

DECISION REPORT ON PLAN CHANGE 4: PROVISION OF CYCLEWAYS TO THE OPERATIVE WAIPA DISTRICT PLAN

Sept 2018

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Part 1 - Decision Report

1.1 Introduction

- 1.1.1 This decision report contains Waipa District Council's ('the Council') decision under Clause 10 of the First Schedule of the Resource Management Act 1991 ('the Act') on Plan Change 4 to the Waipa District Plan.
- 1.1.2 Plan Change 4 was publicly notified on 6 February 2018 and seeks to provide an increased incentive for property owners to offer up land for the Te Awa Cycleway or any Incentivised Cycleways in exchange for an Environmental Benefit Lot.
- 1.1.3 The changes proposed as a result of the plan change are illustrated in **Part 2**.

1.2 Plan Change 4 Hearing

- 1.2.1 The hearing for Plan Change 4 was held on 18 June 2018. The Committee members that sat on the hearing panel are listed below:
- Councillor Bruce Thomas (Chairperson)
 - Councillor Liz Stolwyk
 - Councillor Clare St Pierre
 - Councillor Marcus Gower
 - Poto Davis as a representative form Nga Iwi Toopu O Waipa
- 1.2.2 At the hearing the Committee heard evidence from the reporting planner Daan Blokker. The following submitters presented evidence at the hearing:
- Johanna Blackman and Nick Palairret
 - Donal Macky
- 1.2.3 Tabled evidence:
- Costenuff Trust
- 1.2.4 All other submitters indicated they did not wish to attend the hearing.

1.3 Submissions and Hearing

- 1.3.1 The Waipa District Plan provisions within the scope of this hearing are:
- The proposed additions and amendments to the provisions of Section 1 – Strategic Policy Framework, Section 15 – Infrastructure, Hazards, Development and Subdivision and Section 21 – Assessment Criteria and Information Requirements.

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1.3.2 The submissions to the proposed plan change were considered in the following order:

- General submissions that relate to the whole Plan Change
- Section 15 – Infrastructure, Hazards, Development and Subdivision

1.4 General submissions that relate to the whole Plan Change

1.4.1 The submission points that are relevant to this topic are as follows:

Submission Point	Submitter Name	Plan Provision / Reference	Support/ Oppose/ In part	Decision requested	Decision	Reasoning
1/1	Robert Shirley	General	Support	No change sought.	Accept in part	<ul style="list-style-type: none"> ▪ This submitter considers that the proposed plan change is future focused and environmentally advantageous. ▪ Changes have been recommended in response to other submissions.
2/1	Danna Glendining	General	Support	No change sought.	Accept in part	<ul style="list-style-type: none"> ▪ This submitter supports more cycleways within the Waipa District. ▪ Changes have been recommended in response to other submissions.
3/1	Donal Macky	General	Not Stated	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ This submitter believes that farmers in the Waikato should be sharing some of their land for cycleways and walking tracks and that such tracks will not cause any inconvenience to those farmers. ▪ Changes have been recommended in response to other submissions.
4/1	Kirsten Rudd	General	Not Stated	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ This submission is not relevant to PC4.

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Submission Point	Submitter Name	Plan Provision / Reference	Support/ Oppose/ In part	Decision requested	Decision	Reasoning
						<ul style="list-style-type: none"> ▪ Changes have been recommended in response to other submissions.
5/1	Donald and Helen Spiers	General	Support	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ The submitter considers cycleways to be important and contribute to the welfare of community and therefore it is important to encourage incentives to landowners. ▪ Changes have been recommended in response to other submissions.
6/1	Jan and John Mandeno	General	Support	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ The submitter considers cycleways to contribute positively to the economy and social development. ▪ Changes have been recommended in response to other submissions.
7/1	John O'Shea	General	Support	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ The submitter believes that cycleways are of great benefit to the Waipa District. ▪ Changes have been recommended in response to other submissions.
8/1	Waikato Regional Council	General	Support	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ The submitter believes that PC4 will allow for a safer cycling network to be established in the Waikato Region. ▪ This submitter

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Submission Point	Submitter Name	Plan Provision / Reference	Support/ Oppose/ In part	Decision requested	Decision	Reasoning
						<p>strongly supports that any incentivised cycleway route will be assessed for consistency against the District Plan, Regional Policy Statement and any Council, regional or sub-regional growth strategy as part of the initial evaluation reporting.</p> <ul style="list-style-type: none"> ▪ Changes have been recommended in response to other submissions.
10/1	Costenuff Trust	General	Oppose	No change sought	Accept in part	<ul style="list-style-type: none"> ▪ This submitter has concerns over continual spending on more cycleways when cyclists do not contribute to these costs. ▪ Changes have been recommended in response to other submissions.
11/8	Johanna Blackman	General	Oppose	Change sought to include a provision in the District Plan which requires planting to screen any cycleways in order to reduce the impact on adjoining properties.	Reject	<ul style="list-style-type: none"> ▪ The relief sought is outside of the matters that PC4 is considering.
11/9	Johanna Blackman	General	Oppose	Any titles developed from 'environmental benefit lots' should be exempt from paying the resource consent processing fees	Reject	<ul style="list-style-type: none"> ▪ The relief sought is outside of the scope of the district plan.

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Submission Point	Submitter Name	Plan Provision / Reference	Support/ Oppose/ In part	Decision requested	Decision	Reasoning
				and development contributions		

1.5 Section 15 – Infrastructure, Hazards, Development and Subdivision

1.5.1 The submission points that are relevant to this topic are as follows:

Submission Point	Submitter Name	Plan Provision / Reference	Support / Oppose / In part	Decision requested	Decision	Reasoning
9/1	Waipa District Council	Rule 15.4.2.39 Transferable Development Rights: location of holdings and recipient sites.	Support in part	Amend Rule 15.4.2.39 to provide for environmental benefit lot entitlement transfers off-site where a new title cannot be created on-site. The current provisions of Rule 15.4.2.39 restrict Transferable Development Rights to donor holdings located within the Rural Zone or in a sensitive location with no provision for land that is provided for Te Awa or an Incentivised Cycleway.	Accept	<ul style="list-style-type: none"> ▪ The amendment is necessary to ensure that the provisions of Section 15 allows all necessary land required for Te Awa or any Incentivised cycleways to be provided in the situation where an Environmental Benefit Lot cannot be accommodated on-site. ▪ The relief sought by this change will increase the effectiveness of the plan in achieving its objectives and policies.
11/1	Johanna Blackman	Rule 15.4.1.1(h) Subdivision to create all types of environmental benefit lots	Oppose	Amend Rule 15.4.1.1(h) to change the activity status of a subdivision to create all types of environmental benefit lots a Controlled activity rather than a Discretionary Activity.	Reject	<ul style="list-style-type: none"> ▪ Changing the activity status of this rule to a Controlled Activity would not be suitable as all such activities would have to be approved on a conditional basis by Council. This would not be appropriate in cases where

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Submission Point	Submitter Name	Plan Provision / Reference	Support / Oppose / In part	Decision requested	Decision	Reasoning
						<p>subdivision is not appropriate, hence Council discretion is required.</p> <ul style="list-style-type: none"> The relief sought by this submission would reduce the effectiveness of the plan in achieving its objectives and policies.
11/2	Johanna Blackman	<p>Rule 15.4.2.1(p)</p> <p>All new lots shall comply with the following net lot areas...</p>	Oppose	<p>Amend Rule 15.4.2.1(p) to change the minimum section size from 2,500m² to 2,000m² and increase the maximum net lot area from 5,000m² to an area which is based on the impact of productive land.</p>	Reject	<ul style="list-style-type: none"> A smaller or larger lot size can be applied for and approved as a Non-Complying Activity, provided that there is reasonable justification and supporting information. The relief sought by this submission would reduce the effectiveness of the plan in achieving its objectives and policies.
11/3	Johanna Blackman	<p>Rule 15.4.2.40</p> <p>Transferable Development Rights:</p> <p>location of holdings and recipient sites.</p>	Opposed	<p>Amend Rule 15.4.2.40 and to allow for more than one development right to be located on the donor holding and provide the landowner with greater flexibility in terms of lot size.</p>	Reject	<ul style="list-style-type: none"> The amendment request made is not relevant to Rule 15.4.2.40. A smaller or larger lot size can be applied for as a Non-Complying Activity where each application can be assessed on its merits. The relief sought by this submission would reduce the effectiveness of the plan in

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Submission Point	Submitter Name	Plan Provision / Reference	Support / Oppose / In part	Decision requested	Decision	Reasoning
						achieving its objectives and policies.
11/4	Johanna Blackman	Rule 15.4.2.49 Environmental Benefit Lots	Opposed	Amend Rule 15.4.2.49 to allow for one development right to be located on the donor holding and provide the landowner with greater flexibility in terms of lot size.	Reject	<ul style="list-style-type: none"> ▪ This Rule already provides for more than one Environmental Benefit Lot being established on-site as a Discretionary Activity provided that at least 7,000m² of land is being provided for a cycleway. Therefore, no changes to this rule are necessary. ▪ A smaller or larger lot size can be applied for as a Non-Complying Activity. ▪ The relief sought by this submission would reduce the effectiveness of the plan in achieving its objectives and policies.
11/5	Johanna Blackman	Rule 15.4.2.49 Environmental Benefit Lots	Opposed	Amend Rule 15.4.2.49 to change the minimum section size from 2,500m ² to 2,000m ² and increase the maximum net lot area from 5,000m ² to an area which is based on the impact on productive land	Reject	<ul style="list-style-type: none"> ▪ A smaller or larger lot size can be applied for as a Non-Complying Activity ▪ The relief sought by this submission would reduce the effectiveness of the plan in achieving its objectives and policies.
11/6	Johanna Blackman	Rule 15.4.2.49 Environmental Benefit Lots	Opposed	Amend Rule 15.4.2.49 so that one environmental	Accept in part	<ul style="list-style-type: none"> ▪ Rule 15.4.2.49, as currently proposed under PC4, contributes

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Submission Point	Submitter Name	Plan Provision / Reference	Support / Oppose / In part	Decision requested	Decision	Reasoning
				benefit lot is created for each 2,000m ² that is provided for a cycleway rather than 2,000m ² for the first and 5,000m ² for any further land provided.		<p>towards achieving the objectives and policies relating to cycleways whilst ensuring that the impact on Rural Character and productive land are minimal.</p> <ul style="list-style-type: none"> ▪ The relief sought by this submission would reduce the effectiveness of the plan in achieving its objectives and policies as they relate to the Rural Zone.
11/7	Johanna Blackman	Rule 15.4.2.49 Environmental Benefit Lots	Opposed	Amend Rule 15.4.2.49 to include a provision that provides neighbours who adjoin a cycleway but do not donate any land with some benefit.	Reject	<ul style="list-style-type: none"> ▪ The submitter has not defined a benefit that could be included as part of provision 15.4.2.49. ▪ In regard to the impact that a cycleway would have in regards to “pugging” on land adjoining a cycleway, there is no evidence to support this statement and therefore cannot be used to justify a provision providing benefit to the owners of any adjoining title.

1.6 Conclusion

- 1.6.1 The Hearings Committee have considered the amendments proposed by Plan Change 4 including the supporting S32 Analysis Report, the recommendations of the reporting officers Section 42A Report and the submissions and evidence received and made at the hearing. After making these considerations, the Hearings Committee have determined that Plan Change 4 should be approved with one minor change being made to Rule 15.4.2.39 as requested by the Waipa District Council in their submission.
- 1.6.2 The changes will help reinforce the overall approach of the District Plan with regard to the provision of Environmental Benefit Lots as an incentive to provide the necessary land to cater for the Te Awa Cycleway and any Incentivised Cycleways in the future.
- 1.6.3 Note: This was not a hearing to determine a particular cycleway route such as the Te Awamutu to Pirongia route, rather about providing incentives to the landowner that can be used to reach an agreement with a landowner. In addition to the provision of Environmental Benefit Lots, Council also has alternative options that can be used to reach an agreement with landowners who may be in a position to provide land for a cycleway.
- 1.6.4 We are satisfied that Plan Change 4 will assist the Council in achieving the purpose of the RMA, is consistent with the Waikato Regional Policy Statement and the Waipa District Plan.

1.7 Decision

- 1.7.1 Pursuant to Clause 10 of the First Schedule of the Resource Management 1991, we have determined, for all the reasons above, that:
- (a) Plan Change 4 be approved, with amendments to the notified version, as per Part 2 of this report.
 - (b) The submissions that support Plan Change 4 are accepted in part to the extent that those changes are made to the notified version, as per Part 2 of this report.
 - (c) Those submissions that are neutral, opposed in part and opposed are accepted to the extent that Plan Change 4 is approved, with amendments to the notified version, as per Part 2 of this report.

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Councillor Bruce Thomas
Chairperson

Date: 27 August 2018

Part 2 - Appendices

2.1 Amendments to be made to the Waipa District Plan

Note:

- Text from the Operative Waipā District Plan is included in the same colour and text as the notified version.
- Text added, deleted or amended to give effect to the decisions on the submissions is in blue and underlined [submission number] and text deleted in response to submissions is in blue and strike through e.g. ~~this text is recommended for deletion.~~
- Consequential renumbering will occur in Section 15.

Definitions

Add the following definition:

Incentivised Cycleway(s) means a cycleway approved by Council resolution as suitable for environmental benefit lot eligibility in accordance with Policy 15.3.6 (new), which includes any alternate or new route for the Te Awa Cycleway to the route included in Appendix 04.

Section 1 – Strategic Policy Framework

Objective – Environmental and heritage protection and recreation values

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Policy – Environmental, recreational and heritage protection

1.3.4.2 To consider additional development and subdivision opportunities in circumstances where:

- (a) Significant natural areas, located within the indigenous forest corridors, are permanently protected; or
- (b) Significant heritage sites and places are permanently protected; or
- (c) Land provided for the Te Awa cycleway or an Incentivised Cycleway is permanently protected.

Provided that the anticipated settlement pattern is not compromised, reverse sensitivity effects are avoided and that any other adverse effects on the environment are appropriately mitigated.

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Policy - Promoting new recreation experiences

- 1.3.4.4 To promote new recreation experiences in the District, in particular the Te Awa cycleway and Incentivised Cycleways and activities located on existing reserves, where adverse effects are appropriately managed.

Section 15 – Infrastructure, Hazards, Development and Subdivision

Objective – Integrated development: environmental enhancement

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Policy - Achieving the permanent protection of the natural environment

- 15.3.6.3 To achieve the permanent protection of identified significant natural areas, Maungatautari Ecological Island, ecological features, lakes and water bodies, the Te Awa Cycleway route and any Incentivised Cycleway, through the incentive of an environmental benefit lot.
- 15.3.6.4 Incentivised Cycleways may be created by Council resolution once Council is satisfied that granting environmental benefit lot eligibility for that cycleway is consistent with the District Plan, Regional Policy Statement and any Council, regional, or sub-regional, growth strategy.

15.4 Rules

The rules that apply to activities are contained in:

- (a) *The activity status tables and the performance standards of this section; and*
 (b) *The activity status tables and the performance standards in Part D Zone Provisions, Part E District Wide Provisions, and Part F District Wide Natural and Cultural Heritage of the Plan.*

15.4.1 Activity Status Table

15.4.1.1	Activity	Residential Zone	Commercial Zone	Industrial Zone / Airport Business Zone	Reserve Zone	Large Lot Residential Zone	Rural Zone & any other zone not listed in this table	Deferred Zones
	This table includes rules that apply to all zones and zones specific activity status rules, both of which may be applicable to an activity. For all the activities listed in this table the performance standard Rules 15.4.2 will apply. The activity status for activities which fail to comply with the performance standards is identified under each rule. For the avoidance of doubt where activities fail to comply with this table and have no associated rule, resource consent for a non-complying activity is required.							
	All Zones							
(h)	Subdivision to create all types of environmental benefit lots	D	D	D	D	D	D	D

Part A: All development and subdivision

Advice Note: The performance standards listed below apply to all development and subdivision in the District.

Design & Layout

Net lot area rules

15.4.2.1 All new lots shall comply with the following net lot areas:

15.4.2.1	Zone or Area	Minimum Net Lot Area	Average Net Lot Area	Maximum Net Lot Area or Maximum Number of Lots
(p)	Rural – Environmental benefit lots remaining on the parent title: Maungatautari Ecological Island, Te Awa Cycleway and an Incentivised Cycleway	2,500m ²	NA	5,000m ²

Rules - Transferable Development Rights: location of holdings and recipient sites

15.4.2.39 The donor holding must [have provided land for the Te Awa cycleway identified in Appendix 04 or an Incentivised Cycleway, or \[9/1\]](#) be in the Rural Zone and located in whole or in part in a sensitive location identified below:

- (a) Within an identified outstanding landscape or viewshaft as identified on the Planning Maps; or
- (b) Within the air noise boundary of the Hamilton International Airport excluding the Airport Business Zone; or
- (c) Within or immediately adjacent to the Maungatautari Ecological Island and listed in the Maungatautari Ecological Island lot entitlements as listed in Appendix O2; or
- (d) Within areas of high class soils; or
- (e) Within a significant natural area as identified on the Planning Maps; or
- (f) Within a Quarry Buffer Area identified on the Planning Maps; or
- (g) Adjoining a State Highway as identified on the Planning Maps; or
- (h) Within 500m measured in a straight line of an Industrial Zone; or
- (i) Within 1km from the Hamilton City Council Limits; or
- (j) Within sites adjacent to significant recreation reserves, as listed in Appendix O5.

15.4.2.40 The recipient sites must be located in the areas identified below:

- (a) Wholly within the Large Lot Residential Zones, excluding the Houchens Road Large Lot Residential Structure Plan Area; or
- (b) In the Rural Zone provided that:

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- (i) The site is not located, in whole or in part within the areas identified in Rule 15.4.2.39; and
- (ii) The site is not within the outer control boundary as identified on the Planning Maps; and
- (iii) The site is not within a Deferred Zone as identified on the Planning Maps or future growth areas identified in Appendix S1; and
- (iv) The site is not located in whole or part in the Houchens Road Large Lot Residential Structure Plan Area.

Provided that one lot can be located on the donor holding in the Maungatautari Ecological Island, the Te Awa Cycleway and for an Incentivised Cycleway in accordance with Rules 15.4.2.47 and 15.4.2.49.

Rule - Environmental benefit lots: Cycleways

15.4.2.49 Sites adjoining the Te Awa Cycleway identified in Appendix 04 or an Incentivised Cycleway may be eligible for an environmental benefit lot(s) when land is provided for the cycleway and protected in perpetuity by a legal mechanism approved by Council. Provided that:

- (a) Only one environmental benefit lot may be established on the parent title. Any additional environmental benefit lots shall be transferred from the holding pursuant to Transferable Development Right provisions in Rules 15.4.2.37 to 15.4.2.45.
- (b) The maximum area of the lot to be created shall be 5,000m² and the minimum area of the lot to be created shall be 2,500m² exclusive of the area being protected, and the balance of the land being subdivided shall be no less than 5,000m².

The area of land that may qualify for an environmental benefit lot is:

- (c) One environmental benefit lot can be obtained for a minimum of 2000m² of land protected by the legal mechanism and one additional environmental benefit lot can be obtained for each additional 5000m² of land protected.

Activities which fail to comply with this Rule 15.4.2.49 require a resource consent for a discretionary activity.

Section 21 – Assessment Criteria and Information Requirements

21.1.15 Infrastructure, Hazards, Development and Subdivision

Infrastructure, Hazards, Development and Subdivision Assessment Criteria		
	Discretionary Activities <i>Refer also to 21.1.1 Assessment Criteria for ALL discretionary activities</i>	
21.1.15.39	Environmental benefit lots	<ul style="list-style-type: none"> (a) The extent to which the feature on which the provision of the environmental benefit lot relies is protected in perpetuity and the methods by which this will be achieved. (b) The extent to which the feature on which the provision of the environmental benefit lot relies is supported by a specialist report that identifies the importance of the retention and protection of the feature to the District. (c) The extent to which the area relied on for the provision of the environmental benefit lot, in the instance of the Te Awa Cycleway or an Incentivised Cycleway, is suitable for the intended purpose. (d) The extent to which the location of the benefit lot will not create ad hoc, residential cluster or ribbon development or detract from visual amenity. (e) In the instance of the Te Awa Cycleway or an Incentivised Cycleway and stream riparian corridors, the extent to which the balance area of the subdivision complies with the controls of the zone. (f) In the instance of the biodiversity (river and stream corridor), the extent to which the land being vested for protection along the stream boundary of a property is of a width and length to provide biodiversity benefits.



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