

BEFORE THE HEARINGS PANEL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Plan Change 92 to the Western Bay
of Plenty District Plan

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

(Submitter 24)

Dated: 25 August 2023

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1 EXECUTIVE SUMMARY

- 1.1 Ara Poutama has sought a definition of "household", to complement the definitions of "residential activity" and "residential unit". A definition of "household" is needed to make clear the full scope of residential activities that are enabled in the Western Bay of Plenty District and to ensure that the intensification enabled by Plan Change 92 (**PC92**) to the Western Bay of Plenty District Plan (**WBOPDP** or **Plan**) will provide for, and meet the needs of, a variety of different households, including those supported and managed by Ara Poutama Aotearoa the Department of Corrections (**Ara Poutama**).
- 1.2 Ara Poutama has also sought a definition of "community corrections activity", consistent with the National Planning Standards. A standalone definition for this activity is sought to avoid confusion and the potential for interpretation issues to arise. Permitted activity status is sought for community corrections activity in the Commercial Zone. The appropriate classification, and enabling, of community corrections activities in appropriate locations under the WBOPDC is necessary to support the intensification enabled by PC92. Ara Poutama no longer wishes to pursue its relief in relation to the Commercial Transitional or Industrial zones.
- 1.3 The relief sought by Ara Poutama - being the definitions of "household" and "community corrections activity", and the associated Plan provisions - better gives effect to the relevant objectives and policies of PC92, the WBOPDP and the National Policy Statement on Urban Development (**NPS-UD**).
- 1.4 **Appendix 1** to my evidence outlines the specific amendments sought to the WBOPDP.

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 worked 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 provided advice to 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 given evidence on behalf of Ara Poutama and also attended mediation on its behalf 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 and Variations, including Intensification Planning Instruments and given evidence in respect of the same.

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:

- (a) Provides background to Ara Poutama’s submission on PC92;
- (b) Describes the relief sought by Ara Poutama on PC92, being the addition of definitions of “household” and “community corrections activity”, and associated Plan provisions;
- (c) Addresses the s42A Report¹ on PC92 as it relates to that relief; and
- (d) Provides a s32AA analysis in relation to the relief sought by Ara Poutama.

5 BACKGROUND TO ARA POUTAMA’S SUBMISSION ON PC92

Ara Poutama – Residential Housing in the Community

- 5.1 Throughout Aotearoa, Ara Poutama provides and manages residential housing in the community to assist people within its care with their rehabilitation, transition and/or reintegration into the community where they have been on custodial sentences, and to assist people with proactively participating in society where they are on community-based sentences. These homes accommodate people following their release from prison, those on bail and/or those serving community-based sentences (such as home detention).
- 5.2 In instances where more than one person resides at these homes, residents live as a household participating in typical domestic activities, using the homes for sleeping, eating, cleaning, bathing and studying and the like. Depending on the needs of the residents, they receive varying levels of support and/or supervision from on-site providers, such as help with domestic duties and responsibilities (e.g. navigating daily household chores or getting a drivers licence), rehabilitation, and/or reintegrative support (e.g. assistance with finding employment).
- 5.3 Significant demand for Ara Poutama housing exists nationally. This is in part driven by the provisions of the Sentencing Act 2002, which requires

¹ “Section 42A Report, Plan Change 92 - Ōmokoroa and Te Puke Enabling Housing Supply and Other Supporting Matters”, dated 11 August 2023.

that sentencing judges give consideration to community-based sentences before considering custodial sentences.

5.4 In order to support this statutory requirement and for Ara Poutama to fulfil its own statutory mandate, it is imperative that such residential activities are clearly provided for within the relevant District Plan definitions. To that end, Ara Poutama has sought (in PC92 and in other District Plans nationally):

- (a) The consistent implementation of the National Planning Standards definitions and associated Plan provisions for “residential activity” and “residential unit”;
- (b) The implementation of a definition for “household” to clarify that a household may involve an element of care, support or supervision; and
- (c) The implementation of appropriate objectives, policies and rules enabling Ara Poutama to establish and operate residential housing in suitable locations.

Community Corrections Activities

5.5 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.

5.6 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.

5.7 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**).

5.8 As communities grow and change, particularly as a result of intensification, community corrections activities need to be provided for in accessible locations to ensure that such growth is supported. 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 WBOPDP as amended by PC92, those areas relevant to Ara Poutama's relief are the Commercial and Industrial zoned areas.

Summary of Relief Sought by Ara Poutama on PC92

5.9 The Ara Poutama submission seeks:

- (a) Inclusion of a definition of "household" to make it clear that residential accommodation activities (with support), such as those undertaken by Ara Poutama in the community, are included within

the definition of “residential unit”. This relief is referenced under submission point 24.2.

- (b) Inclusion of a reference to “*provid[ing] for a range of households*” under the enabling policy for the Ōmokoroa and Te Puke Medium Density Residential Zone to ensure that residential accommodation activities (with support), such as those undertaken by Ara Poutama in the community, are enabled within this zone. This relief is referenced under submission point 24.5.
- (c) Inclusion of a definition of “community corrections activity”, consistent with the National Planning Standard definition, to enable explicit references to these activities within the WBOPDP. This relief is referenced under submission point 24.1.
- (d) Inclusion of “community corrections activity” as permitted in the Commercial Zone. This relief is referenced under submission points 24.11 and 24.12. Ara Poutama no longer seeks similar relief in relation to the Commercial Transition Zone and Industrial Zone.

6 DEFINITION OF “HOUSEHOLD” AND ASSOCIATED PROVISIONS

6.1 The definitions of “residential activity” and “residential unit” in the National Planning Standards are as follows:

“Residential activity

Means the use of land and building(s) for people’s living accommodation.”

“Residential unit

Means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.”

6.2 The “residential activity” definition applies to residential housing (with support), such as that provided by Ara Poutama. Specifically, residential accommodation activities (with support) use “*land and building(s) for people’s living accommodation*” (as per the definition of “residential activity”) and these activities occur within “*a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities*” (as per the definition of “residential unit”).

- 6.3 Both definitions are incorporated into the proposed wording of these definitions as part of PC92, and Ara Poutama supports the retention of these definitions as proposed (via submission points 24.3 and 24.4).
- 6.4 To provide clarity of interpretation, Ara Poutama's submission on PC92 sought the inclusion of a definition of "household" (via submission point 24.2). The definition of "residential unit" contains a reference to household, but does not further define it.
- 6.5 Ara Poutama sought inclusion of a definition of "household" which explicitly references the existence of support elements to avoid any misinterpretation. The definition sought is set out below, and has been updated to include minor corrections in wording:

"Household" means a person or group of people who live together as a unit whether or not:

- (a) any or all of them are members of the same family; or
- (b) one or more members of the group ~~(whether or not they are paid) provides~~ receives day-to-day care, support and/or supervision to any other member(s) of the group (whether or not that care, support and/or supervision is provided by someone paid to do so).

- 6.6 Inclusion of this definition was sought to ensure that the Plan clearly provides for, and meets the needs of, a variety of different households including those housed by Ara Poutama and/or its service providers within the community in areas of housing intensification.
- 6.7 In my opinion, there is no meaningful effects basis for distinguishing residential activities which include varying degrees of support and households where residents are not related (such as those provided by Ara Poutama) from any other residential activities.
- 6.8 If resource consent for housing provided by Ara Poutama is required, in my experience, those applications tend to be strongly opposed by surrounding residents because of perceived safety and amenity concerns associated with those in Ara Poutama's care.
- 6.9 However, the decision that persons in the care of Ara Poutama should reside within the community has already been made by the Courts or the Parole Board through sentencing or release decisions. District Plans should not be a barrier to the implementation of decisions made under

the Sentencing Act, Parole Act and Corrections Act. Imposing unnecessary consenting requirements on those activities, particularly when there is no material effects-based differential, risks undermining the operation of the justice system and Ara Poutama's ability to fulfil its statutory obligations.

- 6.10 I have experienced first-hand the difficulties which arise when Plan provisions are not clear. For example, Ara Poutama sought a Certificate of Compliance from the Waikato District Council for the temporary accommodation of men in residential housing for the purposes of a rehabilitative and reintegration programme on a Pa zoned site north of Huntly. The Certificate of Compliance was sought on the basis of the proposal being a "residential activity" under the Operative Waikato District Plan, and compliance being confirmed with all relevant standards of that Plan.
- 6.11 The Council subsequently refused to issue the Certificate, taking the position that the proposal in their view was a "commercial activity" (due to that particular definition including a reference to "*government ... activities*"), thereby requiring resource consent in the Pa Zone. Further, the Council advised at that time that other government agencies that provide or manage housing in the Waikato District were not being required to seek resource consents for "commercial activities" in the residential zones.
- 6.12 I refer to this example to highlight the difficulties that Ara Poutama can face when District Plan definitions are not clear, leading to unnecessary resource consent processes which are not justified on the basis of environmental effects.

Reporting Planners' recommendations

- 6.13 The Council's s42A Report has made the following assessment in relation to the inclusion of a definition of "household":²

"Council staff understand that Ara Poutama are seeking to add a definition of household to recognise that these are not limited to a family unit and so that residential units can be used for supported and transitional accommodation activities such as those provided by Ara Poutama. This means people living in a residential situation subject to support and/or supervision.

² Section 42A Report (Section 14A – Ōmōkoroa and Te Puke – Part 2 – Definitions, Activity Lists and Standards), page 9.

It is agreed that those living together as a unit, although not being a family, are still a household. However, it is considered that a definition is not needed to make this clear. The term "household" in the existing definition of "dwelling" has been referred to many times over the years with no problems previously being raised. This is other than one query regarding whether RSE workers were a household to which the answer was yes.

The concern is understood to be that those living together under the supervision of Ara Poutama may not be perceived by some members of the public as a household. However, it is not considered that a new definition of "household" is needed to resolve that. Council staff are also hesitant to introduce new definitions on the basis that one party would prefer to have absolute certainty on a matter. Further, the requested definition may introduce confusion for plan users that hasn't previously existed.

The suggested definition is also open in that an unlimited number of people, including most notably support staff, could live under one roof as a household. While it is recognised that a residential unit can be utilised by those under the support and/or supervision of Ara Poutama, any purpose-built facilities for a larger number of people including staff would no longer clearly be the use of a residential unit. The scale and nature of these larger activities may be different to that of the use of a residential unit. It is preferable to avoid a definition of "household" which implies that larger purpose-built facilities are residential units. These purpose-built facilities may fit better within the definition of another activity (for example an accommodation facility).

Council staff are also concerned that part (b) of Ara Poutama's suggested definition of household could inadvertently permit other activities that should have otherwise required consent.

Ara Poutama raised in discussions that a number of definitions in the Operative District Plan and PC92 refer to "household" and would benefit from a definition of household. In response, Council staff noted that the definitions of accessory building and household unit equivalent have also been in the District Plan for many years without needing a definition of household. Further, the new definitions of residential unit and showhome are essentially the same as dwelling, so it is not anticipated that issues will arise for these definitions either.

In summary, Council staff concluded that there should not be any issues for Ara Poutama if residential units are to be used for genuine residential purposes in line with the definitions of "dwellings" and "residential units".

- 6.14 As I have outlined earlier in my statement, misinterpretation of plan definitions is not an uncommon occurrence in relation to residential activities undertaken by Ara Poutama. It is therefore critical, in my view, that the Plan enables the full scope of residential activities to occur within the District, by avoiding the potential for resource consents being required for residential activities that some may consider as atypical or not "genuine".
- 6.15 In response to the views expressed in the s42A Report that the relief sought by Ara Poutama will "introduce confusion for plan users that

hasn't previously existed" and that "the suggested definition of household could inadvertently permit other activities that should have otherwise required consent", I respectfully disagree. The relief sought by Ara Poutama will provide certainty for plan users in terms of interpretation and administration and in my view will have no inadvertent effect in permitting other activities that would otherwise require consent.

- 6.16 In response to the point raised in the s42A Report that the definition of "household" could open up the opportunity for *"an unlimited number of people, including most notably support staff, [to] live under one roof as a household"*, I note that neither the operative Plan nor the proposed PC92 provisions relating to "dwellings" and "residential units" regulate the number of people living within these. As noted earlier in my evidence, I hold the view that there is no meaningful effects basis for distinguishing residential activities which include varying degrees of support (such as those provided by Ara Poutama) from any other residential activities. Defining what a "household" encompasses does not, in any capacity, create the opportunity for increased numbers of people to live in a residential situation, above and beyond what the operative and proposed PC92 provisions otherwise enable.

Section 32AA analysis

- 6.17 I consider that implementation of Ara Poutama's "household" definition will enable PC92 to achieve the following District Plan objectives and policies (as proposed):

Section 13 – Residential

Objective 13.2.1(4) "Fulfilment of the housing needs of all sections of the residential community".

Policy 13.2.2(2) "Provision should be made for a variety of housing types and living environments within existing urban areas and within identified urban growth areas".

Section 14 – Medium Density Residential

Objective 14.2.1(4) "Fulfilment of the housing needs of all sections of the residential community within identified growth areas".

Policy 14.2.2(2) "Provision should be made for a variety of housing types and living environments within identified urban growth areas".

Section 14A – Ōmokoroa and Te Puke Medium Density Residential

Objective 14A.2.1(1) "A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future".

Objective 14A.2.1(2) "Provide for a variety of housing types and sizes that respond to housing needs and demand and the neighbourhood's planned urban built character, including three-storey buildings".

- 6.18 Furthermore, and to ensure alignment with the above-mentioned policy framework, Ara Poutama has sought an amendment to the proposed wording of Policy 14A.2.2(1) (via submission point 24.5), as follows:

Enable a variety of housing types with a mix of densities within the zone, to provide for range of households, including three-storey attached and detached residential units, and low-rise apartments.

- 6.19 The inclusion of the "household" definition as sought by Ara Poutama will ensure that intensification enabled by PC92 will provide for, and meet the needs of, a variety of different households, including those housed by Ara Poutama and/or its service providers within the community.
- 6.20 In my opinion, this relief will better ensure that PC92 gives effect to the relevant higher-order objectives and policies of NPS-UD, which include:

Objective 1

"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";

Objective 4

"New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations"; and

Policy 1(a)(i)

"Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum ... have or enable a variety of homes that ... meet the needs, in terms of type, price, and location, of different households".

(my emphasis underlined)

6.21 In particular, Policy 1(a)(i) confirms the intent of enabling housing that caters for "different households". In my view, having a definition that provides clarity as to what actually constitutes a "household" is an appropriate response at the District Plan level to the policy intent of the NPS-UD.

6.22 As a final point, I note that the recently released decisions on the Proposed New Plymouth District Plan have included a definition of "household".³ This definition was implemented in response to Ara Poutama's submissions on that Plan, and the wording is very similar to that sought by Ara Poutama in relation to PC92.

7 DEFINITION OF "COMMUNITY CORRECTIONS ACTIVITY" AND ASSOCIATED PROVISIONS

7.1 Ara Poutama's submission on PC92 sought:

- (a) The inclusion of the definition of "community corrections activity" from the National Planning Standards, as follows (submission point 24.1):

"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.

- (b) That "community corrections activity" be provided for as a permitted activity in the Commercial Zone, Commercial Transition Zone and Industrial Zone (submission points 24.11 and 24.12). Ara Poutama no longer intends to pursue its relief in the

³ Refer to the assessment of submission point number 510.7, page 12 in <https://proposeddistrictplan.npdc.govt.nz/media/ingpmd1a/appendix-2d-def-table-of-recommendation-on-subm-points.pdf>.

Commercial Transition Zone and Industrial Zone and accordingly my evidence does not consider these matters further.

- 7.2 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.
- 7.3 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.
- 7.4 Community corrections activities are a compatible and appropriate activity in commercial zones as the scale and nature of the activity is consistent with the character and amenity in those zones. They are also not "sensitive" to the effects of commercial zones (e.g. noise, high traffic movements, etc.), and therefore do not give rise to reverse sensitivity effects.
- 7.5 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.
- 7.6 The compatibility and appropriateness of community corrections activities in commercial zones is evident in the location of the existing Te Puke Community Corrections site at 10 King Street, Te Puke, in the Commercial Zone. In addition, there are also many examples around the country where "community corrections activities" (as per the National Planning Standards definition) are provided for as permitted activities in commercial zones. For example:

- (a) The Whangarei District Plan provides for “community corrections activity” as a permitted activity in the Commercial Zone.
- (b) The Proposed Waikato District Plan (Decisions Version) provides for “community corrections activity” as a permitted activity in the Commercial Zone.
- (c) The Ōpōtiki District Plan provides for “community corrections activities” as a permitted activity in the Town Centre and Mixed Activity zones.
- (d) The Proposed Porirua District Plan provides for “community corrections activity” as a permitted activity in the Metropolitan Centre, Mixed Use, and Local Centre Zones.
- (e) 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.
- (f) 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.
- (g) The Invercargill District Plan provides for “community corrections facilities” as a permitted activity in the Business 1 and 6 zones.

7.7 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 have included the National Planning Standard definition relating to such in their respective District Plans.

Reporting Planners’ recommendations

7.8 The s42A Report (in *Sections 19 and 20 – Commercial and Commercial Transition*) has made the following assessment in relation to the inclusion of a definition for “community corrections activity” and the amendment of its activity status in the Commercial Zone (and Commercial Transition Zone):

“Regarding community corrections activities as a permitted activity, the existing definition of “commercial services” (shown below) provides for government agencies, which includes community corrections activities as Ara Poutama is a government agency. As

"commercial services" are a permitted activity in the Commercial Zone, a separate activity for community corrections activities is not required.

*"Commercial Services" means activities that service the community, including banks, post offices, insurance offices, government agencies, dry cleaners, laundries, shoe repair, locksmiths, domestic gar appliance repair and the like but does not include motor vehicle servicing and repair."*⁴

7.9 The reliance on the definition of "commercial service" to cover "community corrections activity" is problematic in my view, as it has the potential to result in interpretation issues. I discuss this matter further below.

7.10 The s42A Report (in the *Introduction* report) has made the following assessment in relation to scope for relief sought in the Commercial Zone:

*"The Reporting Team has identified the following submission points as out of, or potentially out of, the scope of Plan Change 92, for the following reasons: ... Ara Poutama ... Requests changes to Commercial ... Zones when limited and consequential changes are proposed."*⁵

7.11 In relation to the matter of scope, this will be the subject of legal submissions provided on behalf of Ara Poutama. However, from a planning perspective there is no reason, in my opinion, why the relief sought cannot be considered through the PC92 process. I assess this matter further below.

Section 32AA analysis

7.12 The National Planning Standards include a specific definition of "community corrections activity". This definition was included following engagement between the Ministry for the Environment and Ara Poutama, as it was identified that the definitions relating to these activities in District Plans nationally were inconsistent and, as a result, interpretation issues were arising.

7.13 The WBOPDP is a case in point. Whilst its definition of "*commercial services*" refers to "*activities that service the community, including ... government agencies*", I note that in the context of a community corrections activity, there is no "commercial" element to it whatsoever.

⁴ S42A Report, Sections 19 and 20 – Commercial and Commercial Transition, page 5.

⁵ S42A Report, Introduction, page 24.

That is, the service provided is not undertaken for any type of commercial gain or benefit, unlike all of the other activities referred to under the “*commercial services*” definition.

- 7.14 I accept that the view of the reporting planner that the “*commercial services*” definition could be used to apply to community corrections activities. However, there is nonetheless uncertainty created by capturing a community-focussed activity under a commercial-related definition. In my experience, where there is uncertainty with Plan definitions relating to community corrections activities (which are a very unique activity), Councils will often take an approach of classifying these as ‘activities not otherwise provided for’, and triggering the need for resource consent. Again, in my experience, where resource consent is required for community corrections activities, these tend to be opposed by neighbours, despite such facilities providing an essential social service to the community.
- 7.15 As such, including a specific definition for “community corrections activity” in the WBOPDP represents the most-appropriate planning mechanism to manage these activities under the Plan; with these being explicitly provided for as permitted in the Commercial Zone.
- 7.16 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.⁶ 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 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:*

⁶ NPS-UD, Section 1.1 Interpretation: “**community services** means the following: (a) *community facilities ...*”

- (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; ...*

7.17 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.

7.18 These provisions of the NPS-UD support the need for explicit treatment of community corrections activities in light of the intensification proposed by PC92. In my view, 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-UD⁷ by contributing to a well-functioning urban environment.

7.19 I also consider the effects of “community corrections activity” are compatible with the commercial zones. This is evident in the context of the existing community corrections site located within the Commercial Zone in Te Puke. The existing performance standards that apply to

⁷ As required by section 80E(1)(a) of the RMA.

activities in the Commercial Zone are appropriate to manage the effects of community corrections activities to ensure they are consistent with the character and amenity of these areas.

- 7.20 Accordingly, I consider providing an explicit definition and pathway for community corrections activities in the Commercial Zone is the most efficient and effective, and therefore most appropriate, way to achieve the objectives and policies of the NPS-UD and PC92.

Sean Grace
25 August 2023

APPENDIX 1 – RELIEF SOUGHT

Insertions shown in underline.

Section 3 – Definitions

"Household" means a person or group of people who live together as a unit whether or not:

- a. any or all of them are members of the same family; or
- b. one or more members of the group receives care, support and/or supervision (whether or not that care, support and/or supervision is provided by someone paid to do so).

Section 14A – Ōmokoroa and Te Puke Medium Density Residential Zone

14A.2.2 Policies

1. Enable a variety of housing types with a mix of densities within the zone, to provide for a range of households, including three-storey attached and detached residential units, and low-rise apartments.

Section 19 – Commercial

19.3.1 Permitted Activities

Except where specified as a Controlled, Restricted Discretionary or Discretionary Activity, the following are Permitted Activities:

- a. Retailing.
- b. Commercial services.
- c. Offices.
- d. Places of assembly.
- e. Takeaway food outlets.
- f. Medical or scientific facilities.
- g. Restaurants and other eating places.

- h. Activities on reserves as provided for in the Reserves Act 1977.*
- i. Works and network utilities as provided for in Section 10.*
- j. Accommodation facilities, provided that retirement villages are excluded from locating within the Commercial Zone at Ōmokoroa Structure Plan Area 2.*
- k. Police stations.*
- l. Commercial sexual services.*
- m. Building and construction wholesalers and retailers with a maximum gross area of 2500m².*
- n. Educational facilities for a maximum of four persons (excluding staff).*
- o. Community corrections activity.*