

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Plan Change 26 to the Waipā District
Plan

**PRIMARY EVIDENCE OF SEAN GRACE
ON BEHALF OF
ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS
(SUBMITTER #55)**

Planning

Dated 6 April 2023

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1 EXECUTIVE SUMMARY

1.1 Ara Poutama Aotearoa the Department of Corrections (**Ara Poutama**) made submissions on the provisions of Plan Change 26 (**PC26**) to the Waipā District Plan (**WDP**) as they relate to providing for “residential activities” and “community corrections activity” in various residential, commercial, and industrial zones. These include:

- (a) The definition of “residential activity” and “dwelling”, as well as the proposed provisions relating to these in the WDP, whereby Ara Poutama sought their retention as notified.
- (b) The addition of a definition of “community corrections activity”, consistent with the National Planning Standards.
- (c) The activity status of “community corrections activity”, whereby Ara Poutama sought that it be provided as a permitted activity in the Commercial and Industrial zones.

1.2 The PC26 Section 42A Hearing Report authored by Mr Damien McGahan (**s42A Report**) recommends implementing the relief sought by Ara Poutama in relation to point (a) above in full, which I support. The s42A Report does not recommend implementing the relief in points (b) and (c) sought by Ara Poutama.

1.3 I consider “community corrections activity” should be defined and also provided as a permitted activity in the Commercial Zone given that:

- (a) Community corrections activities are important to the successful operation and to the wider functioning of the urban environment and are essential social infrastructure.
- (b) Community corrections activities are a compatible and appropriate activity in commercial areas as they are consistent with the character and amenity and are not prone to reverse sensitivity.
- (c) Due to their unique nature, and limited need for these facilities in an urban area, there will not be a proliferation of community corrections activities or any impact on the wider availability of commercial land.

- (d) There are other examples nationally of where Councils provide for community corrections activities as a permitted activity in commercial zones.
 - (e) Making community corrections activities a permitted activity in the Commercial Zone will enable the following outcomes, which align with the National Policy Statement on Urban Development 2020 (**NPS-UD**), the policy framework of the Waikato Regional Policy Statement (**WRPS**), and the policy framework of the WDP / PC26:
 - (i) community facilities will be able to meet local needs in areas with good connectivity;
 - (ii) integration with planned growth and development;
 - (iii) increased levels of self-sufficiency of the Commercial Zones; and
 - (iv) increased range of employment opportunities within the District.
 - (f) There is likewise broad support from the regional strategic planning documents for permissive treatment of community corrections activities in appropriate locations, including the Future Proof Strategy 2022 and Waikato 2070.
- 1.4 On this basis, I support Ara Poutama's relief, seeking to provide for "community corrections activity" as a permitted activity in the Commercial Zone.

2 QUALIFICATIONS AND EXPERTISE

- 2.1 My name is Sean Grace. I am a Senior Principal and Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualifications of Bachelor of Science (Physical Geography). I am a Full Member of the New Zealand Planning Institute. I have been a planner in local government or as a planning consultant based in Tauranga, Auckland and Wellington for over 18 years.
- 2.2 As a consultant planner, I have provided consultancy services for a wide range of clients around New Zealand, including central and local

government authorities, land developers, and those in the social and network utility infrastructure sectors. My experience as a consultant includes planning policy preparation and advice, providing expert evidence at Council hearings, attending Environment Court mediation, preparing Notices of Requirement for designations, resource consenting and non-statutory planning work. As a local government planner, my experience was in resource consent processing and planning monitoring and enforcement.

- 2.3 I have worked for Ara Poutama as a planning consultant over the course of the past 14 years.
- 2.4 I have extensive experience in District Plan policy work, and have appeared on behalf of Ara Poutama in hearings and at mediation for the Proposed Waikato District Plan, Proposed Auckland Unitary Plan, Proposed Invercargill District Plan, Proposed Ōpōtiki District Plan and several Plan Change processes. I have reviewed and prepared submissions on behalf of Ara Poutama for numerous other Proposed District Plans and Plan Changes.

3 CODE OF CONDUCT

- 3.1 I confirm that I have read the Code of Conduct for Expert Witnesses set out in the of the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and will continue to comply with it while giving oral evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

4 SCOPE OF EVIDENCE

- 4.1 This evidence addresses matters raised in the s42A Report. To that end, my evidence:
 - (a) Briefly summarises the relief sought by Ara Poutama on PC26 (Section 5);
 - (b) Confirms Ara Poutama's support for the retention of the definitions of "residential activity" and "dwelling", as well as the

recommended provisions relating to such under PC26, as set out in the s42A Report (Section 6); and

- (c) Discusses Ara Poutama's request for a definition of "community corrections activity" and the associated rule that would provide for community corrections activities in the Commercial Zone (Section 7).

5 RELIEF SOUGHT

5.1 Ara Poutama lodged a submission on PC26 dated 30 September 2022 (submitter number 55).

5.2 The s42A Report addresses Ara Poutama's following submission points on PC26:

- (a) **The definition of "residential activity" and "dwelling", as well as the proposed provisions relating to these in the WDP**, whereby Ara Poutama sought their retention as notified.
- (b) **The addition of a definition of "community corrections activity"**, consistent with the National Planning Standards.
- (c) **The activity status of "community corrections activity"**, whereby Ara Poutama sought that it be provided as a permitted activity in the Commercial and Industrial zones. Ara Poutama no longer intends to pursue its relief in the Industrial Zone and accordingly my evidence does not consider this matter further.

6 SUPPORT FOR REPORTING PLANNER'S RECOMMENDATIONS

6.1 The s42A Report recommends retention of the definitions of "residential activity" and "dwelling". I support this recommendation as the definition is consistent with relief sought by Ara Poutama in its submission, in terms of appropriately enabling Ara Poutama to implement the residential activities that it manages within the Waipā District.

6.2 The s42A Report recommends a range of changes the WDP in relation to provisions applying to "residential activity" and "dwelling" (as set out in Appendix A to the s42A Report). I support these recommended changes as the provisions remain appropriate in terms of enabling Ara

Poutama to implement the residential activities that it manages, subject to an appropriate regulatory framework, within the Waipā District.

7 COMMUNITY CORRECTIONS ACTIVITIES

Background

- 7.1 Community corrections activities are a vital part of Ara Poutama's justice system role in safely managing people serving Court or Parole Board ordered sentences / release orders within the community.
- 7.2 Such activities include non-custodial service centres and community work facilities. Service centres and community work facilities may be located separately or may be co-located on the same site. By way of further detail:
 - (a) Service centres provide for probation, rehabilitation, and reintegration services. Offenders report to probation officers as required by the courts or as conditions of parole. Ara Poutama's staff use service centres to undertake assessments and compile reports for the courts, police and probation officers. Service centres may also be used as administrative bases for staff involved in community-based activities or used as a place for therapeutic services (e.g. psychological assessments). The overall activity is effectively one of an office where the generic activities involved are meetings and workshop type sessions, activities which are common in other office environments.
 - (b) Community work facilities are facilities that enable community work programmes to be implemented by Ara Poutama. Community work is a sentence where offenders are required to undertake unpaid work for non-profit organisations and community projects. Offenders will report to a community work facility where they may undertake jobs training or subsequently travel to their community work project under the supervision of a Community Work Supervisor. The community work facilities can be large sites with yard-based activities and large equipment and/or vehicle storage.
- 7.3 The establishment and operation of community corrections activities within, and their accessibility to, communities is important to their

successful operation, and to the wider functioning of our urban environments. They are essential social infrastructure and play a valuable role in reducing reoffending. They enable people and communities to provide for their social and cultural well-being and for their health and safety, and therefore the activities and services they provide contribute to the sustainable management purpose of the Resource Management Act 1991 (**RMA**).

- 7.4 As communities grow and change, particularly as a result of intensification, community corrections activities need to be provided for within affected areas to ensure that such growth is supported; through the securing and provision of accessibility to those services. For that reason, Ara Poutama has generally sought the introduction and/or retention of the definition of “community corrections activity” as defined in the National Planning Standards, as well as a permitted activity status for those activities in, and nearby, areas proposed for intensification. For the WDP as amended by PC26, those areas relevant to Ara Poutama’s amended relief are the Commercial zoned areas.

Appropriateness in the Commercial Zone

- 7.5 Ara Poutama’s submission on PC26 sought:
- (a) The inclusion of the definition of “community corrections activity” from the National Planning Standards.
 - (b) “Community corrections activity” be provided for as a permitted activity in the Commercial Zone (in all three overlay areas).
- 7.6 Ara Poutama looks to locate community corrections activities in areas accessible to offenders, and near other supporting agencies where possible. Commonly, sites are therefore located in commercial or business areas.
- 7.7 Such relief is appropriate in the Commercial Zone to ensure that:
- (a) Community corrections activities remain accessible to areas with growing populations (enabled by intensification).

- (b) Increased demand for community corrections activities brought about by that growing population can be adequately catered for under the respective plan provisions.

7.8 Community corrections activities are a compatible and appropriate activity in commercial areas as the scale and nature of the activity is consistent with the character and amenity. They are also not “sensitive” to the effects of commercial zones (e.g. noise, high traffic movements, etc.), and therefore are not prone to reverse sensitivity.

7.9 I also note that community corrections activities are a unique activity and only administered by Ara Poutama. No other entity delivers such services across the country. In any urban area, there is only ever the need for a discrete number of such facilities, commensurate with demand. Accordingly, there will not be a proliferation of them or any impact on the wider availability of commercial land as might, for example, occur with other activities in these zones.

7.10 The compatibility and appropriateness of community corrections activities in commercial zones is evident in the location of the existing Te Awamutu Community Corrections site at 40 Churchill Street, Te Awamutu, in the Commercial Zone. In addition, there are also many examples around the country where community corrections activities are either located within, or provided for as permitted activities in, commercial zones. For example:

- (a) The Proposed Waikato District Plan (Decisions Version) provides for “community corrections activity” as a permitted activity in the Commercial Zone.
- (b) The Auckland Unitary Plan provides for “community corrections facilities” as a permitted activity most Business zones.
- (c) Onehunga Community Corrections, 3-5 Newsome Street, Onehunga, Auckland – located in the Business Mixed Use Zone under the Auckland Unitary Plan.
- (d) Mangere Community Corrections, 24 Canning Crescent, Mangere, Manukau – located in the Business Town Centre Zone under the Auckland Unitary Plan.

- (e) Waitakere Ratanui Street Community Corrections, 17 Ratanui Street, Henderson, Auckland – located in the Business Metropolitan Town Centre Zone under the Auckland Unitary Plan.
- (f) The Whangarei District Plan provides for “community corrections activity” as a permitted activity in the Commercial Zone.
- (g) The Ōpōtiki District Plan provides for “community corrections activities” as a permitted activity in the Town Centre and Mixed Activity zones.
- (h) The Proposed Porirua District Plan provides for “community corrections activity” as a permitted activity in the Metropolitan Centre, Mixed Use, and Local Centre Zones.
- (i) Wellington Community Corrections, 42 Adelaide Road, Newtown, Wellington – located in the Central City Zone under the Proposed Wellington City District Plan.
- (j) Rāwhiti Community Corrections, 296 Breezes Road, Aranui, Christchurch – located in the Commercial Core Zone under the Christchurch District Plan.
- (k) The Proposed Selwyn District Plan provides for “community corrections activity” as a permitted activity in the Local Centre, Large Format Retail, and Town Centre Zones.
- (l) The Proposed Te Tai o Poutini West Coast District Plan provides for “community corrections activity” as a permitted activity in the Commercial, Mixed Use, and Town Centre Zones.
- (m) The Invercargill District Plan provides for “community corrections facilities” as a permitted activity in the Business 1 and 6 zones.

7.11 I raise these examples to indicate that other Councils have considered community corrections activities to be appropriate in commercial zones as a permitted activity, and also that Ara Poutama have successfully established community corrections facilities in such zones around the country.

Planning Analysis

- 7.12 I consider a more permissive pathway for “community corrections activity” in the Commercial Zone is supported by the following objectives of the WDP, including those amended by PC26 and as recommended to be further amended by the s42A Report (emphasis added):

Section 1 – Strategic Policy Framework / National Policy Statements – 1.1.19(d) The National Policy Statement on Urban Development 2020 – *The National Policy Statement on Urban Development 2020 is focused on ensuring that New Zealand has 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. It seeks to ensure that planning decisions improve housing affordability and that integrated decision making occurs.*

Section 1 – Strategic Policy Framework / Strategic Outcomes – 1.1.33(c) – *A consolidated urban form with new development being integrated with infrastructure provision, and focused within the urban limits of existing towns and villages in the locations and sequence identified in the District Growth Strategy...*

Section 1 – Objectives and Policies / Objective – Settlement Pattern, Policy - Towns – 1.3.1.2(f) – *Developments within the Commercial Zone and Industrial Zone that increase the type and range of employment opportunities within the District and reduce the level of commuting traffic into Hamilton will be supported.*

Section 6 – Commercial Zone / Objectives and Policies – Objective – Role and function of commercial centres - 6.3.1 – *To maintain the commercial hierarchy of the District while providing for increased levels of self-sufficiency.*

Section 6 – Commercial Zone / Objectives and Policies – Policy – Self-sufficiency – 6.3.1.1 – *To promote developments within the Commercial Zone that increase the range of employment opportunities within the District, while maintaining the commercial hierarchy.*

7.13 I consider that providing for “community corrections activity” as a permitted activity in the Commercial Zone as sought would:

- (a) At a strategic level, enable communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, through enabling a critical social service (including the associated employment opportunities) integrated within the existing urban areas of the District (consistent with strategic objectives 1.1.19(d), 1.1.33(c) and 1.3.1.2(f)).
- (b) Support the provision of a type and range of employment opportunities, whilst enabling the District’s urban areas to be self-sufficient in terms of a providing for a critical social service in the Commercial Zone, consistent with Objective 6.3.1 and Policy 6.3.1.1.

7.14 The WRPS contains the following higher order policies guiding urban form and development in the Waikato Region, including those amended by WRPS Plan Change 1 and as recommended to be further amended by the Plan Change 1 s42A Report (emphasis added):

Objective UFD-O1 – Built environment – *Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by: ... 13. strategically planning for growth and development to create responsive and well-functioning urban environments, that ... d. ensure sufficient development capacity, supported by integrated infrastructure provision, including additional infrastructure, for community, and identified housing and business needs in the short, medium and long term...*¹

Policy UFD-P2 – Co-ordinating growth and infrastructure – Management of the built environment ensures: 1. the nature, timing and sequencing of new development is co-ordinated with the development, funding, implementation and operation of transport and other infrastructure, including additional infrastructure, in

¹ The definition of “additional infrastructure” in the WRPS includes “social infrastructure” and is therefore applicable to community corrections activities.

order to: a. optimise the efficient and affordable provision of both the development and the infrastructure; b. maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure...

7.15 I consider a more permissive pathway for “community corrections activity” in the Commercial Zone would give effect to these provisions, and specifically:

- (a) Enable development to be supported by a critical social service (referred to in the WRPS as “additional infrastructure”²) to support community needs, consistent with Objective UFD-O1.
- (b) Enable co-ordination between new development and “additional infrastructure” to achieve the directives in Policy UFD-P2.

7.16 There is also broad support from the regional strategic planning documents for permissive treatment of community corrections activities in appropriate locations. This includes the following policy directives:

- (a) **Future Proof Strategy 2022:** *“Provide local employment and educational opportunities, access to green space and community facilities alongside housing, and enable high-density development around access to these opportunities.”*³
- (b) **Waikato 2070:** *“Ensure that our communities have easy access to infrastructure and services.”*⁴

7.17 Under the NPS-UD community corrections activities fall within the ambit of “community services” as they are also included in the definition of “community facilities” under the National Planning Standards.⁵ The NPS-UD’s framework of objectives and policies contain the following provisions of relevance with regard to community services, including community corrections activities (emphasis added):

Objective 1: *New Zealand has well-functioning urban environments that enable all people and communities to provide*

² The definition of “additional infrastructure” in the WRPS includes “social infrastructure” and is therefore applicable to community corrections activities.

³ 7. Current and Future Growth Areas, Growth Management Directives.

⁴ 03.0 Focus Areas, 03.1 Grow Our Communities, Implementation item number 8.

⁵ NPS-UD, Section 1.1 Interpretation: “**community services** means the following: (a) *community facilities ...*”

for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 3: *Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

- (a) the area is in or near a centre zone or other area with many employment opportunities*
- (b) the area is well-serviced by existing or planned public transport*
- (c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*
...

- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; ...*

7.18 As set out above, Objective 1 provides a general objective to provide for the health and safety of people and the community, which is an overarching objective of the services provided by Ara Poutama's community corrections activities. Objective 3 provides direction for community services such as community corrections activities to be provided for in appropriate areas under District Plans, and Policy 1 directs that community services are provided in areas that are accessible to housing.

7.19 These provisions of the NPS-UD support the need for more permissive treatment of community corrections activities in light of the intensification proposed by PC26. I consider that Ara Poutama's submission points made in relation to community corrections activities directly align with the purpose and intent of Objective 3 and Policy 1. In

addition, the relief sought will support the implementation of the Medium Density Residential Standards and Policy 3 of the NPS-UD.⁶

- 7.20 I also consider the effects of “community corrections activity” are compatible with the Commercial Zone as noted above. The existing performance standards that apply to activities in this zone are appropriate to manage the effects of community corrections activities to ensure they are consistent with the character and amenity of these areas.
- 7.21 Accordingly, in my view providing a permissive pathway for community corrections activities in the Commercial Zone is the most efficient and effective, and therefore appropriate way to achieve the objectives and policies of the WDP when compared with not providing for them, or providing for them in other zones where effects arising from their nature and scale (e.g. noise, traffic movements) may be incompatible (e.g. residential zones).

S42A Report Recommendations

- 7.22 The s42A Report has made the following assessments in relation to the inclusion of a definition for “community corrections activity” and the amendment of its activity status in the Commercial Zone:

“Ara Poutama have requested a definition of Community Corrections Activity be inserted into the Plan in accordance with the NPS. Their submission also raises other changes to the Plan to better accommodate community corrections facilities. Although these matters are considered to be valid, PC26 is not considered to be the correct vehicle to implement them. It is recommended that changes to the Plan to incorporate community correction facilities would be better evaluated in a separate plan change.”⁷

“I have considered the request by Ara Poutama to enable and encourage “community corrections activities” to be undertaken as a permitted activity in the Commercial Zone. This request is not supported on the basis that the Commercial Zone is primarily intended to provide for retail, office and commercial service needs of the centre, along with residential in the mixed-use context (above ground-level). There is a question as to how this request would practically work, in the context of the Commercial Zone framework.”⁸

⁶ As required by section 80E(1)(a) of the RMA.

⁷ S42A Report, paragraph 9.27.7.

⁸ Ibid, paragraph 9.23.5.

Definition of “community corrections activity”

- 7.23 The support of the Reporting Officer for the implementation of the “community corrections activity” and associated plan provisions is noted. However, I disagree that a separate plan change process would be a better vehicle. This is because the existing and recommended WDP provisions, including the higher order planning documents (e.g. the NPS-UD), are supportive of enabling social services that are critical for supporting intensification.
- 7.24 As such, the intensification proposed to be enabled by PC26 should not be considered ‘in a vacuum’. There is nothing in the existing and proposed planning provisions preventing the Council from considering the wider implications for the establishment of social services, such as community corrections activities, in the context of PC26.

Community corrections activities in the Commercial Zone

- 7.25 The Reporting Officer has raised the question as to how the implementation of community corrections activities being permitted in the Commercial Zone would practically work, in the context of the zone’s framework, which is primarily intended to provide for retail, office and commercial services.
- 7.26 As set out earlier in my evidence, I have outlined the nature of what community corrections activities involve, which include elements of office activities, such as administration, meeting and workshop spaces. These are activities which are, as the Reporting Officer notes, otherwise permitted by the zone framework. I have set out in my evidence how the WDP provisions are supportive of enabling such activities to establish in the Commercial Zone, in addition to the higher order planning documents. Further, there are numerous examples across the country of:
- (a) community corrections facilities that are present in Commercial Zones; and
 - (b) District Plans that enable community corrections activities as a permitted activity within Commercial Zones.

7.27 The Commercial Zone rule framework requires only a minor amendment to enable community corrections activities as a permitted activity, and no further amendments to the objectives, policies or other zone provisions is necessary in my view. I have set out the proposed amendments to the zone's rule framework in **Appendix A**.

Sean Grace

6 April 2023

APPENDIX A

ARA POUTAMA PROPOSED AMENDMENTS

Black Text – Original wording of PC26 or WDP.

Red Text – Additional changes proposed by Ara Poutama.

Additions underlined, deletions ~~struckthrough~~.

Part B – Definitions

'Community corrections activity'

means the use of land and buildings for non-custodial services for safety, welfare and community purposes, including probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, administration, and a meeting point for community works groups.

Part D – Zone Provisions / Section 6 – Commercial Zone

6.4.1 Activity Status Tables

6.4.1.0	Permitted activities The following activities must comply with the performance standards of this zone			
		Within the Pedestrian Frontage Area	Outside the Pedestrian Frontage Area	Commercial Zone Shakespeare Street / Cook Street / Wordsworth Street
...				
<u>(ab)</u>	<u>Community corrections activities</u>	<u>P</u>	<u>P</u>	<u>P</u>