

RMA HEARINGS PANEL REPORT



To: RMA Hearing Panel Commissioners

From: Julie Hansen, Policy Advisor District Plan

Subject: **Section 42A Hearing Report on Proposed Plan Change 15 and submissions**

Meeting Date: 14 April 2021

EXECUTIVE SUMMARY

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

The provisions proposed to be amended by Proposed Plan Change 15 relate to permeable and impermeable surfaces and site coverage.

The submission period for Proposed Plan Change 15 closed on 29 January 2021. Three submissions were received. All supported the proposed plan change in part.

The period for further submissions closed on 26 February 2021. There were no further submissions.

There were no late submissions.

One submission did not request a specific decision. This has been identified and discussed in the relevant topic area. Staff have assessed the submission and have decided that read as a whole, the relief sought can be reasonably identified. Submitters can be asked to clarify the decision requested at the hearing, but cannot expand the scope of their written submission through evidence presented at the hearing.

Recommendation

It is recommended pursuant to clause 10 of Schedule 1 of the Resource Management Act that:

- (a) The submissions be either accepted in whole or in part, or rejected as recommended in the report; and
- (b) Recommended amendments to the Waipā District Plan and the submissions be determined in accordance with Appendix 1 of this report.

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1 INTRODUCTION

- 1.1.1 This report is prepared in accordance with Section 42A of the Resource Management Act 1991 (Act) in respect of Proposed Plan Change 15. This report considers submissions received by Waipā District Council in relation to definitions of permeable and impermeable surfaces and site coverage, and rules relating to site coverage and impermeable surfaces in the Residential Zone.
- 1.1.2 Section 2 outlines the scope of the hearing and Section 3 provides the background to Proposed Plan Change 15.
- 1.1.3 Section 4 provides the statutory and policy context for the matters to be considered and determined through the hearing process.
- 1.1.4 Section 5 provides an analysis of the submissions including recommendations. For ease of reporting the submissions for this hearing have been grouped into various topics. Within each topic there is a summary table of relevant submission points, with recommendations contained within the table for each submission point. Further analysis and discussion is then contained in the paragraphs below the table for each topic.
- 1.1.5 For clarity, this is a report on submissions that contains recommendations to the Hearing Commissioners. The Hearing Commissioners will make decisions based on the submissions that have been received and all information presented at the time of the hearing. The recommendations made in this report are **not** the decision of the Commissioners.
- 1.1.6 A track changes version of the copy of the proposed plan change as notified is included in Appendix 1. Recommendations on submissions do not result in any changes to the notified version of Proposed Plan Change 15.

2 HEARING SCOPE

- 2.1.1 The hearing addresses submissions received on Proposed Plan Change 15, which proposes changes to the provisions of the Waipā District Plan relating to definitions and rules about permeable and impermeable surfaces, maximum site coverage, and associated assessment criteria. The provisions affected by the proposed plan change are in the following sections of the District Plan:
- Definitions
 - Section 2 – Residential Zone
 - Section 3 – Large Lot Residential Zone
 - Section 13 – Marae Development Zone
 - Section 21 – Assessment Criteria and Information Requirements.
- 2.1.2 Submissions were received on provisions in the Definitions section of the District Plan, and Section 2 – Residential Zone. All of the submissions were received within the time limits imposed by the Act. None were outside the scope of the proposed plan change.
- 2.1.3 One submission did not request a specific decision. This has been identified and discussed in the relevant topic area. Staff have assessed the submission and have decided that read as a whole,

the relief sought can be reasonably identified. Submitters can be asked to clarify the decision requested at a hearing, but cannot expand the scope of their written submission through evidence presented at the hearing.

- 2.1.4 Amendments proposed by the plan change, and that are not the subject of submissions will not undergo any further assessment in this report, unless necessary as a consequential amendment.
- 2.1.5 The scope of this report and the hearing applies to the following sections of the District Plan:
- Definitions
 - Section 2 – Residential Zone

3 BACKGROUND TO PROPOSED PLAN CHANGE 15

3.1.1 The District Plan contains provisions that aim to promote sustainable management within the district, in accordance with the purpose of the Act. This plan change was proposed so that improvements can be made to provisions relating to permeable and impermeable surfaces and site coverage. The definitions in particular are ambiguous and difficult to interpret. Some of the rules are also difficult to implement because they overlap with each other or leave some activities with no rule being able to be applied. A full copy of Proposed Plan Change 15 is attached as Appendix 1.

3.1.2 The primary components of Proposed Plan Change 15 (as notified) are:

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.

4 STATUTORY AND POLICY CONTEXT

4.1 RESOURCE MANAGEMENT ACT 1991

- 4.1.1 Section 5 of the Resource Management Act sets out its purpose, which is to promote the sustainable management of natural and physical resources. Sustainable management means:

Managing the use, development and protection of natural and physical resources in a way and at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.*

- 4.1.2 The purpose of the Act is only achieved when the matters in (a) to (c) have been adequately provided for within a District Plan. Proposed Plan Change 15 better achieves the purpose of the Act than the current plan definitions and rules relating to permeable and impermeable surfaces and site coverage.

- 4.1.3 Under section 32 of the Act Council must examine whether the objectives of the proposal and its provisions are the most appropriate way for achieving the purpose of the Act. This assessment was set out in the section 32 report that supported the proposed plan change at the time of notification. Section 32AA of the Act requires a further evaluation to be taken in support of decisions on the proposed plan change.

- 4.1.4 Section 6 of the Act requires all persons exercising functions and powers under the Act in relation to managing the use, development, and protection of natural and physical resources, to recognise and provide for matters of national importance. It is considered that the plan change is consistent with Section 6.

- 4.1.5 Section 7 of the Act identifies other matters that particular regard is to be given to. As set out in the section 32 report, those matters of key relevance to the plan change include '(a) kaitiakitanga', '(b) the efficient use and development of natural and physical resources', '(c) the

maintenance and enhancement of amenity values’ and ‘(i) the effects of climate change’. It is considered that the plan change is not inconsistent with these matters.

- 4.1.6 Section 8 of the Act requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) be taken into account during decision-making. Local tangata whenua have been engaged over the course of the development of the proposed plan change and their feedback is summarised in the section 32 report. Overall it is considered the principles of the Treaty have been taken into account.
- 4.1.7 The purpose of a District Plan (section 76) is to assist councils to carry out their functions in order to achieve the purpose of the Act. The functions of district councils are listed in section 31 of the Act and include:
- Integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the District.
 - The control of any actual or potential effects of the use, development, or protection of land.
- 4.1.8 The purpose and contents of the plan change are consistent with the purpose of a district plan pursuant to section 76 of the Act.

4.2 NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT 2020

- 4.2.1 The National Policy Statement on Urban Development 2020 (NPS-UD) was gazetted on 23 July 2020 and had legal effect from 20 August 2020. The NPS-UD has identified Waipā District as a high-growth urban area and a tier 1 urban environment. The NPS-UD recognises the national significance of:
- Having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future
 - Providing sufficient development capacity to meet the different needs of people and communities.
- 4.2.2 While the NPS-UD is a high level central government policy document, the principles within it must be given effect to by Council. Although Proposed Plan Change 15 contains detailed improvements, it is considered to give effect to the provisions of the NPS-UD in that the amendments to the rules will better promote well-functioning urban environments that enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.

4.3 WAIKATO REGIONAL POLICY STATEMENT: TE TAUĀKĪ KAUPAPAHERE TE-ROHE O WAIKATO

- 4.3.1 Section 75 of the Act requires district plans to give effect to any relevant Regional Policy Statement (RPS). Regional policy statements are required to achieve the purpose of the Act by providing an overview of the resource management issues of the region, and policies and methods to achieve integrated management of the natural and physical resources.

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- 4.3.2 Part 6 of the RPS includes policies relating to the built environment, some of which are relevant to the District Plan. They are broad policies associated with long term strategic urban development.
- 4.3.3 Part 6A of the RPS identifies some general development principles such as:
- m) avoid as far as practicable adverse effects on natural hydrological characteristics and processes (including aquifer recharge and flooding patterns), soil stability, water quality and aquatic ecosystems including through methods such as low impact urban design and development (LIUDD);*
 - n) adopt sustainable design technologies, such as the incorporation of energy efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater harvesting and grey water recycling techniques where appropriate;*
- 4.3.4 Policy 8.3 of the RPS seeks to maintain or enhance the identified values of fresh water bodies.
- 4.3.5 Proposed Plan Change 15 gives effect to the implementation methods included in the RPS by managing the effects of subdivision, use and development by considering various matters relating to stormwater and best practice stormwater management. Any changes to the proposed provisions as a result of submissions will need to ensure that the District Plan remains consistent with the RPS.

4.4 TE TURE WHAIMANA O TE AWA O WAIKATO – WAIKATO RIVER VISION AND STRATEGY

- 4.4.1 Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River was developed by the Waikato River Guardians Establishment Committee, iwi and communities of the Waikato River catchment. The Waikato River co-management legislation (Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and the Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 (Upper River Act)) establishes the Vision and Strategy in law. The Vision and Strategy is the primary direction setting document for the Waikato River including its catchment which includes most of the Waipā District.
- 4.4.2 The Vision and Strategy is deemed to be part of the Waikato Regional Policy Statement and therefore must be given effect to by the District Plan.

4.5 IWI JOINT MANAGEMENT AGREEMENTS

- 4.5.1 Council has joint management agreements in place with several iwi that have rohe within the district. As noted in the section 32 report prepared prior to notification of Proposed Plan Change 15, Council staff discussed and provided information on the plan change in accordance with the joint management agreements and the Schedule 1 process of the Act.

4.6 FUTURE PROOF AND WAIPĀ 2050 DISTRICT GROWTH STRATEGY

- 4.6.1 Future Proof is a joint growth management strategy between a cluster of local authorities (being Hamilton City, Waikato and Waipā Districts, and Waikato Regional Council), iwi, Waka Kotahi and Waikato District Health Board. It establishes a strategic plan for land use, infrastructure and roading which provides for the future needs of the sub-region.

- 4.6.2 Waipā 2050 is a district wide growth strategy for managing Waipā’s growth until 2050.
- 4.6.3 4.21 While both of these documents are broad policy documents, and changes proposed to the District Plan must align with the intentions stated within. The proposal to amend provisions relating to impermeable surfaces is consistent with both documents.

5 ANALYSIS OF SUBMISSIONS

- 5.1.1 A total of three submissions have been received on Proposed Plan Change 15. No further submissions were received. The submissions have been grouped into the following topic areas:
- General support
 - Definitions
 - Rule 2 4.2.12 – impermeable surfaces - activity status
 - Rule 2.4.2.12 – impermeable surfaces - general
 - Rule 2.4.2.11 – maximum site coverage
 - Rule 2.4.2.17 – minimum floor levels
 - Consequential amendments
- 5.1.2 Sections 5.2 to 5.8 of this report provide discussion and recommendations under these topic headings. The table below shows which submitters lodged a submission point on the various topics.

Table 1: Topic / Provision and Submitter number and name

Topic	Submitter
General support	3 – Carla Mounsey
Definitions	1 – Waikato Regional Council (WRC)
Rule 2.4.2.12 – Impermeable Surfaces activity status	1 – Waikato Regional Council 2 – Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes
Rule 2.4.2.12 – Impermeable surfaces - general	2 – Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes
Rule 2.4.2.11 – Maximum site coverage	2 – Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes
Rule 2.4.2.17 – Minimum floor levels	1 – Waikato Regional Council
Consequential amendments	2 – Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes

5.2 TOPIC 1 - GENERAL SUPPORT

5.2.1 One submitter lodged a submission in general support of Proposed Plan Change 15.

Table 2: Summary of submissions for Topic 1

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
3/1	Carla Mounsey	Various	Support	The rules will be more consistent across the zones and make the design process easier.	No decision requested. Council staff assessment: Retain the amendments proposed in the plan change.	Accept

5.2.2 Submission 3/1 agrees with the general approach of Proposed Plan Change 15, stating that the rules will be more consistent across the zones, making the design process easier.

5.2.3 No decision was requested by the submitter but Council staff have analysed the submission and conclude that the relief sought can be reasonably and fairly identified.

Recommendation

- Submission 3/1 – Accept

No changes to the proposed plan change as notified.

5.3 TOPIC 2 - DEFINITIONS

5.3.1 The submission points that are relevant to definitions are as follows:

Table 3: Summary of submissions for Topic 2

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
1/2	Waikato Regional Council	Impermeable surfaces	Support	WRC supports the changes.	No decision requested. Council staff assessment: Retain the amendments proposed in the plan change.	Accept
2/1	Classic Builders, A1 Homes, ZB Homes, Jennian Homes,	Impermeable surfaces	Support	Agree with revised definition.	Retain revised definition as notified.	Accept

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Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
	Generation Homes					
1/1	Waikato Regional Council	Permeable surfaces	Support	WRC supports the changes.	No decision requested. Council staff assessment: Retain the amendments proposed in the plan change.	Accept
1/3	Waikato Regional Council	Site coverage	Support	WRC supports the changes.	No decision requested. Council staff assessment: Retain the amendments proposed in the plan change.	Accept

5.3.2 The proposed plan change seeks 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 ~~gobiblocks, 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,

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~~gobi blocks, grasscrete, gravel, wooden decks or metalised 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.

5.3.3 Submissions 1/1, 1/2 and 1/3 all support the proposed changes to the definitions of impermeable surfaces, permeable surfaces and site coverage. Although they did not request any specific decision, Council staff have analysed the submission points and conclude that the relief sought can be reasonably and fairly identified.

5.3.4 Submission 2/1 also made a submission in support of the amended definition of impermeable surfaces and seeks to retain the revised definitions as notified.

Recommendation

- Submission 1/1 - Accept
- Submission 1/2 - Accept
- Submission 1/3 - Accept
- Submission 2/1 – Accept

No changes to the proposed plan change as notified.

5.4 TOPIC 3 - RULE 2.4.2.12 – ACTIVITY STATUS

5.4.1 The following submission point has been received in relation to the activity status of the rule for impermeable surfaces.

Table 4: Summary of submissions for Topic 3

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
2/4	Classic Builders, A1 Homes, ZB Homes, Jennian	Rule 2.4.2.12	Oppose	Almost all resource consents approved provided the	Amend the rule so that a breach of the impermeable surfaces thresholds is a permitted activity	Reject

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Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
	Homes, Generation Homes			applicant provides a stormwater management plan. RD activity status is an improvement in terms of cost, but still subject to 20 working day timeframe which created significant delay to housing and development projects.	provided that all 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.	

5.4.2 Proposed Plan Change 15 seeks 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.

5.4.3 The submission assessed in this part of the report is focused on the proposed change of activity status.

5.4.4 Submission 2/4 makes the point that almost all resource consent applications for breaching the impermeable surfaces rule are granted, so therefore why not allow them to be permitted activities? This is a step further than what the proposed plan change is seeking which is to process the consents as a restricted discretionary activity.

5.4.5 The sample rule suggested in the submission states:

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

5.4.6 Performance standards within permitted activity rules need to be measurable and enforceable and they should not convey an element of subjectivity or discretion. The 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.

5.4.7 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. Council engineering staff have advised that Waipā District Council has varying stormwater discharge consents from the 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. For this reason Council engineering staff need to continue to assess stormwater management on individual properties as they are developed and on a case-by-case basis.

5.4.8 It is therefore preferred that the District Plan continue to use the current method of requiring a percentage of impermeable surfaces on a site as a performance standard. It is easy to measure and can be assessed and monitored by both Council staff and customers.

5.4.9 Note that the proposed plan change also seeks to 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.

Recommendation

- Submission 2/4 – Reject

No changes to the proposed plan change as notified.

5.5 TOPIC 4 - RULE 2.4.2.12 – IMPERMEABLE SURFACES - GENERAL

5.5.1 The following submission points have been received in relation to proposed amendments to rule 2.4.2.12 – impermeable surfaces.

Table 5: Summary of submissions for Topic 4

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose/In Part	My submission is (summary):	Decision requested	Recommendation
2/2	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.12	Support	Inclusion of "net site area" will reduce the number of resource consents triggered for rear lots, that cannot comply when the rule is based on "gross site area".	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	Swimming pools do not contribute to any additional stormwater effects on the district's reticulated system as all the water is retained within the pool.	Exclude swimming pools from the rule.	Reject

5.5.2 The proposed amendments to Rule 2.4.2.12 are shown in paragraph 5.4.2 above. The submissions addressed in this part of the report relate to more general matters within the rule.

5.5.3 Submission 2/2 agrees with the proposal to include 'net site area' as part of the rule, replacing 'gross site area'. Council staff support this.

5.5.4 Submission 2/3 seeks 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.

5.5.5 Advice from Council engineering staff is that 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 they should continue to be included as impermeable surfaces.

Recommendation

- Submission 2/2 - Accept
- Submission 2/3 – Reject

No changes to the proposed plan change as notified.

5.6 TOPIC 5 - RULE 2.4.2.11 – MAXIMUM SITE COVERAGE

5.6.1 The following submission points have been made in relation to Rule 2.4.2.11 – Maximum site coverage.

Table 6: Summary of submissions for Topic 5

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
2/5	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Rule 2.4.2.11	Oppose	Consider that maximum permitted site coverage can be increased from 40% to 50% on sites smaller than 500m ² . It is increasingly difficult for housing companies to comply with the required site coverage calculations. Increase in site coverage will not generate any additional effects on the environment and represents a pragmatic approach to future development, reducing consenting costs and time delays for council customers.	Increase the maximum permitted site coverage from 40% to 50%.	Reject

5.6.2 The proposed plan change seeks 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 20m²~~

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.

5.6.3 Submission 2/5 seeks 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 seeks 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 does not seek to amend the actual site coverage percentage.

- 5.6.4 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. It is therefore important to have the appropriate ratio of coverage to open area.
- 5.6.5 As a guide, comparisons have been made with similar councils i.e. those that are considered high growth¹ but are not a city. The comparison is made only with other general residential zones and not higher or lower density.

Table 7: Site coverage comparison

District	Site coverage
Waikato District	40%
Porirua District	40%
Western Bay of Plenty District	40%
Selwyn District	40%

- 5.6.6 All of these Councils, with the exception of Western Bay of Plenty, have proposed plans (rather than operative) and therefore have reviewed their district plans, including rules for site coverage, relatively recently. It is clear that the Waipā District Plan is not out of alignment with other districts that have similar growth characteristics.
- 5.6.7 Submission 2/5 also suggests that the permitted site coverage for sites less than 500m² could be increased from 40% to 50%. However, their requested decision is to increase the maximum permitted site coverage from 40% to 50%, but does not specify for smaller sites only. Both scenarios have been considered in the assessment of the submission – sites smaller than 500m² as well as sites greater than 500m² in size.
- 5.6.8 The definition of site coverage only includes buildings, whereas impermeable surfaces includes all surfaces through which water can drain, including buildings, paved areas, patios, driveways and other hard surfaces. Site coverage is therefore a subset of impermeable surfaces and cannot be a larger or higher threshold than impermeable surfaces. This is one of the reasons that increasing site coverage to 50% is not possible, particularly in Cambridge North.
- 5.6.9 Table 8 below shows that if the permitted site coverage was increased to 50%, and a house was built to the maximum permitted size, then there would actually be a shortfall in the balance area available for impermeable surfaces, for example for a driveway, patio or courtyard or perhaps a swimming pool. This would automatically trigger a requirement for a resource consent.
- 5.6.10 Additionally, Table 8 shows the effect of increasing maximum site coverage from 40% to 50% on a range of site sizes, other than those in Cambridge North. The increase to 50% has a dramatic effect on the balance available for impermeable surfaces if a house were built to the maximum permitted size – halving the available area on every size site considered.

¹ Tier 1 Councils under the National Policy Statement on Urban Development 2020

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Table 8: Lot sizes, impermeable surfaces and site coverage at permitted activity levels

Zone	Lot size	Max impermeable surface %/m ²	Site coverage % (buildings only)	Max site coverage m ²	Balance available for impermeable surfaces e.g. patio or deck, driveway etc
Residential	400m ²	60%/240m ²	40%	160m ²	80m ²
		60%/240m ²	50%	200m ²	40m ²
Residential	500m ²	60%/300m ²	40%	200m ²	100m ²
		60%/300m ²	50%	250m ²	50m ²
Residential	600m ²	60%/360m ²	40%	240m ²	120m ²
		60%/360m ²	50%	300m ²	60m ²
Cambridge North	500m ²	45%/225m ²	40%	200m ²	75m ²
		45%/225m ²	50%	250m ²	Shortfall of 25m ²
Cambridge North	600m ²	45%/270m ²	40%	240m ²	30m ²
		45%/270m ²	50%	300m ²	Shortfall of 30m ²
Cambridge North	700m ²	45%/315m ²	40%	280m ²	105m ²
		45%/315m ²	50%	350m ²	Shortfall of 35m ²

- 5.6.11 There are solutions to the matter raised in the submission. The first is that developers could make their private development covenants align with the district plan in order that their customers/clients are not faced with higher compliance costs. This may result in smaller homes being built, with the added benefit of improving housing affordability through lower building and consent costs.
- 5.6.12 Another possible solution may come in the form of a future plan change required under the National Policy Statement for Urban Development. Policy 3 of that document requires that tier 1 Councils, of which Waipā District Council is one, must enable 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 at a later date.
- 5.6.13 Matters raised in the submission have been noted for any future plan change on urban density.

Recommendation

- Submission 2/5 – Reject

No changes to the proposed plan change as notified.

5.7 TOPIC 6 - RULE 2.4.2.17 - MINIMUM FLOOR LEVELS

5.7.1 The following submission points have been made in relation to Rule 2.4.2.17 Cambridge North Structure Plan Area: flood risk.

Table 9: Summary of submissions for Topic 6

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
1/4	Waikato Regional Council	Rule 2.4.2.17	Oppose	<p>(a) Current level of service in Cambridge North is from a 10% AEP rainfall event within 3 days. This does not take into consideration projected climate change, and may become overwhelmed by an increase in rainfall intensities and duration, increasing the stormwater ponding and runoff risk.</p> <p>(b) Development in the area will increase impermeable surfaces and runoff, increasing risk of ponding, flooding and damage to infrastructure and dwellings. Mitigation options include floor levels that account for climate change or limit use of buildings in areas of flood risk.</p> <p>(c) Proposed deletion of Rule 2.4.2.17 will result in all guidance being from the Building Act which is insufficient to effectively mitigate</p>	Retain Rule 2.4.2.1 and amend to include the requirement of a minimum floor level as a performance standard for dwellings or other suitably effective mitigation measures.	Reject

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Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support / Oppose / In Part	My submission is (summary):	Decision requested	Recommendation
				natural hazards risk. (d) Amendment to include minimum floor levels will protect human life and structures relied on for social and economic wellbeing.		

5.7.2 Proposed Plan Change 15 seeks 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.~~

5.7.3 The rule is proposed to be deleted because it does not contain any measurable or quantifiable standards or conditions, making it difficult to know when or how compliance is achieved. The rule as it is currently worded serves no real purpose in the District Plan.

5.7.4 Submission 1/4 opposes the deletion of this rule 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 indicates that increased impermeable surfaces due to development or climate change may increase the risk of ponding and flooding, and damage to infrastructure and dwellings.

5.7.5 Council engineering staff acknowledge the matters raised in the submission and advise that numerous technical reports were prepared for the Cambridge North area as a result of flood hazard concerns. Mitigation works were identified and these have been or are currently being constructed. The works include significant retention and soakage ponds, swales, secondary flow paths and pipes which combined, control the release of stormwater. The new stormwater pond currently being constructed has been designed to accommodate a 1% AEP or one in 100 year event.

5.7.6 In addition, detailed flood hazard identification for the whole district is progressing and nearing the final stages of calibration and communication. The maps identify flood hazards within a 1% AEP and are based on different climate change scenarios provided by the Ministry for the Environment. This information is likely to be included in a future plan change that will include new information about flood hazard areas. Such a plan change would aim to include provisions in the District Plan to address the matters raised in the submission, for example defined minimum floor levels, and also the extent of flood hazard areas.

5.7.7 While the matters raised in the submission are not being addressed at this stage, they are noted for a future plan change.

Recommendation

- Submission 1/4 – Reject

No changes to the proposed plan change as notified.

5.8 TOPIC 7 - CONSEQUENTIAL AMENDMENTS

5.8.1 The following submission points have been made in relation to any consequential amendments that may be required as a result of amendments

Table 10: Summary of submissions for Topic 7

Submission / Point	Submitter name	Plan Change Reference / District Plan Provision	Support/ Oppose/ In Part	My submission is (summary):	Decision requested	Recommendation
2/6	Classic Builders, A1 Homes, ZB Homes, Jennian Homes, Generation Homes	Various	Neutral	Included to ensure there is scope to make consequential amendments arising from any of the points raised in the submission.	Make consequential amendments as necessary.	Accept

5.8.2 Submission 2/6 seeks to make consequential amendments if necessary as a result of accepting other submissions to the proposed plan change. Council staff support this submission.

Recommendation

- Submission 2/6 – Accept

No changes to the proposed plan change as notified.

6 CONCLUSION AND RECOMMENDATION

6.1 CONCLUSION

6.1.1 This report has been prepared in accordance with Section 42A of the Resource Management Act and provides a suitable basis on which to assess the effects of Proposed Plan Change 15 – Impermeable Surfaces.

6.1.2 The report has examined each of the submissions in the context of the proposed plan change and has made recommendations with regard to each. There are no further amendments to the proposed plan change as a result of submissions.

6.1.3 Some submissions do not clearly identify the relief being sought or decision requested. Council staff have identified these submissions and made a fair assessment of the decision requested

based on the content of the submission. Recommendations based on the assessment are provided.

6.2 RECOMMENDATION

6.2.1 It is recommended that pursuant to clause 10 of Schedule 1 of the Resource Management Act that:

- (a) The submissions be either accepted in whole or in part or rejected as recommended in the report; and
- (b) Recommended amendments to the Waipā District Plan and the submissions be determined with Appendix 1 of this report.

Report prepared by:



Julie Hansen
Policy Advisor District Plan

Report reviewed and approved by:



Wayne Allan
Group Manager District Growth and Regulatory Services

APPENDIX 1 – RECOMMENDED CHANGES TO THE WAIPĀ DISTRICT PLAN

Note:

- The following sets out the proposed changes for Proposed Plan Change 15. The proposed changes are shown with new additions underlined, and deletions shown as ~~strikeouts~~. Consequential renumbering may occur throughout amended sections.
- There are no recommended changes as a result of submissions.

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,~~ 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 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

Rules

2.4.1.4	Discretionary activities
(a)	Any permitted, controlled or restricted discretionary activity that fails to comply with: (i) ... (ii) ... (v) Rule 2.4.2.12 – Permeable surfaces

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 20m²~~

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.

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

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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

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 1000m²
- (b) 250m² on sites ~~between~~ greater than 1000m² and 1249m² ~~less than or equal to 1250m² a maximum of~~
- (c) 20% of the net site area on sites ~~between~~ greater than 1250m² and 2499m² ~~less than or equal to 2500m²~~
- (d) 500m² on sites ~~between~~ greater than 2500m² and 3344m² ~~less than or equal to 3345m² 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 100m².

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 800m², provided that for sites of 2500m² 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 2500m²; or
- (b) 1200m² of the net site area on sites greater than 2500m².

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.

Section 13 – Marae Development Zone

Rules

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

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.

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"> (a) <u>The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</u> (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> (c) <u>Alternative methods of retaining stormwater on site.</u>

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Residential Zone Assessment Criteria		
Discretionary Activities		
21.1.2.19	Permeable 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>

21.1.3 Large Lot Residential Zone

Large Lot Residential Zone Assessment Criteria		
Restricted Discretionary Activities		
21.1.3.10A	<u>Impermeable surfaces</u>	<p>(a) <u>The degree to which on-site stormwater disposal can be achieved in a range of stormwater events.</u></p> <p>(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></p> <p>(c) <u>Alternative methods of retaining stormwater on site.</u></p>

Large Lot Residential Zone Assessment Criteria		
Discretionary Activities		
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>