

# **Proposed Plan Change 15: Impermeable Surfaces**

**Incorporating**

## **Decisions of Hearings Panel and Section 32AA Evaluation Report**

**28 May 2021**



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## Report Information

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Approved by:	 Clare St Pierre – Hearings Panel Chairperson	25 May 2021
Date publicly notified	<b>28 May 2021</b>	

## Executive Summary

Waipā District Council notified Proposed Plan Change 15: Impermeable Surfaces on 4 December 2020. The proposed plan change sought to make improvements to various provisions in the District Plan that are ambiguous, and difficult to interpret and implement.

The provisions that were the subject of Proposed Plan Change 15 relate to permeable and impermeable surfaces, and site coverage.

Three submissions were received, making a number of submission points to various parts of the proposed plan change.

A hearing was held on 14 April 2021. After hearing from submitters, the Hearings Panel has made decisions on each submission and further submission.



# A

## Part A – Decision Report Impermeable surfaces

## Part A – Decision Report

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### 1 Introduction and Decision

#### 1.1 Introduction

1.1.1 This decision report contains Waipā District Council’s decisions under clause 10 of Schedule 1 of the Resource Management Act 1991 on Proposed Plan Change 15 – ‘Impermeable Surfaces’ (the proposed plan change) to the Waipā District Plan.

1.1.2 The proposed plan change was initiated by Waipā District Council after staff identified that improvements could be made to provisions relating to permeable and impermeable surfaces, and site coverage.

#### 1.2 Decision

1.2.1 Pursuant to Clause 10 of Schedule 1 of the Resource Management Act:

- (a) The submissions are either accepted in whole or in part, or rejected as set out in Part B of this decision; and
- (b) Amendments to the Waipā District Plan are made in accordance with Part C of this decision.

#### 1.3 Format of Decision Report

1.3.1 The decision report contains four parts.

1.3.2 Part A is the decision report containing:

- Decisions on submissions and further submissions
- Information on the hearing
- Overview of Plan Change 15
- Statutory context
- Submission analysis

1.3.3 Part B contains:

- Decisions on submissions

1.3.4 Part C contains:

- Tracked change version of district plan amendments

1.3.5 Part D contains:

- Section 32AA report

## 1.4 Hearing

1.4.1 Submissions on Proposed Plan Change 15 were heard and considered by the Hearings Panel on 14 April 2021. The Hearings Panel members were Councillor Clare St Pierre (Chairperson), Councillor Marcus Gower and Councillor Roger Gordon.

1.4.2 The following record of attendance is provided as a minute of the hearing:

### **Wednesday, 14 April 2021**

#### Submitters

- Gareth Moran – Planner Barker & Associates Limited
- Trevor Morris - Generation Homes

#### Waipā District Council Team

- Tony Quickfall – Manager District Plan and Growth
- Julie Hansen – Policy Advisor
- Jo-Cook Munro – Policy Advisor Support
- Emma Norman - Planner
- Tony Coutts (via Zoom) – Development Engineer
- Jenny Nemaia – Hearing Secretary

## 2 Overview of Plan Change 15

### 2.1 Introduction

2.1.1 The District Plan contains provisions that aim to promote sustainable management within the district, in accordance with the purpose of the Resource Management Act ('the Act'). The plan change was proposed so that improvements could be made to those provisions in order that they be more effective and efficient, and better meet the purpose of the Act.

2.1.2 The changes included in the proposed plan change apply to the following provisions:

#### Definitions

- Amend the definitions of coverage and site coverage so that there is only one definition.
- Amend the definitions of impermeable surfaces and permeable surfaces so they are better aligned.

## Section 2 – Residential Zone

- Amend the rule for site coverage to reduce confusion about how to make the site coverage calculation.
- Amend the rule for impermeable surfaces so its format is consistent with similar rules in other zones. Additionally, make the category of consent where the standards cannot be complied with restricted discretionary instead of discretionary.
- Delete part of the rule referring to stormwater disposal in the C3 growth cell, as it does not relate to the primary purpose of the rule.
- Delete the rule relating to avoiding flood risk as it is not measurable and the Building Code can be relied on instead.

## Section 3 – Large Lot Residential Zone

- Amend the site coverage rule so that all size sites are covered.
- Amend the rule for impermeable surfaces so its format is consistent with similar rules in other zones. Additionally, make the category of consent where the standards cannot be complied with restricted discretionary instead of discretionary.
- Amend the rule for impermeable surfaces so that the maximum for larger sites in the zone is increased.

## Section 13 – Marae Development Zone

- Amend the rule for impermeable surfaces so its format is consistent with similar rules in other zones. Additionally, make the category of consent where the standards cannot be complied with restricted discretionary instead of discretionary.

## Section 21 – Assessment Criteria and Information Requirements

- Consequential amendment to move assessment criteria from discretionary activities to restricted discretionary activities.

## **2.2 Submissions and further submissions**

2.2.1 Three submissions were received on Proposed Plan Change 15. There were no further submissions. The submissions were grouped into topic areas as part of the section 42A report prepared for the hearing. These topic areas have been adopted for this report and are:

- Topic 1 - General support
- Topic 2 - Definitions
- Topic 3 - Rule 2 4.2.12 – Impermeable Surfaces - Activity Status
- Topic 4 - Rule 2.4.2.12 – Impermeable Surfaces - General

- Topic 5 - Rule 2.4.2.11 – Maximum Site Coverage
- Topic 6 - Rule 2.4.2.17 – Minimum Floor Levels
- Topic 7 - Consequential amendment

## 2.3 Statutory context

- 2.3.1 An assessment of the plan change against relevant legislation and national and regional policy documents has been carried out in the Section 32 and 32AA reports undertaken for this plan change.
- 2.3.2 In terms of legislation, the provisions of the Resource Management Act 1991 have been considered. In terms of national direction, the following national policy statements have been applied:
- National Policy Statement on Urban Development 2020.
  - National Policy Statement for Freshwater Management 2020.
- 2.3.3 Other documents considered include the Vision and Strategy for the Waikato River. and the Waikato Regional Policy Statement has been considered, in particular policy 8A and parts 6 and 6A. The plan change has also been assessed against the provisions of Future Proof and the Waipā 2050 District Growth Strategy.
- 2.3.4 The plan change has also been assessed against the relevant iwi management plans and Joint Management Agreements it is party to.

## 2.4 Submission analysis and decisions on submissions

- 2.4.1 Analysis of the submissions was completed using the topic areas defined in part 2.2.1 of this report. These topic areas were used in the analysis of submissions in the section 42A report prepared for the hearing, and are now used in this decision report for submissions on Proposed Plan Change 15.

### TOPIC 1 – GENERAL SUPPORT

- 2.4.2 One submitter lodged a submission in general support of Proposed Plan Change 15. Carla Mounsey (3/1) agreed with the general approach of the proposed plan change because it would make the design process easier, but did not request a specific decision. The Hearings Panel has analysed the submission and concludes that the relief sought can be reasonably and fairly identified, and accepts the submission.

### Decision

- 2.4.3 The Hearings Panel **accepts** submission 3/1 and retains the proposed plan change as notified with the exception of amendments made as a result of accepting or rejecting submissions to other parts of the plan change.

## TOPIC 2 - DEFINITIONS

2.4.4 The proposed plan change sought to amend the definitions of coverage, site coverage, impermeable surfaces and permeable surfaces as follows:

**'Coverage'** means ~~that portion of a SITE which is covered by BUILDINGS, and includes parts covered by overhangs or cantilevered structures including covered decks but excluding the eaves of a BUILDING. Fences, terraces, retaining walls or uncovered decks less than 1m above GROUND LEVEL, and swimming pools are not included in the definition of COVERAGE, however may be included within impervious surfaces, see IMPERMEABLE SURFACES.~~

**'Impermeable surfaces'** means a surface ~~which~~ that does not allow natural percolation of water into the ground at a rate that avoids ponding or runoff; and includes roofs, roads, footpaths, paving including proprietary pavers, decking that does not allow water to drain through to a permeable surface, swimming pools, patios gobi blocks, grasscrete, ~~metalled driveways, highly compacted soils, hard surfaced materials, and other similar materials. but excludes wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck.~~

**'Permeable surfaces'** means any part of a site that is grassed, planted in trees or shrubs or similar natural landscaping and is capable of being entirely permeated by absorbing rainwater. ~~Permeable surface shall include (but is not limited to) grass, soil, planting or similar such natural landscaping and wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck, but shall not include pavers, gobi blocks, grasscrete, gravel, wooden decks or metalled driveways or hardsurfaced materials or other similar materials. It does not include impermeable surfaces or any area that:~~

- Falls within the definition of site coverage; or
- Is covered by decks that do not allow water to drain through to a permeable surface; or
- Is occupied by swimming pools; or
- Is paved, sealed or formed to create a solid surface; or
- Is used for vehicle parking, manoeuvring or access.

**‘Site coverage’**

refer to definition of COVERAGE. means that portion of a SITE which is covered by BUILDINGS, and includes parts covered by overhangs or cantilevered structures including covered decks but excludes the eaves of a BUILDING. Fences, terraces, retaining walls or uncovered decks less than 1m above GROUND LEVEL, and swimming pools are not included in the definition of SITE COVERAGE, however may be included within impervious surfaces, see IMPERMEABLE SURFACES.

- 2.4.5 Submissions 1/1, 1/2 and 1/3 (Waikato Regional Council) all supported the proposed changes to the definitions of impermeable surfaces, permeable surfaces and site coverage. Although a specific decision was not requested, the Hearings Panel has analysed the submission points and concludes that the relief sought can be reasonably and fairly identified, and accepts the submissions.
- 2.4.6 Submission 2/1 (Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes (Classic Builders et al)) also made a submission in support of the amended definition of impermeable surfaces and sought to retain the revised definitions as notified.

**Decision**

2.4.7 The Hearings Panel:

- **Accepts** submission 1/1
- **Accepts** submission 1/2
- **Accepts** submission 1/3
- **Accepts** submission 2/1

and retains the definitions of coverage, site coverage, impermeable surfaces and permeable surfaces as notified in the proposed plan change.

**TOPIC 3 – RULE 2.4.2.12 – IMPERMEABLE SURFACES – ACTIVITY STATUS**

2.4.8 The proposed plan change sought to amend Rule 2.4.2.12 as follows:

**Rule – Permeable Impermeable surfaces**

~~2.4.2.12 Each site shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains a minimum of 40% of the gross site area in permeable surfaces, provided that in the Cambridge North Structure Plan Area where 55% of the gross site area shall be retained in permeable surfaces. For the avoidance of doubt Rule 2.4.2.43 shall apply to any compact housing.~~

Impermeable surfaces must not exceed:

- (a) 45% of the net site area in the Cambridge North Structure Plan Area;  
or
- (b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area).

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- On-site stormwater disposal
- The effect of stormwater run-off to adjoining properties.

2.4.9 The submission assessed in this decision is focused on the change of activity status of the rule from discretionary to restricted discretionary, and the submitter sought permitted activity status.

2.4.10 Submission 2/4 (Classic Builders et al) made the point that almost all resource consent applications for breaching the impermeable surfaces rule are granted, so why not allow them to be permitted activities? The submitter also proposed to the Panel that if the change to permitted activity was not accepted, then the Panel was invited to consider controlled activity status, on the basis that this would provide applicant certainty of outcome. This point was reinforced by the submitter to the Hearings Panel with a number of references to Hamilton District Plan's equivalent provisions, which the submitter advised was a permitted activity. The submitter's position was that if it was permitted in Hamilton, why was it still being restricted in Waipa? Council's Manager District Plan and Growth referred the Panel to rule 4.6.5 in the Hamilton District Plan as an example where the Hamilton District Plan does in fact place limits on impermeable surfaces.

2.4.11 Council's Reporting Planner advised that this proposal (for both permitted or controlled activity) is a step further than what the proposed plan change was seeking which is to process the consents as a restricted discretionary activity. The Hearings Panel agrees, and sets aside the submitter's references to the Hamilton District Plan as not being entirely accurate.

2.4.12 The sample rule suggested in the submission stated:

*Impermeable surface must not exceed*

- (a) 45% of the net site area in Cambridge North Structure Plan; or*
- (b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area)*

*Unless evidence is supplied to Council that demonstrates all stormwater can be disposed of on site and/or directed to the reticulated infrastructure at post*

development levels. Where evidence is supplied and accepted by Council, no resource consent is required.

*Activities that fail to comply with this activity require a resource consent for a Restricted Discretionary Activity*

- 2.4.13 Performance standards within permitted activity rules need to be measurable and enforceable and they should not convey an element of subjectivity or discretion. The Hearings Panel accepts the advice of Council staff and has determined that text proposed by the submitter does not meet these criteria and would make it difficult for someone to know whether they comply with the rule or not.
- 2.4.14 It is acknowledged it would be ideal if a quantifiable standard could be included in the rule, enabling compliance with it as a permitted activity. Waipā District Council has varying stormwater discharge consents from Waikato Regional Council based on its infrastructure capacities in various locations throughout the district. This, along with variable soils in Cambridge North mean that it is difficult to apply a “one size fits all” engineering solution that could be included in the rule. Assessment of stormwater management on individual properties on a case-by-case basis is required.
- 2.4.15 The current method of requiring a percentage threshold of impermeable surfaces on a site as a performance standard is easy to measure and can be assessed and monitored by both Council staff and customers. A simple rule or formula in the District Plan is more cost effective than the engineering solutions such as large underground tanks or other systems that would otherwise be required to manage stormwater on-site.
- 2.4.16 The Hearings Panel notes that the proposed plan change will also amend the rule so that it applies to the net site area, and not the gross site area as it is currently in the District Plan. This will be of most benefit to rear properties as it will no longer include the access or driveway component of the site. There have been no objections to the actual thresholds in any of the submissions as these are not changed from the operative rule.
- 2.4.17 A matter raised at the hearing by the submitter related to the time and cost of processing resource consents by Council. It was discussed at the hearing that Council could introduce a more streamlined approach to processing consent applications in situations where a breach of the impermeable surfaces rule is the only non-compliance. The Hearings Panel was advised by Council’s planning staff that Council’s consent processing team have agreed to introduce a “template” for processing such consents and that it is anticipated this will reduce the time spent processing resource consent applications, therefore reducing the cost to applicants. The Panel acknowledge this but have determined that streamlined processing is a processing matter for Council’s regulatory team which falls outside the scope of Plan Change 15.

2.4.18 The Hearings Panel accepted the evidence presented by Council’s Reporting Planner and Development Engineer, and considered that the proposal put forward by the submitters would not meet the tests under s32 of the RMA (effective, efficient and the most appropriate method).

### Decision

2.4.19 The Hearings Panel:

- **Rejects** submission 2/4

and recommends Council review options for a streamlined process for resource consent applications, where a breach of Rule 2.4.2.12 is the only non-compliance.

### TOPIC 4 – RULE 2.4.2.12 – IMPERMEABLE SURFACES - GENERAL

2.4.20 The proposed plan change sought to amend Rule 2.4.2.12 as follows:

#### Rule – Permeable Impermeable surfaces

~~2.4.2.12 Each site shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains a minimum of 40% of the gross site area in permeable surfaces, provided that in the Cambridge North Structure Plan Area where 55% of the gross site area shall be retained in permeable surfaces. For the avoidance of doubt Rule 2.4.2.43 shall apply to any compact housing.~~

Impermeable surfaces must not exceed:

- (a) 45% of the net site area in the Cambridge North Structure Plan Area; or
- (b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area).

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- On-site stormwater disposal
- The effect of stormwater run-off to adjoining properties.

2.4.21 The proposed amendments to Rule 2.4.2.12 are shown in paragraph 2.4.18 above. The submissions addressed in this part of the report relate to more general matters within the rule.

2.4.22 Submission 2/2 (Classic Builders et al) supported the proposal to amend the rule so that “net site area” instead of “gross site area” is used in the calculation of impermeable surfaces.

- 2.4.23 Submission 2/3 sought to remove swimming pools from the rule on the basis that they do not contribute any additional stormwater effects on the district's reticulated system as all the water is retained within the pool.
- 2.4.24 As pool design can vary, their ability to retain water also varies. Their contribution to stormwater on or off-site needs to be considered on a case-by-case basis. For this reason, the Hearings Panel determined that swimming pools should continue to be included as impermeable surfaces.

### Decision

- 2.4.25 The Hearings Panel:
- **Accepts** submission 2/2
  - **Rejects** submission 2/3
- and retains Rule 2.4.2.12 as notified in the proposed plan change.

### TOPIC 5 – RULE 2.4.2.11 – MAXIMUM SITE COVERAGE

- 2.4.26 Proposed Plan Change 15 sought to amend Rule 2.4.2.11 as follows:

#### Rule – Maximum site coverage

~~2.4.2.11 Site coverage shall not exceed 40% of the net area of the site where no garage or carport has been provided the maximum site coverage shall be reduced by 20m<sup>2</sup>~~

Site coverage must not exceed 40% of the net site area, provided except that this rule does not apply to the St Kilda Structure Plan Area (refer to Rules 2.4.2.13 and 2.4.2.14) and compact housing (refer to 2.4.2.43).

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

- 2.4.27 Submission 2/5 (Classic Builders et al) sought to increase the maximum site coverage from 40% of the net site area to 50% of the net site area in the Residential Zone. The proposed plan change sought to amend the rule in order to improve the wording and reduce confusion around the effect of a garage or carport on the calculation of site coverage. It did not seek to amend the actual site coverage percentage.
- 2.4.28 The Hearings Panel heard that site coverage is one of a number of planning mechanisms that help to manage the bulk or size of buildings on a site. It is closely linked to rules for impermeable surfaces, but while those rules are to manage stormwater, site coverage directly influences the character and appearance of an area. The Panel considers it is therefore important to have the appropriate ratio of coverage to open area.
- 2.4.29 The Panel heard that the National Policy Statement for Urban Development requires that tier 1 Councils, of which Waipā District Council is one, must enable, through a

plan change, greater building height and density in urban locations where there is greater demand. Any future plan change will need to consider lot sizes, building bulk and location rules and other matters. Higher density development is anticipated and it may be that the relief that the submitter seeks in this proposed plan change process can be addressed by a subsequent plan change. For these reasons, the Panel rejects this submission.

### Decision

#### 2.4.30 The Hearings Panel:

- **Rejects** submission 2/5

and retains Rule 2.4.2.11 as notified in the proposed plan change.

### TOPIC 6 – RULE 2.4.2.17 – MINIMUM FLOOR LEVELS

#### 2.4.31 The proposed plan change sought to delete Rule 2.4.2.17 as follows:

~~Rule Cambridge North Structure Plan Area: flood risk~~

~~2.4.2.17 Principal and secondary dwellings within the Cambridge North Structure Plan Area shall be sited and constructed to avoid or manage flood risk.~~

~~Advice Note: Technical reports associated with the Cambridge North Structure Plan will provide guidance on minimum floor levels.~~

~~Activities that fail to comply with this rule will require a resource consent for a discretionary activity.~~

#### 2.4.32 The rule was proposed to be deleted by Proposed Plan Change 15 because it does not contain any measurable or quantifiable standards or conditions, making it difficult to know when or how compliance is achieved.

#### 2.4.33 The Waikato Regional Council (1/4) opposed this part of the plan change and sought to retain Rule 2.4.2.1 and amend it to include the requirement of a minimum floor level as a performance standard for dwellings or other suitably effective mitigation measures. It was opposed on the basis that the Building Act cannot be relied on to provide complete protection for buildings that are subject to flood hazards. The submission indicated that increased impermeable surfaces due to development or climate change may increase the risk of ponding and flooding, and damage to infrastructure and dwellings.

#### 2.4.34 The s42A hearing report indicated that a future plan change is likely to be undertaken that would include detailed flood hazard maps, and other provisions such as minimum floor levels. The Hearings Panel has accepted in part submission 1/4 and will retain Rule 2.4.2.17 as it is in the District Plan in order to provide a “placeholder” provision until a new flood hazard plan change is undertaken.

## Decision

2.4.35 The Hearings Panel:

- **Accepts in part** submission 1/4

and amends the proposed plan change by reinstating Rule 2.4.2.17 as follows:

### **Rule - Cambridge North Structure Plan Area: flood risk**

2.4.2.17 Principal and secondary dwellings within the Cambridge North Structure Plan Area shall be sited and constructed to avoid or manage flood risk.

Advice Note: Technical reports associated with the Cambridge North Structure Plan will provide guidance on minimum floor levels.

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

## TOPIC 7 – CONSEQUENTIAL AMENDMENTS

2.4.36 Submission 2/6 (Classic Builders et al) sought to make consequential amendments to the District Plan if required as a result of accepting other submissions to the plan change. The Hearings Panel accepts this submission.

## Decision

2.4.37 The Hearings Panel **accepts** submission 2/6 and retains the proposed plan change as notified with the exception of amendments made as a result of accepting or rejecting submissions to other parts of the plan change, and decisions made by the Hearings Panel.



**B**

## **Part B – Decisions on Submissions**

## Part B – Decisions on submissions

### Topic 1: General Support

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	Decision requested	Hearings Panel Decision
3/1	Carla Mounsey	Various	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

### Topic 2: Definitions

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	Decision requested	Hearings Panel Decision
1/2	Waikato Regional Council	Impermeable surfaces	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept
2/1	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Impermeable surfaces	Support	Retain revised definition as notified.	Accept
1/1	Waikato Regional Council	Permeable surfaces	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept
1/3	Waikato Regional Council	Site coverage	Support	No decision requested. <i>Hearings Panel assessment:</i> Retain the amendments proposed in the plan change.	Accept

### Topic 3: Rule 2.4.2.12 – Impermeable surfaces - activity status

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	Decision requested	Hearings Panel Decision
2/4	Classic Builders, A1 Homes, ZB Homes, Jennian Homes,	Rule 2.4.2.12	Oppose	Amend the rule so that a breach of the impermeable surfaces thresholds is a permitted activity provided that all	Reject

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	Decision requested	Hearings Panel Decision
	Generation Homes			stormwater can be disposed of on site or directed to the reticulated system at post development levels. This will need to be enforced by Council at the building consent stage. See sample rule provided in submission.	

#### Topic 4: Rule 2.4.2.12 – Impermeable surfaces – general

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/In Part	Decision requested	Hearings Panel Decision
2/2	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.12	Support	Retain "net site area" as part of the rule.	Accept
2/3	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.12	Oppose	Exclude swimming pools from the rule.	Reject

#### Topic 5: Maximum site coverage

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	Decision requested	Hearings Panel Decision
2/5	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.11	Oppose	Increase the maximum permitted site coverage from 40% to 50%.	Reject

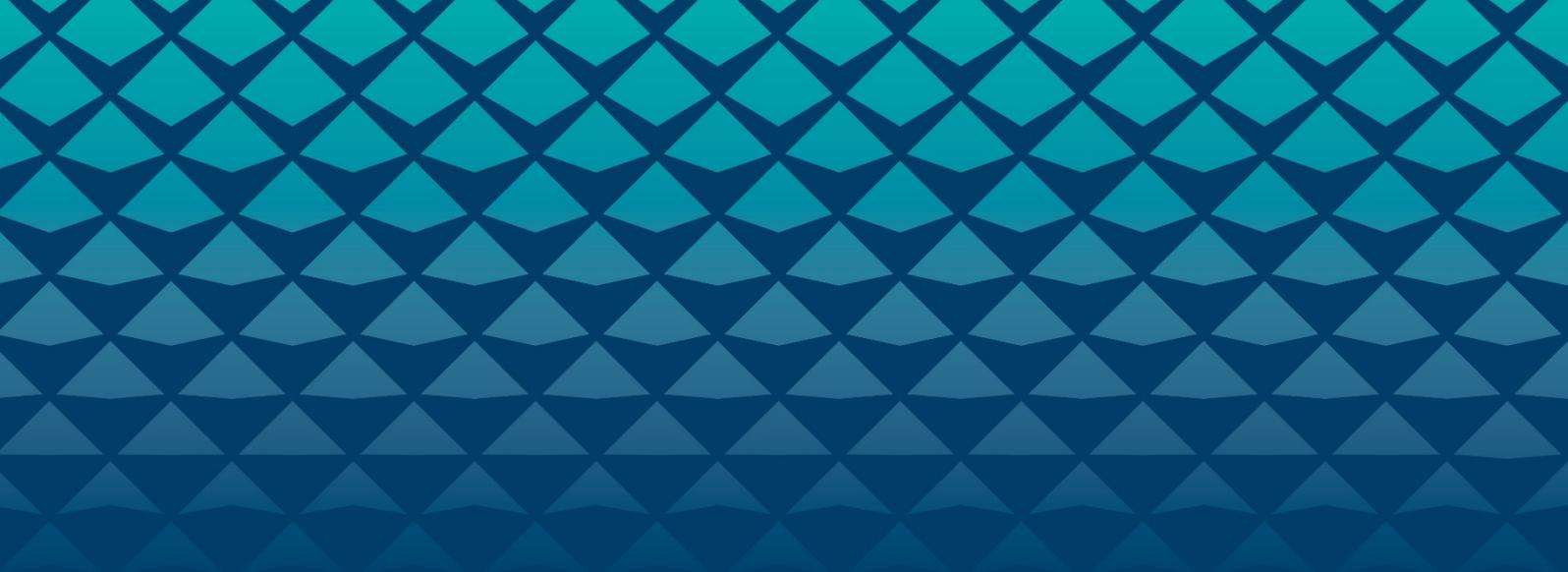
#### Topic 6: Rule 2.4.2.17 – Minimum floor levels

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	Decision requested	Hearings Panel Decision
1/4	Waikato Regional Council	Rule 2.4.2.17	Oppose	Retain Rule 2.4.2.1 and amend to include the requirement of a minimum floor level as a performance standard for	Accept in part

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	Decision requested	Hearings Panel Decision
				dwelling or other suitably effective mitigation measures.	

## Topic 7: Consequential amendments

Submission / Point	Submitter	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	Decision requested	Hearings Panel Decision
2/6	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Various	Neutral	Make consequential amendments as necessary.	Accept



**C**



**Part C – Recommended tracked  
changes to the Waipā District Plan**

## Part C - Tracked Changes to Waipā District Plan

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Note:

- Text from the Waipā District Plan is included in the same colour and text as the notified version of the proposed plan change.
- Further amendments as a result of decisions made by the Hearings Panel are shown in red underline or ~~red strikethrough~~.
- Consequential renumbering of some provisions in the District Plan may be required as a result of accepting or rejecting submissions on the proposed plan change.

### Definitions

~~'Coverage'~~ means ~~that portion of a SITE which is covered by BUILDINGS, and includes parts covered by overhangs or cantilevered structures including covered decks but excluding the eaves of a BUILDING. Fences, terraces, retaining walls or uncovered decks less than 1m above GROUND LEVEL, and swimming pools are not included in the definition of COVERAGE, however may be included within impervious surfaces, see IMPERMEABLE SURFACES.~~

**'Impermeable surfaces'** means a surface ~~which~~ that does not allow natural percolation of water into the ground at a rate that avoids ponding or runoff; and includes roofs, roads, footpaths, paving including proprietary pavers, decking that does not allow water to drain through to a permeable surface, swimming pools, patios gobi blocks, grasscrete, metallised driveways, highly compacted soils, hard surfaced materials, and other similar materials. ~~but excludes wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck.~~

**'Permeable surfaces'** means any part of a site that is grassed, planted in trees or shrubs or similar natural landscaping and is capable of being entirely permeated by absorbing rainwater. ~~Permeable surface shall include (but is not limited to) grass, soil, planting or similar such natural landscaping and wooden decks with spacing between boards of 4mm or more, where water is allowed to drain through to a permeable surface below the deck, but shall not include pavers, gobi blocks, grasscrete, gravel, wooden decks or metallised driveways or hard surfaced materials or other~~

similar materials. It does not include impermeable surfaces or any area that:

- Falls within the definition of site coverage; or
- Is covered by decks that do not allow water to drain through to a permeable surface; or
- Is occupied by swimming pools; or
- Is paved, sealed or formed to create a solid surface; or
- Is used for vehicle parking, manoeuvring or access.

**‘Site coverage’**

refer to definition of **COVERAGE**.

means that portion of a SITE which is covered by BUILDINGS, and includes parts covered by overhangs or cantilevered structures including covered decks but excludes the eaves of a BUILDING. Fences, terraces, retaining walls or uncovered decks less than 1m above GROUND LEVEL, and swimming pools are not included in the definition of SITE COVERAGE, however, may be included within impervious surfaces, see IMPERMEABLE SURFACES.

## **Section 2 – Residential Zone**

### **2.4 Rules**

2.4.1.4	Discretionary activities
(a)	Any permitted, controlled or restricted discretionary activity that fails to comply with: <ul style="list-style-type: none"> <li>(i) ...</li> <li>(ii) ...</li> <li>(v) Rule 2.4.2.12 – Permeable surfaces</li> </ul>

#### **Rule – Maximum site coverage**

2.4.2.11 ~~Site coverage shall not exceed 40% of the net area of the site where no garage or carport has been provided the maximum site coverage shall be reduced by 20m<sup>2</sup>~~

Site coverage must not exceed 40% of the net site area, provided except that this rule does not apply to the St Kilda Structure Plan Area (refer to Rules 2.4.2.13 and 2.4.2.14) and compact housing (refer to 2.4.2.43).

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

### **Rule – Permeable Impermeable surfaces**

- 2.4.2.12 Each site shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains a minimum of 40% of the gross site area in permeable surfaces, provided that in the Cambridge North Structure Plan Area where 55% of the gross site area shall be retained in permeable surfaces. For the avoidance of doubt Rule 2.4.2.43 shall apply to any compact housing.

Impermeable surfaces must not exceed:

- (a) 45% of the net site area in the Cambridge North Structure Plan Area; or
- (b) 60% of the net site area in the remainder of the Zone (except St Kilda Structure Plan Area).

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- On-site stormwater disposal
- The effect of stormwater run-off to adjoining properties.

These matters will be considered in accordance with the assessment criteria in Section 21.

### **Rule – Cambridge North and C1 and C2 Structure Plan Area: on site soakage**

- 2.4.2.16 On-site soakage shall be provided for every lot in the C1 and C2 Structure Plan Areas to dispose of all runoff from a two year average recurrence interval (ARI) 24 hour duration rainfall event, except where regional and/or district resource consents for the structure plan stormwater system allow alternative stormwater management provisions and these consents are complied with. ~~For the avoidance of doubt, on-site soakage within the C3 cell is not anticipated due to the risk of exacerbating slope stability issues. Alternative methods of stormwater management will need to be demonstrated for the C3 cell.~~

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

### **Rule - Cambridge North Structure Plan Area: flood risk-**

- 2.4.2.17 **Principal and secondary dwellings within the Cambridge North Structure Plan Area shall be sited and constructed to avoid or manage flood risk.**

**Advice Note: Technical reports associated with the Cambridge North Structure Plan will provide guidance on minimum floor levels.**

**Activities that fail to comply with this rule will require a resource consent for a discretionary activity.**

## Section 3 – Large Lot Residential Zone

### 3.4 Rules

3.4.1.4	Discretionary activities
(a)	Any building or activity that fails to comply with: (ii) ... (iii) ... (vi) Rule 3.4.2.8 – Impermeable surfaces

#### Rule – Site coverage

3.4.2.7 The maximum total building coverage on a site shall not exceed the following:

Site coverage must not exceed:

- (a) 25% of the net site area on sites less than or equal to 1000m<sup>2</sup>
- (b) 250m<sup>2</sup> on sites ~~between greater than~~ 1000m<sup>2</sup> and ~~1249m<sup>2</sup> less than or equal~~ to 1250m<sup>2</sup> a maximum of
- (c) 20% of the net site area on sites ~~between greater than~~ 1250m<sup>2</sup> and ~~2499m<sup>2</sup> less than or equal~~ to 2500m<sup>2</sup>
- (d) 500m<sup>2</sup> on sites ~~between greater than~~ 2500m<sup>2</sup> and ~~3344m<sup>2</sup> less than or equal~~ to 3345m<sup>2</sup> a maximum of
- (e) 15% of the net site area on all other sites

Provided that, in all instances the gross floor area of all accessory buildings on a site shall not exceed 100m<sup>2</sup>.

Activities that fail to comply with this rule will require a resource consent for a discretionary activity.

#### Rule – Impermeable surfaces

3.4.2.8 Impermeable surface coverage on a site shall not exceed 800m<sup>2</sup>, provided that for sites of 2500m<sup>2</sup> or less, the maximum impermeable surface coverage shall not exceed 33% of the net site area.

Impermeable surfaces must not exceed:

- (a) 33% of the net site area on sites less than or equal to 2500m<sup>2</sup>; or
- (b) 1200m<sup>2</sup> of the net site area on sites greater than 2500m<sup>2</sup>.

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- On-site stormwater disposal
- The effect of stormwater run-off to adjoining properties.

These matters will be considered in accordance with the assessment criteria in Section 21.

## Section 13 – Marae Development Zone

### 13.4 Rules

13.4.1.4	Discretionary activities
(a)	Any building or activity that fails to comply with: <ul style="list-style-type: none"> <li>(i) ...</li> <li>(ii) Rule 13.4.2.7 – Impermeable surfaces</li> </ul>

#### Rule – Impermeable surfaces

13.4.2.7 ~~A minimum of 40% of the net site area shall be grassed, planted in trees and/or shrubs or otherwise landscaped in a manner that retains the permeable nature of the surface.~~

Impermeable surfaces must not exceed 60% of the net site area.

Activities that fail to comply with this rule will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- On-site stormwater disposal
- The effect of stormwater run-off to adjoining properties.

These matters will be considered in accordance with the assessment criteria in Section 21.

## Section 21 – Assessment Criteria and Information Requirements

### 21.1.2 Residential Zone

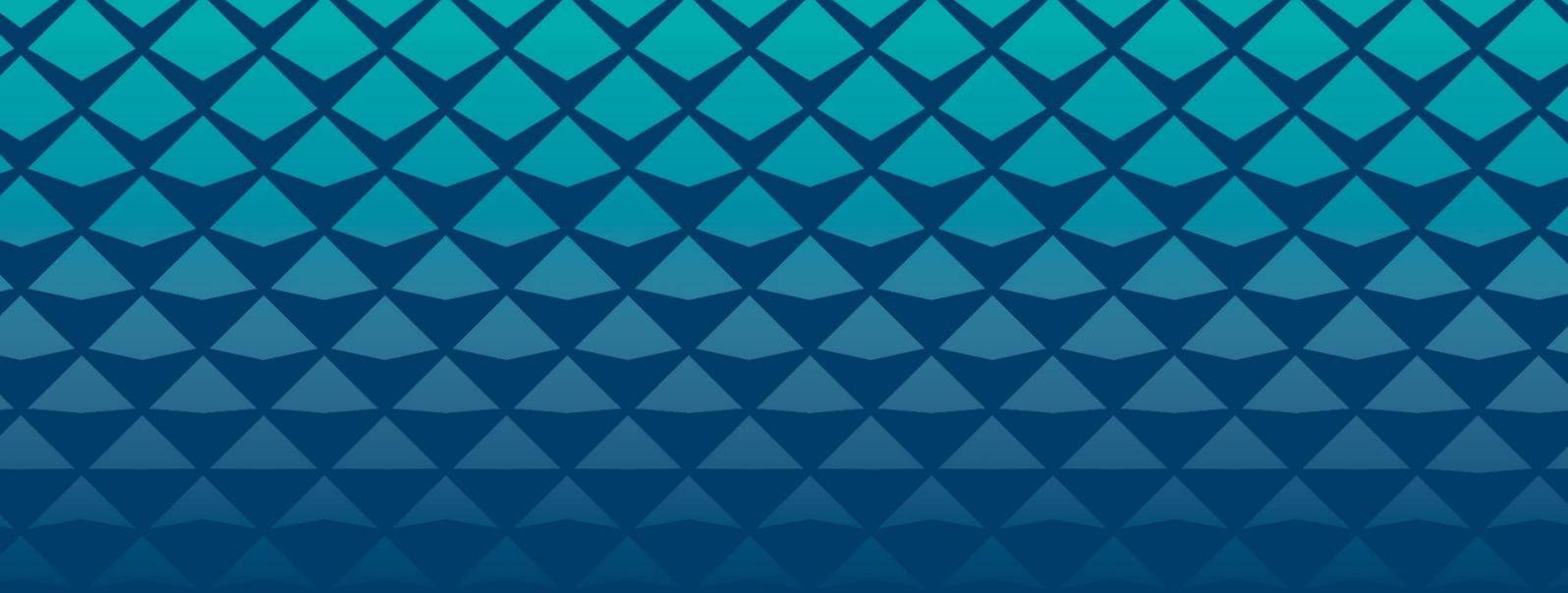
Residential Zone Assessment Criteria		
Restricted Discretionary Activities		
21.1.2.10A	<u>Impermeable surfaces</u>	<ul style="list-style-type: none"> <li>(a) <u>The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</u></li> <li>(b) <u>The extent to which any increase in the level of impermeable surfaces will affect or has the potential to result in stormwater run-off to adjoining properties.</u></li> <li>(c) <u>Alternative methods of retaining stormwater on site.</u></li> </ul>

Residential Zone Assessment Criteria		
Discretionary Activities		
21.1.2.19	<u>Permeable surfaces</u>	<ul style="list-style-type: none"> <li>(a) <u>The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</u></li> <li>(b) <u>The extent to which any increase in the level of impermeable surfaces will effect or has the potential to result in stormwater run-off to adjoining properties.</u></li> <li>(c) <u>Alternative methods of retaining stormwater on site.</u></li> </ul>

### 21.1.3 Large Lot Residential Zone

Large Lot Residential Zone Assessment Criteria		
<b>Restricted Discretionary Activities</b>		
21.1.3.10A	Impermeable surfaces	<p>(a) The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</p> <p>(b) The extent to which any increase in the level of impermeable surfaces will affect or has the potential to result in stormwater run-off to adjoining properties.</p> <p>(c) Alternative methods of retaining stormwater on site.</p>

Large Lot Residential Zone Assessment Criteria		
<b>Discretionary Activities</b>		
21.1.3.14	Impermeable surfaces	<p>(a) The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</p> <p>(b) The extent to which any increase in the level of impermeable surfaces will effect or has the potential to result in stormwater run-off to adjoining properties.</p> <p>(c) Alternative methods of retaining stormwater on site.</p>



# D

## Part D – Section 32AA Evaluation

## Part D – Section 32AA Evaluation

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### 3 Background and Context

#### 3.1 Introduction

##### Section 32 Requirements

3.1.1 Section 32 of the Resource Management Act 1991 (the ‘Act’) requires a council or supporter of a private plan change to evaluate the purpose of a proposal along with the proposed policies and methods, including rules.

3.1.2 The evaluation must:

- (a) assess the scale and significance of the problem or issue;
- (b) examine whether the objectives of the plan change are the most appropriate way to achieve the purpose of the RMA;
- (c) examine whether the proposed approach is the most appropriate way of achieving the objective;
- (d) identify and assess the benefits and costs of new provisions, including any assumptions and risks; and
- (e) assess the risks of acting or not acting if there is uncertain or insufficient information.

##### Section 32AA Requirements

3.1.3 Section 32AA of the RMA sets out the requirements for undertaking and publishing further evaluations. The section states that:

*“(1) A further evaluation required under this Act -*

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and*
- (b) must be undertaken in accordance with section 32(1) to (4); and*
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
- (d) must -*
  - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national*

- planning standard), or the decision on the proposal, is notified; or*
- (ii) *be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.*
- (2) *To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).*
- (3) *In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act”.*

3.1.4 This report is an evaluation undertaken by the Waipā District Council in accordance with Section 32AA of the RMA in relation to Proposed Plan Change 15 – Impermeable Surfaces. The report focuses on the changes that have been made as a result of submissions and decisions from the Hearings Panel since the plan change was publicly notified.

3.1.5 This report has been prepared to fulfil the obligations of the Council under Section 32AA of the RMA, with respect to undertaking a plan change within the Waipā District Plan.

### **3.2 Objective of Proposed Plan Change 15**

3.2.1 The objective of Proposed Plan Change 15 was to improve provisions in the District Plan relating to permeable and impermeable surfaces, and site coverage, in order that they are more effective and efficient.

3.2.2 The planning outcome sought by the objective was that the provisions that were the subject of the proposed plan change would be less ambiguous and more easily interpreted and implemented by all plan users.

### **3.3 Overview of Key Amendments**

3.3.1 There is one amendment to one topic area of the proposed plan change since the initial s32 evaluation report was prepared prior to notification of the proposed plan change.

3.3.2 As a result of a submission and the decision on that submission, a change has been made to Rule 2.4.2.17 in that it has been reinstated into the District Plan in full with no other amendments.

### 3.4 Analysis of individual changes

3.4.1 Table 1 below shows the changes made to Proposed Plan Change 15 as a result of decisions on submissions.

**Table 1: District Plan changes**

Notified Version PC15	Decision Version PC15
<p><del><b>Rule – Cambridge North Structure Plan Area: flood risk-</b></del></p> <p><del>2.4.2.17 Principal and secondary dwellings within the Cambridge North Structure Plan Area shall be sited and constructed to avoid or manage flood risk.</del></p>	<p><b><u>Rule - Cambridge North Structure Plan Area: flood risk-</u></b></p> <p><u>2.4.2.17 Principal and secondary dwellings within the Cambridge North Structure Plan Area shall be sited and constructed to avoid or manage flood risk.</u></p>
<p><del>Advice Note: Technical reports associated with the Cambridge North Structure Plan will provide guidance on minimum floor levels.</del></p>	<p><u>Advice Note: Technical reports associated with the Cambridge North Structure Plan will provide guidance on minimum floor levels.</u></p>
<p><del>Activities that fail to comply with this rule will require a resource consent for a discretionary activity.</del></p>	<p><u>Activities that fail to comply with this rule will require a resource consent for a discretionary activity.</u></p>

### 3.5 Criteria Assessment

3.5.1 An assessment of the change made to the plan change since the initial s32 evaluation report was completed has been undertaken.

**Table 2: Criteria assessment**

Criteria	Assessment
Consistency with purpose of RMA	The management of significant risks from natural hazards is a matter of national importance. Retention of the rule in the plan is consistent with the purpose and principles of the RMA.
Effectiveness	The rule is ineffective as it is currently in the District Plan because it is redundant in its current form due to no measurable performance standards. Reinstating the rule means the ineffectiveness remains. However, it is useful as a placeholder until such time as a plan change addressing flood hazards in the district can be undertaken.
Efficiency	The rule is inefficient as it is currently in the District Plan as it is ambiguous and difficult to interpret. Reinstating the rule

Criteria	Assessment
	means the inefficiency remains. However, it is useful as a place holder until such time as a plan change addressing flood hazards in the district can be undertaken.
Degree of risk	Reduces risk to the Council if the rule is retained in the District Plan and some assessment can be undertaken if the rule is breached.
<b>Overall assessment</b>	The amendments as a result of Council decisions are considered to meet the objectives of the plan change as identified in the s32 report.