationalised financial and development contributions

- 114 A key issue for RVA members is excessive and inappropriate financial and development contribution requirements. Retirement village operators are often being significantly overcharged given their much lower demand on public infrastructure than typical housing. The lack of transparency of development contribution policies under the Local Government Act 2002 has been a central problem, although policies have been slowly improving as a result of strong engagement by the RVA in these processes. The reopening of financial contributions under the RMA has the potential to exacerbate this issue once more.
- 115 The RVA is preparing a separate paper on development contributions, which will be circulated to councils shortly.

APPENDIX 1 – PROPOSED RETIREMENT VILLAGE PLANNING FRAMEWORK

OBJECTIVES

In any of the low density residential zone, general residential zone, medium density residential zone and high density residential zone, add:

MDR-Ox	<p>Ageing population</p> <p>Recognise and enable the housing and care needs of the ageing population.</p>
---------------	--

POLICIES

In any of the low density residential zone, general residential zone, medium density residential zone and high density residential zone, add:

MDR-Px	<p>Changing communities</p> <p>To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the [add] zone will change over time to enable a variety of housing types with a mix of densities.</p>
MDR-Px	<p>Larger sites</p> <p>Recognise the intensification opportunities provided by larger sites within the [add] zone by providing for more efficient use of those sites.</p>
MDR-Px	<p>Provision of housing for an ageing population</p> <ol style="list-style-type: none"> 1. Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons in [add] zone, such as retirement villages. 2. Recognise the functional and operational needs of retirement villages, including that they: <ol style="list-style-type: none"> a. May require greater density than the planned urban built character to enable efficient provision of services. b. Have unique layout and internal amenity needs to cater for the requirements of residents as they age.
MDR-Px	<p>Role of density standards</p> <p>Enable the density standards to be utilised as a baseline for the assessment of the effects of developments.</p>

RULES

In any of the low density residential zone, general residential zone and medium density residential zone, add:

MDR-R1	Retirement Villages, excluding the construction of buildings
1. Activity status: Permitted.	
MDR-R2	Construction of buildings for a Retirement Village
<p>1. Activity status: Restricted Discretionary</p> <p>Matters of discretion are limited to:</p> <ol style="list-style-type: none"> 1. The effects arising from exceeding any of the following standards: MDR-S1 – MDR-S4 and excluding a non-compliance that does not trigger limited notification. 2. The effects arising from exceeding any of the following standards: MDR-S4 – MDR-S8. 3. The effects of the retirement village on the safety of adjacent streets or public open spaces. 4. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces. 5. When assessing the matters in (1), (2) and (3), consider: <ol style="list-style-type: none"> a. The need to provide for efficient use of larger sites. b. The functional and operational needs of the retirement village. 6. The positive effects of the construction, development and use of the Retirement Village. <p>For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a Retirement Village.</p> <p>Notification status:</p> <p>An application for resource consent made in respect of rule MDR-R2 is precluded from being publicly notified.</p> <p>An application for resource consent made in respect of rule MDR-R2 that complies with MDR-S1–MDR-S4 is precluded from being limited notified.</p>	

MDR-S1	Building height
[Standard to match RMA, Schedule 3A, clause 11]	

MDR-S2	Height in relation to boundary
<p>Add to RMA, Schedule 3A, clause 12(2):</p> <p>(d) boundaries adjoining open space and recreation zones, rural zones, commercial and mixed use zones, industrial zones and [add other zones as relevant to each plan, eg special purpose zones].</p>	
MDR-S3	Setbacks
<p>[Standard to match RMA, Schedule 3A, clause 13]</p>	
MDR-S4	Building coverage
<p>[Standard to match RMA, Schedule 3A, clause 14]</p>	
MDR-S5	Outdoor living space
<p>Add to RMA, Schedule 3A, clause 15:</p> <p>(3) For retirement units, clause 15(1) and (2) apply with the following modifications:</p> <p>(a) The outdoor living space may be in whole or in part grouped cumulatively in 1 or more communally accessible location(s) and/or located directly adjacent to each retirement unit; and</p> <p>(b) A retirement village may provide indoor living spaces in one or more communally accessible locations in lieu of up to 50% of the required outdoor living space.</p> <p>Otherwise amend standard so that it applies to "retirement units".</p>	
MDR-S6	Outlook space
<p>Add to RMA, Schedule 3A, clause 16:</p> <p>(10) For retirement units, clause 16(1) - (9) apply with the following modification: The minimum dimensions for a required outlook space are 1 metre in depth and 1 metre in width for a principal living room and all other habitable rooms.</p>	
MDR-S7	Windows to street
<p>Amend RMA, Schedule 3A, clause 17 as follows:</p> <p>Any retirement unit facing a public street must have a minimum of 20% of the street-facing façade in glazing. This can be in the form of windows or doors.</p>	
MDR-S8	Landscaped area
<p>[Standard to match RMA, Schedule 3A, clause 18 with amendments so that it applies to "retirement units"]</p>	

DEFINITIONS

Retirement Unit means any unit within a retirement village that is used or designed to be used for a residential activity (whether or not it includes cooking, bathing, and toilet facilities). A retirement unit is not a residential unit.

Retirement Village means a managed comprehensive residential complex or facilities used to provide residential accommodation for people who are retired and any spouses or partners of such people. It may also include any of the following for residents within the complex: recreation, leisure, supported residential care, welfare and medical facilities (inclusive of hospital care) and other non-residential activities.

APPENDIX 2 – NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT

National Policy Statement on Urban Development

- 1 National policy statements sit at the top of the planning hierarchy setting out matters of national significance that give substance to Part 2 of the Resource Management Act 1991.³⁴
 - 2 District plans must “give effect to” the NPSUD.³⁵ The Supreme Court has established that the requirement to “give effect to” means to “implement”; “it is a strong directive, creating a firm obligation on the part of those subject to it”.³⁶
 - 3 The NPSUD’s objectives and policies direct councils to improve the responsiveness and competitiveness of land and development markets. In particular, the NPSUD requires local authorities to open up more development capacity, so more homes can be built in response to demand. It provides direction to make sure capacity is provided in accessible places, helping New Zealanders build homes in the places they want, close to jobs, community services, public transport and other amenities.³⁷
 - 4 The NPSUD identifies Auckland, Hamilton, Tauranga, Wellington and Christchurch as Tier 1 urban environments and their councils as Tier 1 local authorities. This status reflects the districts’ and wider regions’ population size and growth rate. Objective 3 of the NPSUD seeks to enable more people to live in, and more businesses and services to be located in, areas that are near centres, near employment, well-served by public transport, and importantly for retirement villages, where there is high demand. Policy 3 sets out highly directive intensification requirements for Tier 1 urban environments, with building height and density requirements linked to centres and accessibility. District plans must be modified so that the building height or density requirements allow for such intensification (Policy 4).
 - 5 The following are key themes within the policy document:
 - 5.1 The NPSUD is enabling of intensification – more so than its predecessor, the National Policy Statement on Urban Development Capacity 2016 (*NPSUDC*);
 - 5.2 Well-functioning environments are urban environments that have or enable a variety of homes to meet the needs of different households; and
 - 5.3 Urban environments change over time - planning regimes should be responsive to that change.
 - 6 These themes are addressed in more detail below.
- Enabling nature of the NPSUD**
- 7 A key feature of the NPSUD is its enabling nature.

³⁴ *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38.

³⁵ RMA, s 75(3).

³⁶ *Environmental Defence Society Inc v The New Zealand King Salmon Company Ltd* at [77].

³⁷ Introductory guide to the National Policy Statement 2020, Ministry for the Environment, July 2020, page 6.

- 8 The NPSUD replaced the NPSUDC. The Environment Court,³⁸ in relation to the NPSUDC, held that the intention of that NPS is to be primarily enabling. That NPS was designed, “to provide opportunities, choices, variety and flexibility in relation to the supply of land for housing and business”.³⁹
- 9 The objectives of the NPSUDC that the Court was referring to in making the above statement (Objectives QA1 to QA3) contain similar terminology and concepts to the NPSUD (eg, Objectives 1, 3 and 4 and Policies 1 and 3). Therefore, it is a reasonable starting point that the Court’s guidance continues to have some relevance. However, the NPSUD goes even further. It is intended to be more enabling of development than its predecessor. It, “builds on many of the existing requirements for greater development capacity ...has a wider focus and adds significant new and directive content”.⁴⁰
- 10 The enabling nature of the NPSUD is set out by the MfE and HUD in their final decisions report on the NPSUD.⁴¹ In their report, MfE and HUD state that:⁴²
- The NPS-UD will enable growth by requiring councils to provide development capacity to meet the diverse demands of communities, address overly restrictive rules and encourage well-functioning urban environments.
- 11 The final decisions report also provides that the NPSUD “is intended to help improve housing affordability by removing unnecessary restrictions to development and improving responsiveness to growth in the planning system”.⁴³
- 12 The enabling policy intent of the NPSUD is further supported by government statements made in the context of the Enabling Housing Bill.⁴⁴ The explanatory material describes the NPSUD as a tool that “addresses restrictive land use regulations”.⁴⁵
- 13 In summary, it is clear that the NPSUD is intended to be an enabling tool. The NPSUD seeks to remove unnecessary “restrictions”, “constraints” and “barriers” in the planning system to enable the growth of well-functioning urban environments.
- Enabling a variety of housing types and densities**
- 14 The NPSUD recognises that well-functioning urban environments are those that enable all people and communities to provide for their wellbeing, health and safety (Objective 1), and this requires having and enabling a “variety of homes” to meet the needs of different households (Policy 1). The NPS also recognises that the needs of the population change over time (Objective 4) - this is particularly so as people age. Further, the NPS requires decision-makers, when making planning decisions, to

³⁸ *Bunnings Limited v Queenstown Lakes District Council* [2019] NZEnvC 59.

³⁹ *Ibid*, at [39].

⁴⁰ MfE and HUD, “*Recommendations and decisions report on the National Policy Statement on Urban Development*” (Wellington, 2020), page 16.

⁴¹ The report includes the Ministers’ final decisions on the NPSUD, and was published in accordance with s 52(3)(b) of the RMA.

⁴² MfE and HUD, “*Recommendations and decisions report on the National Policy Statement on Urban Development*” (Wellington, 2020), page 17.

⁴³ *Ibid*, page 85.

⁴⁴ The Housing Bill was introduced on 19 October 2021.

⁴⁵ Housing Bill, Explanatory note, page 1.

recognise that the planned urban built form may involve significant changes to an area to provide increased and varied housing densities and types (Policy 6).

- 15 The NPSUD is effectively designed to encourage development of land for a variety of housing that meets the needs of all people, including New Zealand's ageing population. As previously addressed, New Zealand has an increasing ageing population and the housing and care needs of this demographic differ from the needs of other demographics. Like the GPS-HUD and the Better later life government strategy, the NPSUD recognises the critical need of providing appropriate and diverse housing choices and options for our ageing population. To give effect to the NPSUD, Tier 1 Councils must adequately provide for a range of housing types and densities, including specifically retirement and care accommodation options.

Urban environments are expected to change over time

- 16 The NPSUD's provisions also anticipate dynamic urban environments that change over time. As set out by MfE and HUD, the NPSUD's intent is to ensure responsive and strategic planning that leads to a "*more dynamic land use*".⁴⁶
- 17 The NPSUD requires that "*New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations*" (Objective 4). Further, the NPSUD recognises that amenity values can differ among people and communities, and also recognises that changes can be made via increased and varied housing densities and types, noting that changes are not, of themselves, an adverse effect (Policy 6).
- 18 The changing nature of urban environments was also recognised by the Environment Court in relation to the NPSUD's predecessor. The Court noted that the NPSUDC, "*recognises the national significance of well-functioning urban environments, with particular focus on ensuring that local authorities, through their planning...enable urban environments to grow and change in response to the changing needs of the communities and future generations*" (emphasis added).⁴⁷
- 19 The importance of this direction is also clearly set out in MfE's and HUD's final decisions report on the NPSUD, which provides that:⁴⁸

Urban areas are dynamic and complex, continually changing in response to wider economic and social change. The current planning system can be slow to respond to these changing circumstances and opportunities, which can lead to a mismatch between what is enabled by planning and where development opportunity (or demand) exists. This can lead to delays in supply, or incentivise land banking.

- 20 To address the above, the NPSUD also introduces 'responsive' planning provisions (Objective 6(c) and Policy 8). These provisions send a clear signal that councils need to be sufficiently agile and responsive when formulating their planning frameworks.

⁴⁶ MfE and HUD, "*Recommendations and decisions report on the National Policy Statement on Urban Development*" (Wellington, 2020), page 17.

⁴⁷ *Summerset Villages (St Johns) Ltd v Auckland Council* [2019] NZEnvC 173 at [45].

⁴⁸ MfE and HUD, "*Recommendations and decisions report on the National Policy Statement on Urban Development*" (Wellington, 2020), page 59.

Adopting a restrictive and unresponsive approach does not align with the NPSUD's direction.

- 21 The concepts of 'change' and 'responsiveness' are particularly important and relevant to councils' requirements to give effect to the NPSUD and respond to the Enabling Housing Act. Urban environments and communities change over time and it is important for district plans to explicitly recognise and allow for such changes. It is also important to provide the necessary flexibility to enable the efficient use of large sites and consider meritorious housing proposals that do not necessarily 'match' standard residential housing developments.

7 July 2022

Upper Hutt City Council

District Policy Team

Email: askus@uhcc.govt.nz

Tēnā koe,

TOKA TŪ AKE EQC SUBMISSION ON UPPER HUTT CITY COUNCIL DRAFT INTENSIFICATION PLANNING INSTRUMENT (IPI)

Thank you for the opportunity to submit on the Upper Hutt City Council draft Intensification Planning Instrument (IPI). EQC generally supports the intent of the IPI, because we understand the need to develop medium and high density housing, in urban areas and comply with the NPS-UD. However, in order to increase the resilience and sustainability of intensified developments and mitigate the effect of natural hazards on life and property in Upper Hutt, EQC recommends changes to three areas of the draft IPI. The St Patrick's Estate High Density Residential Zone overlaps with the 11 in 100-year Flood Hazard Zone for the Hutt River. It is recommended that flood risk in this area is reviewed, to ensure that development is not occurring in high-hazard areas. Our submission outlines the potential issues, relevant provisions, and proposed changes for the following zones:

- North bank of Hutt River General Residential Zone overlaps with the 11 in 100 year Flood Hazard Zone for the Hutt River. It is recommended that flood risk in this area is reviewed to ensure that development is not occurring in high-hazard areas.
- Trentham Special Activity Zone contains an area at risk of liquefaction in an earthquake. It is recommended that UHCC review liquefaction risk in this area, and include rules and guidelines for building in liquefaction prone areas in the District Plan.

Toka Tū Ake EQC cares about natural hazard risk reduction

Toka Tū Ake EQC has significant expertise in natural hazard risk reduction given its role as a Crown entity:

- investing in natural hazard and risk research to help communities reduce their risks;
- providing residential property insurance against the impact of natural hazard events; and
- incentivising and/or implementing methods of reducing or preventing natural hazard damage.

EQC has a crucial role not only after a natural hazard event, but also in reducing risk from, and building resilience to natural hazards in Aotearoa New Zealand.

EQC recommends making three changes to the IPI to support natural hazard risk reduction

Upper Hutt is at risk from multiple natural hazards, notably, the risk of flooding from Te Awa Kairangi/Hutt River, and rupture of the Wellington Fault, which runs along the northwest edge of the Hutt Valley.

Flooding is the most common hazard faced in New Zealand. Floods can cause injury to people and property, and experience of repeated flooding damage can have a severe detrimental effect on mental wellbeing and quality of life. The UHCC's draft IPI proposes two areas of development within the 1 in 100 year flood hazard extent for Te Awa Kairangi /Hutt River, which need clarification and review. It also contains some inconsistencies with the District Plan regarding flood mitigation rules and guidelines, which are outlined in the discussion section of this submission.

Rupture of the Wellington fault could cause serious cascading¹ hazards in the Upper Hutt region, from shaking damage, ground rupture, slope collapse/landslides and potential liquefaction. Intensification and development proposed by the UHCC’s draft IPI effectively avoids or mitigates risk of damage from shaking, ground rupture and slope instability, but rules and guidance regarding liquifaction risk need clarification and review.

Our submission is summarised in the table below:

Change	Draft IPI Issue	Recommended Change	Comments
1.	The planned High Density Residential Zone on the currently undeveloped <i>St Patrick’s Estate Precinct</i> is almost entirely contained within the 1 in 100 year flooding hazard zone for the Hutt River, as presented in the UHCC’s natural hazard risk maps in the District planning maps.	Identify “ <i>high hazard</i> ” and “ <i>low hazard</i> ” areas in the Flood Hazard Extent of the Hutt River, to avoid contravening District Plan NH-P3-Avoid development within high hazard areas of identified Flood Hazard Extents and Erosion Hazard Areas . If the planned St Patrick’s Estate High Density Residential Zone is in an area identified as high risk, and flooding is expected to result in channel flow ² and erosion through this area, then subdivision and development should be avoided.	EQC recommends that a hazard extent map layer is added to the IPI planning maps. Maps and further recommendations for mitigation of flood risk, in this High Density Residential Zone , can be found in the discussion section of this submission.
2.	The planned General Residential Zone northwest of and across the Hutt River from Emerald Hill, is partially contained within the 1 in 100 year flooding hazard zone for the Hutt River, as presented in the UHCC’s natural hazard risk maps.	As above, and: Extend the restricted discretionary activity rule to cover all proposed development areas, within the Hutt River Flood Hazard Extent. Specify what buildings and structures within these Flood Hazard Extents, must incorporate to minimise this risk, or how the UHCC plans to lower flooding risk.	As above, and: Maps and further recommendations for mitigation of flood risk in this General Residential Zone , can be found in the discussion section of this submission.
3.	A Special Activity Zone is planned for the <i>Trentham</i> area, which is at risk of liquefaction in an earthquake event. Risk of liquefaction in Upper Hutt in the event of an earthquake, is not specified or provided for in the Draft IPI.	It is recommended the council review the MBIE liquefaction guidance ³ , particularly section 6.5, for options on how liquefaction can be incorporated into the IPI. EQC also supports the recommendation in the Coffey (2020) report, that further geotechnical investigation is carried	We recommend that UHCC familiarise themselves with <i>Dellow et al.’s</i> 2014 report from GNS Science, <i>Liquefaction hazard in the Wellington Region</i> , and review their hazard map to account for up-to-date data. Maps and further recommendations for

¹ Cascading hazards occur when a single hazardous event triggers one or more other hazards, resulting in greater destructive potential than one hazard event alone.

² Channel flow is where water is actively flowing through the specified zone. This is a greater hazard than ponding as the flow of water can result in erosion and damage to property, and people may be swept away.

³ <https://www.building.govt.nz/building-code-compliance/b-stability/b1-structure/planning-engineering-liquefaction-land/>

		<p>out in this area, to accurately assess liquefaction risk.</p>	<p>mitigation of liquefaction risk in this Special Use Zone can be found in the discussion section of this submission.</p>
--	--	--	---

Discussion

Development in the 1 in 100-year Hutt River Flood Hazard Extent

Two areas of intensification development outlined in the UHCC’s draft IPI, overlap with the 1 in 100-year Flood Hazard Extent, as shown in the UHCC’s District Planning map and separate Natural Hazards map. These overlapping areas are the St Patrick’s Estate Precinct High Density Residential Zone (Figure 1), and a section of land northeast and across the river from Emerald Hill, which is planned as a General residential Zone (Figure 2).

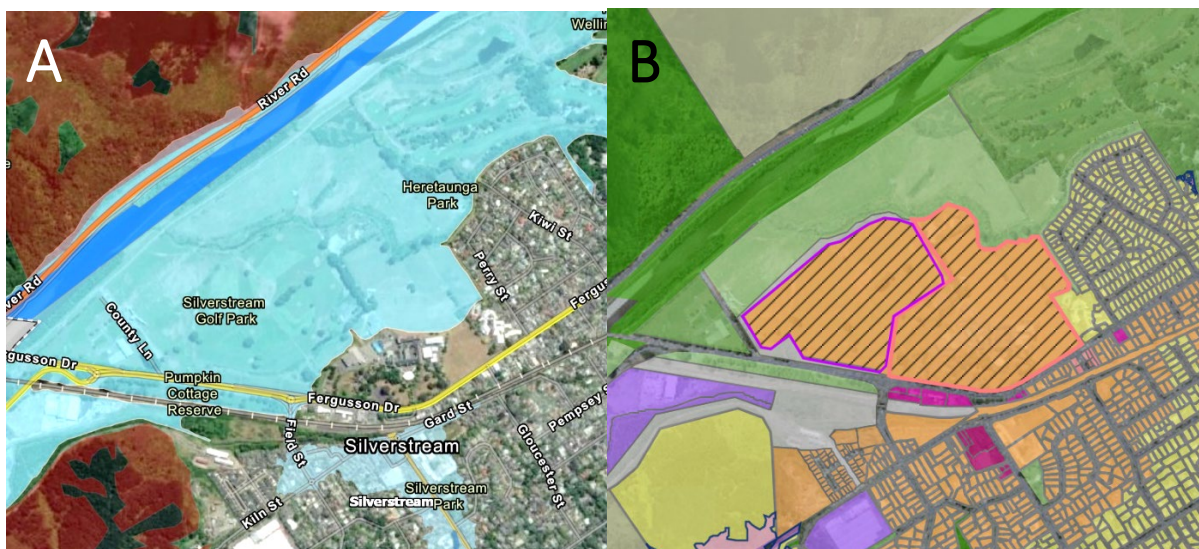


Figure 1: A) UHCC natural hazard map, showing the Wellington Fault (dark blue line), and the 1 in 100-year flood hazard extent for the Hutt River (light blue overlay) at the St Patricks Estate Precinct location. B) UHCC IPI planning map showing the St Patricks Estate Precinct proposed High Density Residential Zone (orange overlay with diagonal hatching). Note the position of the Hutt River and the overlap between the planned residential zone in Figure 1B, and the flood hazard extent in Figure 1A.



Figure 2: A) UHCC natural hazard map, showing the Wellington Fault (pink line and dark blue overlay), and the 1 in 100 year flood hazard extent for the Hutt River (light blue overlay). B) UHCC IPI planning map showing the proposed General Residential Zone (yellow overlay), in a bend of the Hutt River. Note the position of the Hutt River and the overlap between the planned residential zone in Figure 2B, and the flood hazard zone in Figure 2A.



“High hazard” and “lower hazard” areas of Flood Hazard Extents have different guidelines for development under the UHCC’s District Plan. *High Hazard* areas are defined in the District Plan as comprising “the Stream and River Corridor, Overflow Paths and the Erosion Hazard Area - These are characterised by areas of moving flood water which may also be deep or fast and includes areas most at risk to erosion during a flood event”. These areas are identified on the District Planning maps for the Pinehaven and Mangaroa Streams but not for the Hutt River.

If the flooding extent in these areas is expected to be lower risk, i.e., ponding, adopt similar rules for minimum finished floor height to NH-S5 (Policy NH-P4) for the Pinehaven Ponding Area – “(1) The Finished Floor Level must be above the 1 in 100-year event level for residential activities, or; (2) The Finished Floor Level must be above the 1 in 25-year event level if for commercial activities within the Business Commercial Zone Commercial and Mixed Use Zones.

If the planned Residential Zones are in an area identified as high hazard, and flooding is expected to result in channel flow through this area, then subdivision and development should be avoided.

Page 171 of the draft IPI - *HRZ-PREC2-R4* – states that “Buildings and structures within 200m of the southern bank of the Hutt River and to the north of the Mawaihakona Stream” are ruled as “Restricted discretionary. Matters of discretion are restricted to (...) whether flooding effects have been adequately addressed...”

The meaning of “adequately addressed” is not defined regarding flood hazard mitigation and is open to interpretation. **EQC recommends the UHCC defines what “adequately addressed” means regarding flood hazard risks.** No provisions are given in the draft IPI, as to how development in this area will need to be different from other High Density Residential areas to mitigate risk from flooding, except the setback of buildings 20 m from the banks of the Hutt River and 5-12 m from Mawaihakona Stream (page 67 of the draft IPI). This setback does not remove structures from the Hutt River Flood Hazard Extent. **Specify what buildings and structures within these Flood Hazard Extents must incorporate to minimise this risk, or how UHCC plans to reduce flooding risk.**

EQC supports the use of natural hazard related qualifying matters in intensification planning, as it is important that development does not come at the expense of natural hazard risk reduction.

It is recommended that the UHCC review the Ministry for the Environment (MfE) document, ‘Preparing for future flooding’⁴, and New Zealand Planning Standard *NZS 9401:2008* for guidance on how to incorporate flood risk into planning and building design.

Further, the specified restricted discretionary activity zone extending 200 m from the south bank of the Hutt River, does not encompass the whole overlap of the proposed development and the mapped Flood Hazard Extent, which extends as far as 700 m from the south bank to Fergusson Road. It also does not take into account other proposed General Residential Zones within the 1 in 100-year flood risk for the Hutt River.

⁴ <https://environment.govt.nz/assets/Publications/Files/preparing-for-future-flooding.pdf>

It is recommended that all proposed development areas within the Hutt River Flood Hazard Extent, are given restricted discretionary activity status, to allow the UHCC more control over flood risk mitigation in these developments.

Development in liquefaction risk areas

The areas at risk of liquefaction in UHCC’s natural hazard map, as shown in the District Planning maps, do not correspond with those identified in *Dellow et al.’s* 2014 report from GNS Science, *Liquefaction hazard in the Wellington Region*. It also does not correspond with the 2020 report by Coffey Geotechnical for the UHCC, which investigated nine undeveloped areas of rural Upper Hutt, and based their estimation of liquefaction risk in Trentham on a report by *Kingsbury et al.*, (1993) for Wellington City Council. The data supporting this 1993 report is not accessible. According to *Dellow et al.* (2014) and *Kingsbury et al.*, (1993), an area at high risk of liquefaction extends from Trentham Racecourse southwest to Rimutaka Prison. UHCC’s map categorises the area as moderate risk and restricts it to a zone roughly half the size proposed by *Dellow et al.* (2014) and *Kingsbury et al.*, (1993) (see Figure 3).

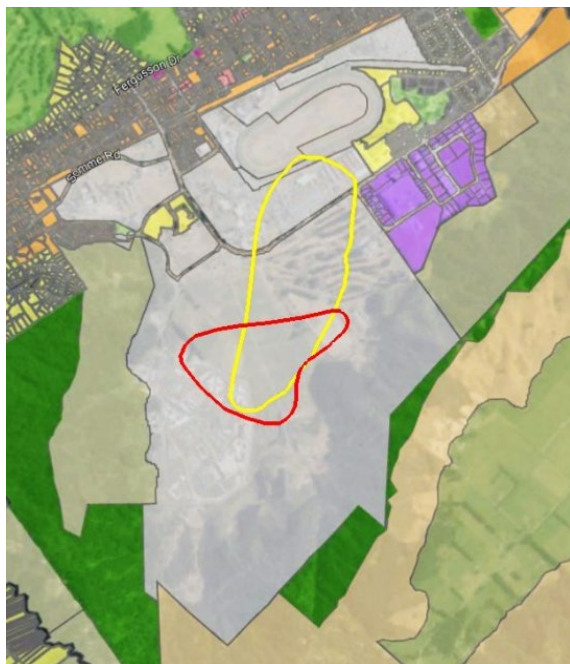


Figure 3: UHCC IPI planning map showing the Trentham Special Use Zone (grey overlay), the extent of liquefaction risk in the UHCC’s Natural Hazard map (red outline), the extent of liquefaction risk outlined in *Dellow et al.*, (2014) and the 2020 Coffey Geotechnical Report (yellow outline).

We recommend that UHCC familiarise themselves with *Dellow et al.’s* 2014 report for GNS Science, *Liquefaction hazard in the Wellington Region*, and review their hazard map to account for up-to-date data.

EQC supports the recommendation in the Coffey (2020) report that further geotechnical investigation is carried out in this area to accurately assess liquefaction risk.

Risk of liquefaction in Upper Hutt in the event of an earthquake is not specified or provided for in the Draft IPI or in the District Plan.

It is recommended the council review the MBIE liquefaction guidance⁵, particularly section 6.5 for options on how liquefaction can be incorporated into the IPI.

In addition, UHCC’s Natural Hazard Map contains an area east of the Mangaroa stream which is mapped as “High Peat Risk”. Peat is associated with several natural hazards and hazards to buildings, including fire, subsidence, and land instability. Neither the UHCC District Plan nor the separate Hazard Map explain the hazards that peat can pose to building or provide guidance of how this is to be mitigated. This area is not planned for development under the draft IPI, however EQC recommends that the hazards associated with this peat are clearly explained in the District Plan.

⁵ <https://www.building.govt.nz/building-code-compliance/b-stability/b1-structure/planning-engineering-liquefaction-land/>

A summary of our recommended changes can be found in the Appendix.

If you have any questions regarding this submission, please do not hesitate to contact me.

Regards,



Sarah-Jayne McCurrach
Acting Chief Resilience & Research Officer
smccurrach@eqc.govt.nz

Appendix

Summary of changes requested

Draft IPI area to be changed	Change Requested
St Patrick's Estate Precinct High Density Residential Zone within the 1 in 100 Year Hutt River Flooding Extent	Identify "high hazard" and "low hazard" areas in the Flood Hazard Extent of the Hutt River.
	Avoid development in "high hazard" areas of the Flood Hazard Extent.
	Add hazard extent map layer to the IPI planning maps.
General Residential Zone within the 1 in 100 Year Hutt River Flooding Extent	Extend the restricted discretionary activity rule to cover all proposed development areas within the Hutt River Flood Hazard Extent.
	Specify what buildings and structures within Flood Hazard Extents, must incorporate to minimise flooding risk, or how the UHCC plans to lower flooding risk.
Trentham Special Use Zone within liquefaction zone	Review the MBIE liquefaction guidance for options on how liquefaction can be incorporated into the IPI.
	Review liquefaction risk in UHCC's hazard map to account for up-to-date data.
	Carry out further geotechnical investigation in the Trentham area to accurately assess liquefaction risk.

References

Coffey Geotechnical (2020). Upper Hutt City Council Residential and Rural Chapter Review. 773-WLGGEE225406AB.

Dellow, G. D., Perrin, N. D., & Ries, W. (2014). *Liquefaction hazard in the Wellington Region*, GNS Science Report 2014/16. https://shop.gns.cri.nz/sr_2014-016-pdf/



07 July 2022

Attn: Hayley Boyd
Upper Hutt City Council
Private Bag 907
UPPER HUTT 5140

Feedback provided via: hayley.boyd@uhcc.govt.nz

FEEDBACK ON THE DRAFT INTENSIFICATION PLANNING INSTRUMENT FOR THE UPPER HUTT CITY COUNCIL'S OPERATIVE DISTRICT PLAN

Thank you for providing Kāinga Ora – Homes and Communities (“**Kāinga Ora**”) with the opportunity to provide feedback on the “Draft Intensification Planning Instrument” (“**Draft IPI**”) for the Upper Hutt City Council (“**Council**”) Operative District Plan (“**ODP**”).

Kāinga Ora’s feedback on the Draft IPI is high-level in nature and is intended to provide Council with an overview and indication of Kāinga Ora’s position prior to the notification of the IPI. Kāinga Ora would be happy to engage and discuss the feedback provided.

Feedback on Draft IPI

General Support

1. Kāinga Ora generally supports the intent of the Draft IPI in response to giving effect to the National Policy Statement on Urban Development 2020 (“**NPS-UD**”) and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**Enabling Housing Supply Amendment Act**).

2. Notwithstanding this, amendments are suggested by Kāinga Ora that are intended to help clarify and support the intent by Council in giving effect to national direction, and in particular, Policy 3 of the NPS-UD. These changes are outlined below, and further comments are provided on the Draft IPI attached within **Appendix 1**.

Regional Consistency

3. Kāinga Ora is generally supportive for a comprehensive planning framework that enables intensification in and around key centres and transport nodes and to provide for current and future residential demand within Upper Hutt and the greater Wellington region. In this regard, Kāinga Ora notes that a number of Tier 1 councils in the Wellington region are simultaneously engaging on similar plan change/variations to give effect to the national direction and planning documents, with councils working to the prescribed timeframe of notifying their respective intensification planning instruments by August 20, 2022.
4. Kāinga Ora has observed inconsistency in the approach being taken by each council as they individually seek to give effect to national direction to enable housing intensification within their respective district. This is particularly notable in the variance of zoning frameworks being selected to enable residential intensification and the application of associated walking catchments to enable an increase in building heights and density of urban form in accordance with Policy 3 of the NPS-UD. Kāinga Ora is seeking for a level of consistency in plan-making within the region while remaining cognisant of the timeframe in which Council must notify its IPI. Thereby, Kāinga Ora's feedback and amendments suggested in this letter seek to get a level of consistency that could be achieved across the Tier 1 councils in the Wellington region.

Providing for anticipated growth across council authority boundaries

5. The Councils within the Wellington region operate in a regional context with strong road and railway links connecting districts and communities within. As the issue of housing affordability has intensified across the country and including the Wellington region, the demand for housing has increasingly trended outward to areas where development of land for housing is considered more affordable or efficient to undertake.
6. It is therefore critical that the Council considers its forecast population and housing growth profile in the context of operating within this regional context. Therefore, Kāinga Ora reiterates the feedback provided on Draft Plan Change 54 and the re-consideration of the hierarchy of centres, including spatial extent and in turn, how the walkable catchment for each centre corresponds to this hierarchy. There have been a number of changes and suggestions provided in previous feedback that Kāinga Ora sees value

in Council considering and adopting as part of this Draft IPI.

Walkable Catchments and Spatial Extents

7. Kāinga Ora are generally supportive of the walkable catchments proposed by the Draft IPI, but do consider that additional high density can be realised following walkable catchments commensurate of each centre hierarchy as follows, taken from the edge of the centre:
 - City Centre – 800m-2000m walkable catchment;
 - Metropolitan Centre – 800m-1200m walkable catchment;
 - Town Centre – 400m-800m walkable catchment;
 - Local Centre – commensurate with the level of commercial activity and community services available; and
 - Rapid Transport – 800m-1200m walkable catchment.
8. Kāinga Ora has produced a mapping exercise showing how the various walkable catchments should be applied across the District as per the above principles. Kāinga Ora are happy to share these maps with Council if requested.

Residential Zoning Framework to Enable Greater Height and Density of Urban Built Form

9. Kāinga Ora supports the Council enabling residential intensification with a commensurate increase in urban built form in accordance with the NPS-UD and the Enabling Housing Supply Amendment Act. This is especially evident within the City Centre zone with no maximum height limits which is in keeping with Policy 3(a) of the NPS-UD.
10. Kāinga Ora notes that in giving effect to the above national direction in the residential context the, Council proposes to amend the General Residential Zone (“**GRZ**”) to become a widespread medium density zone. Kāinga Ora generally supports this approach, noting that the GRZ provides an appropriate zoning framework to enable greater levels of intensification as directed by the Enabling Housing Supply Amendment Act.
11. Kāinga Ora also generally supports the introduction of a High Density Residential Zone (“**HDRZ**”) where the Council seeks to enable building heights of at least 6 storeys in residential environments, such as within a walkable catchment of the city centre and/or

train stations. Kāinga Ora notes, however that the spatial extent of the HDRZ should be extended in some areas as considered above.

High Density Residential Zone (“HDRZ”)

12. Kāinga Ora notes that in some cases the HDRZ includes more enabling standards than what is otherwise prescribed by the MDRS to enable intensification more effectively. Kāinga Ora generally supports these changes providing additional flexibility, however, seeks that the following changes are made:

- i. The HDRZ objectives and policies do not differentiate from the GRZ objectives and policies. Kāinga Ora suggests that these are revised to better reflect the intended outcomes of the HDRZ which is to enable greater density at six storeys and more and also support the HDRZ rules and standards.
- ii. Similarly, Kāinga Ora notes that the IPI includes more enabling height, HIRB and coverage rules, but considers that all of the development and performance standards should be reviewed to reflect higher density developments. This would include a reduction in private open space areas and either the removal of HIRB planes or more enabling planes to better assist with achieving the heights intended for the zone.
- iii. Kāinga Ora generally supports the minimum requirement of 8m² of outdoor living space per unit (with a minimum dimension of 1.8m), however, Kāinga Ora suggests that this standard applies to units with two bedrooms or more. It is considered that for studio and one bedroom units a minimum requirement of 5m² (with a minimum dimension of 1.8m) is an appropriate standard for outdoor living space requirements considering that occupants will generally range from 1-2 persons.
- iv. Kāinga Ora generally considers that it would also be appropriate to introduce a further point of flexibility to the standards managing maximum residential units where the objective of the zone is to enable higher densities. In this regard, Kāinga Ora would support a revised standard that did not place a maximum limit on the number of permitted residential units on a site in the HDRZ – with the building standards instead controlling the scale and intensity of development in these areas.
- v. Kāinga Ora notes that ‘reverse sensitivity’ is a matter of discretion within the

HDRZ. Kāinga Ora question the need for this given that high density residential activity is the anticipated outcome of the zone and seeks the matter is deleted.

General Residential Zone (“GRZ”)

13. As noted above, Kāinga Ora generally supports the clear general residential zoning framework proposed in the Draft IPI and considers that it successfully enables medium density development and residential intensification in appropriate locations.
14. Kāinga Ora supports the introduction of the Medium Density Residential Standards (MDRS) in accordance with Section 77G of the RMA. In this regard Kāinga Ora notes also the integration of the prescribed policies into the zone framework, however, suggests that some existing explanatory notes and policies could be consolidated or removed to provide clear and concise introduction to the GRZ.

Subdivision Provisions

15. Kāinga Ora generally supports the changes to the subdivision chapter to reflect the changes to the General Residential Zone (GRZ) and introduction of the High Density Residential Zone (HDRZ).
16. Kāinga Ora recommends that vacant lot subdivision should be limited to a minimum area of 1200m². Smaller lot sizes (400m² in the GRZ and 300m² in the HDRZ) discourages higher density developments and encourages single, standalone units which will not meet the intended outcomes of each zone. Further to this, Rule SUB-HDR-R9 makes vacant lot sizes of over 800m² in the HDRZ a non-complying activity, further discouraging intensive development on vacant allotments. Kāinga Ora seeks that lot sizes of 1200m² or greater is provided as permitted and anything smaller is considered as non-complying.

Papakāinga

17. Kāinga Ora generally supports the new Papakāinga chapter within the IPI and supports the simplification of provisions to enable Papakāinga, in its most holistic sense. However, suggest some changes to enable Māori to develop land in a manner that supports their cultural, environmental, and economic wellbeing. To achieve this, the following amendments are suggested:
 - i. Promote Council’s general role as an active facilitator of papakāinga developments, recognising Te Tiriti o Waitangi responsibilities and historical

breaches as well as the holistic benefits for whānau/hapū/iwi and the wider community.

- ii. Adopt an approach to papakāinga housing densities based on the 'carrying capacity of the land' as opposed to arbitrary lot sizes or density requirements. Such an approach would involve the Council assisting in determining such carrying capacities, particularly with regard to three waters capacity.
- iii. Incorporate the need for communal buildings as an integral part of the papakāinga on a permitted or restricted discretionary basis.
- iv. Include provisions for mixed-use development, including but not limited to marae, residential activities, cultural activities, business, and light industries. Consider implementing rules that leave flexibility for tangata whenua to collectively manage activities and effects within the zone.
- v. Allow for papakāinga on general title land (Rule PK-R2) as a permitted activity also. There is no reason that there should be a differentiation between this rule and PK-R1.
- vi. Include Te Atiawa as a member under PK-R2(a).
- vii. Kāinga Ora don't agree with the notes under PK-R2, specifically:
 - a. "Any other matter related to tikanga Māori". This is a very broad category; and
 - b. In terms of seeking advice from 'iwi authorities' - landowners and iwi authorities aren't necessarily the same people. Iwi authorities and rūnanga don't often have large land holdings as this is held more at a whānau level. Kāinga Ora consider that there is potential for too much iwi authority involvement in Māori landowner decisions.

18. Further, Kāinga Ora considers that papakāinga should be a permitted activity under the following circumstances also:

- i. Whenua Māori under Te Ture Whenua Māori Act 1993;
- ii. Land converted to General Title land through the Māori Affairs Amendment Act 1967; and
- iii. Treaty Settlement Land, including RFR land or land purchased by post-

settlement governance entities.

All Centre Zones

19. Kāinga Ora requests that its feedback previously provided on Draft Plan Change 54 is taken into consideration and any changes that were previously sought are incorporated into the IPI. This is in particular regard to the spatial extent of current centres and spatial extents of existing commercial zones which may not provide sufficient business and commercial land capacity to support the residential intensification and growth proposed in the region.
20. As per Kāinga Ora's Plan Change 54 feedback, Kāinga Ora suggests there is no need for a provision limiting the maximum number of units per site within the Centre Zones as the construction of all buildings should be considered a Restricted Discretionary activity under the District Plan. Kāinga Ora seeks that this rule is removed across all centre zones.

Qualifying Matters

21. The Draft IPI identifies that a new qualifying matter will be introduced, known as the 'Indigenous Biodiversity Qualifying Matter Precinct', which covers the City's urban significant natural areas. The Draft IPI includes additional policy direction and guidance to encourage the protection and retention of the identified indigenous biodiversity values of those areas but does not include any rules or standards. It is understood that the proposed qualifying matter is intended to apply to development in the identified precinct and will be addressed comprehensively through a future plan change. Kāinga Ora request that we are able to review any draft provisions pertaining to this precinct once available.

Urban Design Guides

22. Kāinga Ora generally supports the development and use of design guidelines by Council to provide further detail and guidance regarding best practice design outcomes. However, Kāinga Ora opposes any policies or rules that require development proposals to be consistent with such design guidelines in the District Plan. Kāinga Ora seeks that any design guidelines are not included as statutory documents in the IPI. These documents should be treated as non-statutory documents to inform design and development.

Definitions

23. Kāinga Ora notes that there is an extensive list of new definitions which are very specific or do not align with the National Planning Standards. Kāinga Ora suggests that the specific definitions are consolidated to avoid unnecessary complexity (e.g., each zone has a definition, and all of the qualifying matters are listed), and that all other definitions are aligned with the National Planning Standards.

Next Steps

24. Kāinga Ora thanks Council for the opportunity to provide feedback on the draft Plan Change. Kāinga Ora is generally supportive of the changes to the Operative District Plan which council have proposed and seeks that Council consider its feedback in preparation of the proposed IPI.

25. Please get in touch if Council wishes to discuss the feedback provided.



Brendon Liggett

**Development Planning Manager
Kāinga Ora – Homes and
Communities**

ADDRESS FOR SERVICE: Kāinga Ora – Homes and Communities, PO Box 74598, Greenlane, Auckland 1051. Email: developmentplanning@kaingaora.govt.nz



Ā UPANE KA UPANE WHITI TE RA

14 Hūrae 2022

Emily Thomson
Planning Policy Manager
Upper Hutt City Council
838-842 Fergusson Drive
Upper Hutt Central, Upper Hutt 5018

Tēnā koe Emily,

UHCC Draft Intensification Planning Instrument (IPI)

1. The purpose of this letter is to provide you with an initial statement for the work that has been done in the UHCC Operative District Plan as a result of the National Policy Statement for Urban Development (NPS-UD) requirements.
2. Firstly, Te Rūnanga appreciates the efforts you are making; delivering an early draft of the Plan Changes prepared for the Intensification Planning Instrument (IPI).
3. We are pleased to see the inclusion of a Papakāinga chapter despite the time limitations and the quick turnaround required to incorporate this chapter to the whole plan. Kei te mihi nui. This is important for Ngāti Toa and the way in which it was organised. My team informed me that it was in the spirit of partnership. We are aware that Plan Changes do not happen often, it is a major milestone making sure Māori and iwi will be enabled through the Papakāinga chapter in Upper Hutt.
4. Please note that this is not a formal submission- we will send our formal submission when the Plan Changes are publicly notified in August 2022. Our formal submission will be more detailed and will speak to technical detail. However, I would like to make sure our general statement about District Wide Matters, Area Specific Matters and, our concerns around Sites and Areas Significant to Māori (SASMs), Significant Natural Areas (SNAs), Subdivision, and Three waters topics come through so that you have adequate time to discuss how these matters will be addressed and whether any clarification is needed by way of hui and wānanga.

5. I understand that Upper Hutt City Council is undertaking a Plan Change to give effect to intensification planning instrument (IPI), but you are also expecting to undertake substantial work to review, add, and amend certain chapters (such as, SASMs) of the current plan in the near future.
6. The IPI Plan Change process will open the doors for development in the absence of Plan providing for the protection of important overlays such as, the sites of significance to Māori and SNAs. The intensification proposals will impact on mana whenua values, sites of significance, cultural activities, and statutory acknowledgement areas and important indigenous vegetation.
7. Whilst we are cognisant that the IPI changes are done to give effect to a higher order government document urgently, we are concerned the urgency of giving effect to the intensification planning instrument create unintended consequences, exacerbated by the fact that the fast-track process removes further appeal rights.
8. Under the Section 4A of the Act 'Further pre-notification requirements concerning iwi authorities' requires that iwi and Mana Whenua are given reasonable, adequate time, and opportunity to comment, consider the draft proposals and are able to give advice on the Plan Change Variation.
9. The speed in which Council is forced to undertake IPI changes, in order to comply with central government deadlines, means that iwi have not been provided with reasonable and adequate time required by the legislation.
10. We consider that this warrants Councils seeking advice from the Ministry for the Environment who clearly have not considered the implications that requiring these plan changes not only places on Council, but also iwi. Within our rohe, the timeframes set around intensification planning place a burden on us, given that there are nine councils within our rohe required to go through this same process, and each Council has its own location specific nuances.
11. I will now proceed to our 'general comments' regarding the draft IPI document you have provided. These comments are about some of the most critical topics of the Plan, as I touched on a little above. Depending on how they are handled with new Plan provisions, and whether they go through, in time, a further Plan Change, might pose concern. The reason for that is Intensification will be given effect but other balancing matters that are critical won't be able catch up properly as the Plan did not advance them yet.

12. Draft provisions for instance, are either silent (in the case of SASMs) or could provide for stronger protection mechanisms (such as in the SNAs) and could anchor the Plan with robust provisions for Three Waters including water quality issues from urban development and providing Water Sensitive Urban Design- WSUDs, appropriateness of subdivision, and earthworks.
13. We are unsure the residential rules give effect to major stormwater provisions that will take WSUDs and hydraulic positivity into account while intensification proposals are being realised. We are aware that the operative plan has provisions, somewhat to provide flood control and overland flow paths and considers WSUDs but these are not targeted at stormwater quality or opportunities for improving our water quality.
14. In summary, we identified 'earthworks and 'stormwater' provisions are not strong as we would like to see in the face of more housing and intensification and densification. This could be covered in further depth.
15. It is encouraging to see the Plan Change provides for housing being closer proximity to commercial activity centres and where public transport is. This is a positive step enabling easier access and greater use of more sustainable ways of transport. Once again, it is great to see Papakāinga is enabled at all zones with maximum flexibility and various communities can access to different housing types and needs. We expect this leads to inclusive housing for our communities.
16. We are unsure how application of MDRS provisions will impact on the SASMs. We are conscious there is not a SASM schedule to see what this impact looks like. Furthermore, in the absence of a SASM chapter that potentially would have had provided some nuanced rules and encompassing provisions for Tangata Whenua, how Tangata Whenua is enabled to protect, maintain, and continue to exercise their cultural practices. The absence of provisions mean intensification developments will be enabled with no controls in place, which is not appropriate.
17. We are concerned that in general, the operative plan does not have significant indigenous vegetation overlay and does introduce an interim protection mechanism with the provision of 'indigenous biodiversity qualifying matter precinct' which we are at this stage unsure of how effectively they will be protected because of the drafting language and the strength of the language in policy provisions.
18. From this, we have also noticed the Plan can give more consideration to protecting customary rights. The mapping and identification of Sites of Significance would further help how this could look like in plan provisions. Now I will move on to some of the 'Area-Specific Matters – Residential Zones'

19. In the absence of a SASM chapter in the operative plan, it is encouraging to see the draft included newly added policies of **GRZ-P1B** and **HRZ-PI** which is the *application of the MDRS across all relevant residential zones in the District Plan except where a qualifying matter is relevant* (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).
20. However, there is an important caveat; the provisions are not providing the names and locations and give certainty regarding the significance of the sites and areas to begin with. It would be arbitrary and subjective to argue and from developers' perspective to understand how this will be triggered in the absence of a list of SASMs. The second concern is, these policies are not drafted with a Tangata Whenua consultation provision in which, when such qualifying matter is triggered, what would the parties need to do and what actions they need to take and what the process is, would be missing. How they would know they are proposing development on a SASM.
21. We understand the purpose to set up the *GRZ-Precinct 1 Indigenous Biodiversity Qualifying Matter Precinct* to make sure, in the absence of SNAs overlay, some form of protection could be provided to significant indigenous biodiversity in the Upper Hutt.
22. Throughout these objectives and policies related to *GRZ-Precinct 1 Indigenous Biodiversity Qualifying Matter Precinct*, it is concerning we see the word 'encouraging' is used instead of a stronger phrasing. This won't give a sense of urgency to consent applicants and is unlikely to trigger appropriate action. In this regard, for instance, GRZ-PREC1-O1 should be reworded to say: *...areas of significant indigenous vegetation and significant habitats of indigenous fauna protected from the potential adverse effects of medium density residential development...*
23. A significant concern would be, how will the Plan protect indigenous vegetation outside of the *GRZ- Precinct 1 Indigenous Biodiversity Qualifying Matter*. Following this I will now proceed to district-wide matters.
24. **Network utilities (NU):** It is encouraging to see the provision (NU-P9) can ensure network utilities do not create adverse impacts on the environment applying a different activity status for more vulnerable zones. The Plan Provisions should also consider the impacts on SASMs.
25. **Renewable Energy Generation (REG):** This chapter could be improved by stating how renewable energy generation could create positive progress towards mitigating climate change and reducing carbon emissions as an objective. REG-R9 section can be improved adding the matters of significance to Māori, such as ancestral land and wāhi tapu but more. We do not necessarily see permitted activity status suitable or appropriate in all instances of renewable energy generation.

- 26. Ecosystems and Indigenous Biodiversity (ECO):** The consideration of mana whenua values for indigenous biodiversity in particularly ECO-R6 seems to be missing although the effects on landscape and ecological values are considered and included.
- 27. Subdivision (SUB):** SUB-GEN-12 can be strengthened to say ‘subdivision provides for and avoids’ instead of ‘subdivision does not adversely affect’ significant natural landforms, areas of significant indigenous natural vegetation or significant habitats of indigenous fauna or areas of landscape and/ or visual value as identified within Southern Hills Overlay Area and Precinct 1 -Indigenous Biodiversity Qualifying Matter Precinct. SUB-GEN-R3 does not include effects on SASMs and this needs to be amended to include the effects to iwi, Māori, and to their sites of significance.
28. Te Rūnanga o Toa Rangatira would like to see their concerns above to be addressed and outlined by the Council as to how these risks will be managed in a tangible and visible way but also with a reasonable timeline that allows Ngāti Toa to respond.
29. Te Rūnanga is keen to work with yourself and Council planning officers to clarify the issues, co-design the process, and how the Plan Change variation will be implemented. We are happy to partake any hui and wānanga that is related to this matter.
30. We look forward to working with you and your team Emily. If you need any clarification or have had any questions, please liaise directly with our Rūnanga Planner, Onur Oktem-Lewis.

Aku mihi,

Naomi Solomon
Pou Toa Matarau



15 July 2022

Upper Hutt City Council
838 – 842 Fergusson Drive
Upper Hutt

Tēnā koe,

Submission: Upper Hutt City Council Draft Intensification Policy Instrument

Our submission on the Upper Hutt City Council Draft Intensification Policy Instrument follows. The submission has been prepared by Hikoikoi Management Limited on behalf of the Wellington Tenth's Trust and Palmerston North Māori Reserves Trust.

For further information please contact Richard Te One on 021 446 167 or by email at richard@tekau.maori.nz

Nāku noa, nā

Richard Te One
Relationships Liaison Officer



Tū Tama Roto,

Tū Tama Waho

To know oneself, is to know others

Submission

Upper Hutt City Council Draft Intensification Planning Instrument

Background

Wellington Tenth's Trust is an Iwi Authority established as a result of the agreement between the New Zealand Company and the Rangatira of Te Ātiawa in 1839. The Trust is an Ahu Whenua Trust operating under Te Ture Whenua Māori Act 1993.

The Palmerston North Māori Reserve Trust is an Ahu Whenua Trust constituted under Section 244 of Te Ture Whenua Māori Act 1993. This Trust originated through an act of the Crown in 1866 when Governor Grey exchanged Te Ātiawa land interests in Wainuiomata, Lower Hutt, with a block of land which is now part of central Palmerston North.

Palmerston North Māori Reserve Trust and Wellington Tenth's Trust are known as "sister trusts". This is because they emanate from the same parents, that being the land and waters at Te Whanganui-a-Tara. Both Trusts are comprised of ētehi o ngā hapū/iwi o Taranaki who are mana whenua in the takiwā of Wellington, Lower Hutt and Upper Hutt cities.

The Trusts have approximately 7500 owners and their whanau, representing a total of over 20,000 people.

Hikoikoi Management Limited is the company responsible for managing, maintaining and increasing the assets and interests of the Wellington Tenth's Trust and the Palmerston North Māori Reserve Trust and their associated entities for the benefit of its owners.

Matters for Consideration: Draft Intensification Planning Instrument

Orongomai Marae

Orongomai Marae is in an area zoned as High Density Residential. Immediately across the road the zoning is Mixed Use. Under the proposed IPI there is the potential for both these zones to have buildings of up to 10 storeys in height.

Orongomai Marae is a centre of cultural activity for tangata whenua where cultural practices are held. These practices include to wānanga, provide hui for tangata whenua, host manuhiri, provide for tangihanga, and many other events and ceremonies.

Comment

The marae has important cultural significance for Upper Hutt. Any development near or next to the marae could impact the ability of tangata whenua to carry out their cultural practices. As a qualifying matter, we encourage council to introduce specific provisions that restrict building heights adjoining or next to the marae to protect the cultural significance of this place and enable the continuation of cultural practices associated with the marae without risk to cultural safety.

The potential for high density development adjoining or close to the marae should be restricted in any planning provisions to protect the site from onlookers which may impact on cultural processes.

Sites of Significance to Māori

Council may limit new rules proposed by The Act in specific circumstances in areas such as natural hazards, heritage areas, or sites of significance to Māori.

Comment

The full scope of Sites of Significance to Māori not being accurate in the current District Plan is extremely problematic. Without this recognition in the plan there is no protection against the development of land that has significant historical and cultural value for Māori. This concern is acknowledged by council and a comprehensive review of Sites of Significance in partnership with Mana Whenua has been prioritised.

The full scope of Sites of Significance to Māori in the District Plan is being reviewed by Mana Whenua. We recognise that this takes time not allotted by the IPI process. Until this occurs, Mana Whenua are not confident that full protections can be provided against this intensification. We encourage council to address this in the IPI.

Process Timeframes

The timeframes for delivery of this draft IPI in time for notification has been unreasonable for enabling in depth engagement with Mana Whenua on decision-making. We recognise that the timeframes have also placed significant pressure on the council to deliver these changes. Mana Whenua would like this to be noted in any review of the IPI and communicated to Central Government.

Lack of Appeal Rights

A lack of appeal rights following notification is a significant concern in terms of Mana Whenua mitigating the potential adverse effects of changes on sites/areas of importance. Mana Whenua would also like this to be noted in any review of the IPI and communicated to Central Government.

Te Mana o te Wai, Access to Water (including Aquifers), Water Quality

Mana Whenua are concerned about the impact of intensification on the current infrastructure across the city especially as it relates to implementing Te Mana o te Wai as required by the National Policy Statement on Freshwater Management and the issues relating to access to water and water quality.

We are concerned with potential impacts on the aquifer and to Te Awakairangi and the smaller awa in Upper Hutt due to proposed intensification and required earthworks. We urge council to put processes in place to ensure intensification has no impact on the aquifer and awa. We remind council that any impact to the aquifer or to Te Awakairangi may also affect the rest of the Hutt Valley and the water supply of the wider Wellington Region.

Areas with High Māori Populations

Mana Whenua have general concerns about the impacts of intensification for suburbs with high Māori populations. We have noticed developments in other areas where the demolition of housing (particularly those owned by Kāinga Ora and sold to developers) for new dwellings pushed out Maori who were living there. When the development was completed those that previously lived in the area were unable to afford to buy the new dwellings and there was little provision made for renting.

While we understand that council will be unable to control what areas development takes place in, we encourage council to consider the potential impact of intensification to the population makeup of the city.

Papakāinga Provisions

We are pleased to see the inclusion of the new papakāinga chapter and commend the council for this. There are some corrections that need to be made at *PK-R2 – Papakainga on general title land*.

At letter a. *The applicant is a member of Ngāti Toa Rangatira, Port Nicholson Trust, or Wellington Tenth's Trust*

Port Nicholson Trust should be Port Nicholson Block Settlement Trust.

It should also include the Palmerston North Māori Reserve Trust, an Ahu Whenua Land Trust constituted under Section 244 of Te Ture Whenua Māori Act 1993. This Trust originated through an act of the Crown in 1866 when Governor Grey exchanged Te Ātiawa land interests in Lower Hutt, with a block of land which is now part of central Palmerston North.

Palmerston North Māori Reserve Trust and Wellington Tenths Trust are known as "sister trusts". This is because they emanate from the same parents, that being the land and waters at Te Whanganui-a-Tara.

Both Trusts are comprised of ētehi o ngā hapū/iwi o Taranaki who are mana whenua at Te Whanganui-a-Tara. This, along with the terms of land exchange that created the Palmerston North Māori Reserve, shows how closely the Trusts are 'related' with many owners succeeding to both Trusts. It is important to understand the 'whakapapa' of the Trusts in order to understand the closeness of the relationship they share.

Recommendations

That the issues raised by mana whenua in this letter are considered in the final drafting of the IPI and tabled at the relevant UHCC Subcommittee meeting for wider consideration.