

SECTION 14A – ŌMOKOROĀ AND TE PUKE MEDIUM DENSITY RESIDENTIAL

PART 3 – MATTERS OF CONTROL AND MATTERS OF DISCRETION

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INTRODUCTION

This part of the report addresses the proposed matters of control and discretion for the assessment for resource consent applications in the Medium Density Residential Zones of Ōmokoroa and Te Puke. These are linked with the associated performance standards. In some situations, recommended changes to the activity lists and/or performance standards has consequential effects on the matters of control/discretion.

An expert conference on “urban design and planning” matters was undertaken on 1 August 2023 and a Joint Witness Statement issued the same day, a copy is attached in Attachment D.

TOPIC 1 – MATTERS OF CONTROL 14A.6.1 – SUBDIVISION FOR THE PURPOSE OF THE CONSTRUCTION AND USE OF RESIDENTIAL UNITS

BACKGROUND

Matters of Control are explicitly required for the determination of applications for controlled activities. In the context of proposed Section 14A the relevant matters of control relate to the control of subdivision for the purpose of the construction and use of residential units.

SUBMISSION POINTS

Ten submission points were received. No further submissions were received. The submission points on this topic are summarised as follows:

- Additional matter of control regarding transportation matters
- Improved clarity by referencing Structure Plan
- Deleting reference to "amenity along footpaths"
- Deleting reference to "lot designs that provide areas orientated towards the sun".

The North Twelve Limited Partnership (47.59) supported the provision as notified subject to a clarification in regard to financial contributions which is considered in the part of the Section 42A Report for Section 11 – Financial Contributions.

Fire and Emergency New Zealand (18.26) supported the matters of control as notified that addressed access related matters but also seek to add new matters of control for 'Subdivision for the purpose of the construction and use of residential units' relating to traffic not compromising functionality of access to the road, and whether provision for collection points and facilities are readily accessible by emergency services, service vehicles and workers.

Urban Taskforce for Tauranga (39.26), Classic Group (26.36), Vercoe Holdings (40.16) and Brian Goldstone (42.12) have requested the matters of control remove from 14A.6.1.f "as applicable" and replace "as identified on structure plans".

Urban Taskforce for Tauranga (39.27) and Classic Group (26.37) have requested the deletion of "amenity along footpaths" as a matter of control (14A.6.1.h).

Urban Taskforce for Tauranga (39.28) and Classic Group (26.38) have requested the deletion of "lot designs that provide areas orientated towards the sun" (14A.6.1.i) as a matter of control.

OPTIONS

Option 1 – Retain proposed matters of control as notified.

Option 2 – Retain proposed matters of control as notified except amend 14A.6.1.f 14A.6.1.h, and 14A.6.1.i.

Option 3 – Delete or amend matters of control as requested.

Option 4 – Retain proposed matters of control as notified and add an additional matter of control to include additional transportation matters.

DISCUSSION

New matter of control for additional transportation matters.

As described above Fire and Emergency New Zealand have requested an additional matter of control which they consider “will provide Council the ability to impose conditions of consent (section 108 of the RMA) to address actual and potential effects on the roading network, should this be deemed necessary”.

The proposed matters of control provide a range of matters that address the likely areas of potential concern for a controlled activity subdivision. This includes:

14A.6.1

- b. Providing walkways and cycleways identified on the Structure Plan.*
- c. Providing required roading in accordance with the layout identified on the Structure Plan and demonstrating linkages to adjacent sites as applicable including “future roads”.*
- d. Providing infrastructure as identified on the Structure Plan that is in compliance with the Development Code or an approved alternative design.*
- e. The location of roads, footpaths, walkways and cycleways and the orientation of lots to road boundaries to ensure good urban design outcomes.*
- g. The effects of access to and within the subdivision.*
- h. The effect of additional driveways on public safety and amenity along footpaths.*

In addition, there are further controls within Section 4B – Transportation, Access and Parking, and Section 12 –Subdivision and Development.

Subdivision for the construction and use of 1-3 residential units on a site that comply with all other density standards is a controlled activity. This is typically infill subdivision and small scale development. It is therefore considered that the requested matters of discretion are not needed for developments of 1-3 units.

Subdivision for the construction and use of residential units that do not comply with the density standards (including 4 or more units on a site) where a restricted discretionary consent has been granted or is sought concurrently for the residential units is also a controlled activity. If an associated restricted discretionary consent is for 4 or more units, this requires an urban design assessment under Rule 14A.7.1 which includes consideration of providing efficient access for emergency vehicles and service vehicles. This is considered sufficient to deal with the same matter requested in the submission.

The Reporting Team therefore considers that appropriate provisions are already included under proposed 14A.7.1, 14A.6.1 and the existing Operative District Plan (sections 4B and 12) to achieve the outcomes requested in submission point 18.26 and that additional matters about emergency access are not necessary.

f. Design of services which provides for the extension of services to other properties as applicable to provide effective and efficient servicing of the whole urban area.

The submitters consider that “the provision extension of services to other property owners (and thus to benefit other parties) should only relate to those “connections” as identified on Structure Plans to ensure that the provision of infrastructure is equitably funded and provided.” Accordingly, they have requested that the road wording “as applicable” be deleted and replaced by “as identified on structure plans”.

The Structure Plans do not detail where service extensions should be provided. The one matter that is often identified as requiring linkage to adjacent sites in a Structure Plan is in regard to identifying the extension of roads. For example, the Ōmokoroa Stage 3 Structure Plan identifies future road linkages however the exact location is indicative.

To limit the consideration to just as identified on Structure Plans will not appropriately address all extensions that may need to be considered.

It is noted however that there are existing operative provisions in Section 12 of the District Plan which effectively require the same consideration.

12.4.3 Extension of Services

12.4.3.1 Future Servicing

Council will exercise control over the function and design of new services in relation to the needs of the subdivision, the existing levels of service and the likely future servicing needs of other potentially subdividable land in the vicinity.

Accordingly, there is no need to repeat the requirement and the matter can be deleted.

h. The effect of additional driveways on public safety and amenity along footpaths.

The submitters consider that the provision is uncertain and that it is unclear what the reference to "*and amenity along footpaths*" would relate to. They have requested that "*amenity along footpaths*" be deleted.

Although the proliferation of driveways along a street may have amenity effects it is agreed it is not a necessary matter of control for a controlled activity subdivision and is recommended that this part of 14A.6.1.h be deleted. The safety aspect is considered to be sufficient to manage potential adverse effects and can incorporate footpaths among other matters.

i. Lot designs that provide areas orientated towards the sun.

The submitters have requested the deletion of the above matter in its entirety. Their reasoning is that "*it is unclear why this provision is incorporated as land orientated towards the sun may not be possible in many instances.*" The submitters consider that this matter is largely already addressed in 14A.6.1.e.

Although it is agreed that land orientated towards the sun may not always be able to be fully achieved the matter of control refers to areas orientated towards the sun rather than necessarily the whole of the lot. Generally, a well designed subdivision will provide for this to support the residential development to follow. This enables the residential unit design to be able to provide reasonable access to sunlight for the occupiers. The matters addressed in 14A.6.1.e are related but include specific matters and/or is at a broader scale e.g. "good urban design outcomes" as opposed to the more specific sun orientation aspect.

To better reflect that there may be particular circumstances where achieving the design direction is not possible it is recommended to amend the wording to acknowledge this.

Accordingly, it is recommended that 14A.6.1.i be amended as follows:

- i. Lot designs that provide as much as practicable areas orientated towards the sun.

Earthworks

The Section 42A Report – Section 14A – Part 2 – Activity Performance Standards, in regard to earthworks (14A.4.2.g) recommends deletion of the specific performance standard on the basis that matters of control/discretion are included within sections 14A.6.1 and 14A.7.1 respectively. This matter was part of expert conferencing on urban design and planning and agreement reached that Council representatives would provide amended provisions for feedback. This is discussed in the following report (Topic 2 Matters of Discretion 14A.7.1). The recommended amendments to “matters of control” for subdivision for the purposes of the construction and use of residential units are included within the recommendation following.

RECOMMENDATION

That Option 2 amended as below be accepted:

Retain proposed matters of control as notified except amend 14A.6.1.h and 14.A.6.1.i and delete 14A.6.1.f as follows:

- ~~f. Design of services which provides for the extension of services to other properties as applicable to provide effective and efficient servicing of the whole urban area.~~
- h. The effect of additional driveways on public safety ~~and amenity along footpaths.~~
- i. Lot designs that provide ~~as much as practicable~~ areas orientated towards the sun.

That additional matters of control be included for earthworks as follows:

- ~~k. Whether the design and layout of development recognises and is sensitive to natural landform and topography.~~
- ~~l. The extent to which any required earthworks minimises the need for retaining walls that are of a scale and location that adversely affects the visual qualities of the area.~~
- ~~m. Whether earthworks and any subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites due to creating higher building sites than the pre-development land form.~~
- ~~n. Cultural values associated with the existing natural landform.~~
- ~~o. The extent to which any resource consent/s previously granted for earthworks have already addressed (j) to (m) above.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
26	37	Classic Group
39	27	Urban Taskforce for Tauranga

ACCEPTED IN PART

Submission	Point Number	Name
26	36	Classic Group
26	38	Classic Group

39	26	Urban Taskforce for Tauranga
39	28	Urban Taskforce for Tauranga
40	16	Vercoe Holdings
42	12	Brian Goldstone
47	59	North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
18	26	Fire and Emergency New Zealand

SECTION 32AA ANALYSIS

The changes proposed are minor and refine matters being considered. Accordingly, no s32AA analysis is required.

TOPIC 2 – MATTERS OF DISCRETION 14A.7.1 – GENERAL, OBJECTIVES AND POLICIES, ACTIVITY PERFORMANCE STANDARDS, RELEVANT STRUCTURE PLAN AND URBAN DESIGN

BACKGROUND

To facilitate a well-functioning urban environment there is a need to support good urban design outcomes. This is further required for medium-density residential developments where due to the compactness of the developments how buildings and sites relate to each other, and the wider public realm highly influences the overall quality of the development and the functioning and interactions of the wider community.

The Plan Change utilises Structure Plan approach for the greenfield areas which is designed provide a structured and integrated response to ensure that resilient, well-functioning urban environments will be created that provide for present and future generations social, economic, and cultural wellbeing, and for their health and safety.

The medium-density residential provisions are designed to enable the development of residential areas that provide for a range of responses for the varying housing needs of the community.

Matters of discretion are required explicitly for the determination of applications for restricted discretionary activities. In the context of this plan change these relate to:

14A.3.3 Restricted Discretionary Activities

- a. Permitted and controlled land use activities that do not comply with the density standards or other standards in Rules 14A.4.1 and 14A.4.2.*
- b. Four or more residential units on a site.*
- c. Comprehensive mixed use development within the Ōmokoroa Mixed Use Residential Precinct (except for residential units which are permitted by complying with the density standards).*

- d. Retirement villages (except for residential units which are permitted by complying with the density standards).
- e. Rest homes.
- f. Works and network utilities as provided for as a restricted discretionary activity in Section 10.

Works and network utilities matters of discretion are included in Section 10 and are unchanged from the Operative District Plan.

As stated in the introduction an expert conference on “urban design and planning” was undertaken on 1 August 2023. This focused on urban design matters of discretion with a Joint Witness Statement being issued the same day. This informs recommendations on this topic.

SUBMISSION POINTS

Eleven submission points were received. Thirteen further submissions were received. The submission points on this topic are summarised as follows:

The submissions ranged from support, supporting in part, seeking the deletion and redrafting as a whole to retaining and including additional controls and processes in addition to more specific activity based submissions. The further submissions including opposition to the referencing of the New Zealand Urban Design Protocol as proposed by some submitters.

Urban Taskforce for Tauranga (39.29), Classic Group (26.39), Brian Goldstone (42.13), and Vercoe Holdings (40.17) sought the deletion of 14A.7.1 and redrafting “in accordance with guidance from the objectives and policies as set out in Schedule 3A of the RMA Amendment Act, and the NZ Urban Design Protocol.”

Further submissions were received from Retirement Villages Association (FS 76.36, FS 76.35, FS 76.32, FS 76.31) and Ryman Healthcare (FS 77.36, FS 77.35, FS 77.32, FS 77.31) in regard to the above submissions seeking the rejection of the above submissions where reference to the New Zealand Urban Design Protocol was included. Ōmokoroa Country Club (FS 74.31, FS 74.9, and FS 74.35) opposed the submissions by Urban Taskforce for Tauranga, Classic Group and Brian Goldstone and sought the retention of 14A.7.1 in addition with other matters addressed in their primary submission. Jace Investments (FS 69.23) supported the Classic Group submission.

The Ōmokoroa Country Club (56.10) sought clarification that “retirement villages are only subject to Rule 14A.7.1”. They also sought the removal of the reference to the activity performance standards which they considered were unclear and unnecessary. They also requested the amendment of 14A.7.1 to include appropriate urban design outcomes for larger developments including those specified by specialist design assessment such as:

- a. Reflectivity and colour considerations.
- b. Material palette considerations.
- c. High level of building articulation and varied form.
- d. High level of visual interest.
- e. Having a positive relationship with neighbouring properties; and
- f. Avoidance of blank walls or facades.

Additionally (or alternatively), they have requested an urban design peer review process for comprehensive developments under Chapter 14A.

Retirement Villages Association (FS 76.33) and Ryman Healthcare (FS 77.33) further submitted requesting the rejection of that part of the submission where it refers to design assessments.

Retirement Villages Association (34.44) requested that the construction of retirement villages should have focused matters of discretion and sought the amendment of 14A.7.1 and provided specific matters of discretion for retirement villages.

Ōmokoroa Country Club (FS 74.28) supported the above submission.

Kāinga Ora – Homes and Communities (29.55) supported the inclusion of matters of discretion with respect to considering urban design matters but considered those proposed to be overly complex and lengthy and could be refined. They provided as replacement four matters.

Jace Investments (FS 69.29) supported the above submission. Retirement Villages Association (FS 76.34) and Ryman Healthcare (FS 77.34) supported in part but sought the deletion of reference to retirement villages. Ōmokoroa Country Club (FS 74.15) oppose the Kāinga Ora submission and seek the retention of the matters of discretion in regard to urban design (as amended by their principal submission).

Peter Musk (14.1) supported the matters of discretion but sought that the Residential Design Outcomes should be given greater weight. Retirement Villages Association (FS 76.37) and Ryman Healthcare (FS 77.37) sought the declining of this submission where it refers to Residential Design Outcomes.

The North Twelve Limited Partnership (47.60) supported 14A.7.1 in part subject to satisfactory outcomes on their submissions on Residential Unit Yield, Residential Unit Typology, impervious surfaces, and earthworks. These matters are addressed later in this report under their respective headings.

Fire and Emergency New Zealand (18.27) supported 14A.7.1 as a whole, and submission point (18.30) support the Residential Design Outcomes that recognise high quality principles. Further submission from Ryman Healthcare (77.46) and Retirement Villages Association (76.46) opposes (18.30) as it is inconsistent with Rymans primary submission.

OPTIONS

Option 1 – Retain 14A.7.1 as notified.

Option 2 – Total deletion and redraft of 14A.7.1

Option 3 – Amend 14A.7.1 in part.

DISCUSSION

Delete and Redraft S14A.7.1

A number of submitters sought the complete redrafting of this sub-section with the re-write to be based on the guidance from the objectives and policies as set out in the Amendment Act, and the NZ Urban Design Protocol. The basis as described in the submissions are that the assessment criteria are uncertain, are more restrictive than those in the existing District Plan and are contrary to the enabling purpose of the Amendment Act. No alternative actual wording was however

provided, and accordingly other parties could not further submit on the 'new' wording or Council consider the merits of the alternative.

The submissions raise issues with the "urban design" matters of discretion which are considered more fully later in this report. In that regard the latter report also covers matters addressed in the Joint Witness Statement.

In regard to the matters that are considered to fall within this report ambit at both a general and specific level are whether the matters of assessment are contrary to the enabling provisions of the NPS-UD with specific reference to Policy 6 of the National Policy Statement; reference to objectives and policies; and activity performance standards.

The Plan Change is designed to give effect to Amendment Act which was developed in a response to speeding up the delivery of outcomes sought by the National Policy Statement. Policy 6 requires:

"When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (ii) are not, of themselves, an adverse effect*
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*
- (d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*
- (e) the likely current and future effects of climate change."*

The Plan Change consists of linked issues, objectives, polices and methods which as a whole implement the Amendment Act in the context of Western Bay of Plenty District. Section 14A.7 directly links to the activity lists and performance standards and provides a comprehensive set of matters of discretion. The current submission and hearing process provides the opportunity for further refinement however a complete redraft is not required or considered appropriate.

The way that the District Plan is structured results in potential overlaps on some matters. For example, under "urban design" there are a number of similar matters that are considered under the various performance standard non-compliance matters which can add complexity to assessments if proposals are also breaching any performance standards. Related it is accepted that there are matters within the urban design sub-section that can be refined which is addressed in the following report, however also noting that there are submissions wanting far greater 'controls'.

The sub-section as a whole, and linked to the objectives, policies, activity lists and performance standards provides for a changed and different varieties of built form and is considered consistent with Policy 6 (noting subject to refinement through the current process).

To simplify this part of the sub-section i.e. 14A.7.1 wording can be reduced and specific references to the objectives and policies can be removed as these would be considered as a matter of course as may be relevant to the extent that they relate to the matters of discretion.

The references to activity performance standards makes it clear that this needs to be addressed in any assessment with the identification of any non-compliance then triggering the need to also assess the applicable specific matter of discretion. The matters of discretion are more matter specific than the broader 'urban design' topic and are seen as being complementary rather than duplication.

As noted earlier in this report the Joint Witness Statement considered in detail the urban design matters that were included as matters of discretion.

Retirement Villages

The submissions on this matter requested that the construction of retirement villages should have focused matters of discretion and the Retirement Villages Association helpfully provided a set of matters of discretion as follows:

"14A.7.X Restricted Discretionary Activities - The construction of retirement villages, including those that do not comply with the density standards in Rule 14A.4.1.a.

- a. The effects arising from exceeding any of the standards: 14A.4.1(b) – (f);*
- b. The effects of the retirement village on the safety of adjacent streets or public open spaces;*
- c. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;*
- d. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;*
- e. When assessing the matters in a – d, consider:*
 - i. The need to provide for efficient use of larger sites; and*
 - ii. The functional and operational needs of the retirement village.*
- f. The positive effects of the construction, development and use of the retirement village.*

For clarity, no other rules or matters of discretion relating to the effects of density apply to buildings for a retirement village."

The rationale provided is that retirement villages are different than other residential activities and require their own set of provisions including matters of discretion.

It is recognised that retirement villages typically present a different model to residential development than stand alone residential developments and offer a range of services and amenities to their occupants managed centrally. Being usually contained within one property any effects at the more individual residential unit level are largely internalised with the substantive issues relating to design outcomes for retirement villages primarily relate to how these developments interact and interface with the adjacent land use. It is noted however that residential development modes are evolving and non-age restricted comprehensive developments that may also include internal community based facilities can be expected.

The assessment criteria proposed by the submitter largely focused on the potential effects on the interface with the public realm and dominance of buildings due to scale. There are no criteria proposed that deal with the interface with adjacent development.

The proposed matters of discretion for four or more residential units on a site, comprehensive mixed use developments, retirement villages and rest homes provide a set of matters that enable a comprehensive assessment of all variations of residential development including retirement villages. As noted the internalisation of effects is a key ability for retirement villages and it would be expected that any application for a retirement village would address this.

The proposed amendments by the submitter include the need to consider the proposed assessment criteria through the lens of the efficient use of larger sites, the functional and operational needs of retirement villages, that they are managed centrally (unlike an apartment complex) and positive effects. These create uncertainty in the interpretation of the proposed criteria, and it is recommended that these are excluded for the following reasons:

1. Positive effects can be considered through the resource consent process, so are not needed to be considered as part of assessment criteria.
2. Consideration of efficient development of large sites relates to site coverage rules and management of space. It is not clear why additional flexibility is required in relation to site coverage, assuming the zone rules apply.
3. Consideration of operational and functional needs is unclear, particularly when considering assessment criteria relate to the interface with the street and public open space.
4. The criteria as drafted relate to effects, rather than looking to achieve a positive design outcome, suggestions are made to align with other assessment criteria drafting.

Overall, although retirement villages have elements that differentiate this form of residential development from others, a retirement village still is a form of comprehensive residential development and it is not considered necessary to provide specific matters of discretion for this activity.

Urban Design

As part of providing for a well-functioning urban environment the needs of different households need to be considered. A basic need is providing a safe and healthy living environment and ensuring good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces.

These matters are encompassed within the objective, policy and related methods set in the Proposed Plan Change.

The Council has taken the approach of supporting the delivery of a well-functioning urban environment by providing a guidance document, "Residential Design Outcomes – How to achieve quality residential developments (August 2022)" which is aimed to inform both developments less and greater than four residential units as applicable. This was developed specifically to take into account key issues experienced and anticipated in the Western Bay of Plenty District. This sits outside the District Plan and is designed to be a "living document" to enable it to be easily updated and/or expanded as may be required.

The provisions within the “Urban Design” part of Section 14A were designed to be consistent with the main components of the Residential Design Outcomes document. Due to the structure of the District Plan and the categorising of “breaches” of performance standards as restricted discretionary activities there is a requirement to clearly identify what matters of discretion are applicable to each performance standard. In addition to this any developments that are either 4 or more residential units, comprehensive mixed use developments, retirement villages & rest homes require assessment under 14A.7.1 which includes “Urban Design”. Due to this structure there is the potential for a degree of cross-over on various matters if that specific performance standard is breached. For example non-compliance with impervious surface limits within 14A.7.3 and is also addressed more generally in 14A.7.1.v. Where there is duplication rather than being complementary then this can be rationalised.

The Urban Design specific section has five topics being:

- Development Layout
- Site and Building Design
- Public Space Integration
- People Movement
- Other Infrastructure

Within each of these topics are specific matters to be addressed which range from four matters for public space interaction and 14 matters for development layout. By comparison the Residential Design Outcomes document has ten topics with multiple related design guidelines.

As part of the Urban Design sub-section direction to the Residential Design Outcomes document is made as an advisory note. This is to alert applicants that there is additional guidance available to support positive urban design outcomes. In addition, the section provides that the Council may require an independent review of the assessment provided with the extent and detail of this review being commensurate with the scale and intensity of the proposed development.

The intent is to include the key urban design elements within the District Plan so there is certainty as to what needs to be assessed at a minimum. The Residential Design Outcomes document provides further levels of detail and provides practical guidance on how to achieve positive outcomes but is not part of the matters of discretion.

It is noted that a submission from the Ōmokoroa Country Club (56.10) has sought that the section should provide for an urban design peer review process for comprehensive developments. As above there are provisions that allow for this, but this is not a mandatory requirement for all applications. It is anticipated that this would be used in cases where there were concerns that the assessments had not fully or properly addressed issues. It is noted that it is common place for medium-density and high density developments to utilise an “urban designer” as part of a project team.

The Ōmokoroa Country Club submission also requested that where developments have been through a robust urban design peer review process the Plan Change should provide a more permissive activity status or require this to have occurred for developments to be processed on a non-notified basis. As part of any application the adequacy of the information provided is assessed by the processing authority and an application can be rejected if not deemed to be

complete. Accordingly, it follows that applications will need to have input from a suitably qualified person(s) to an appropriate standard. By going through a robust urban design peer review process this will provide more certainty of outcome in this regard (subject to all other information requirements being satisfied), however it is not considered necessary to enshrine a requirement in this regard within the District Plan.

The Council operates and advocates for applicants to use a “Package of Plans” process where proposals are discussed with all relevant Council staff in one meeting usually at the earlier stage of developments being prepared. This provides the opportunity for Council to provide direction on a range of matters, often including urban design elements.

The only more permissive status open would be as a controlled activity however in reality with the restricted discretionary activity status, including non-notification provisions there is less separation than historically. An urban design assessment alone does not necessarily mean all other aspects of a proposal are being adequately dealt with.

The Ōmokoroa Country Club submission also requested that the provisions should also include:

- a. Reflectivity and colour considerations.
- b. Material palette considerations.
- c. High level of building articulation and varied form.
- d. High level of visual interest.
- e. Having a positive relationship with neighbouring properties; and
- f. Avoidance of blank walls or facades.

Other submissions have sought the deletion of the proposed assessment criteria with Kāinga Ora (29.55) providing the following alternatives:

- The scale, form, and appearance of the development is compatible with the planned urban built form of the neighbourhood
- The development contributes to a safe and attractive public realm and streetscape
- The extent and effects on the three waters infrastructure, achieved by demonstrating that at the point of connection the infrastructure has the capacity to service the development.
- The degree to which the development delivers quality on-site amenity and occupant privacy that is appropriate for its scale.

The Urban Taskforce for Tauranga (39.29), Classic Group (26.39), Brian Goldstone (42.13), and Vercoe Holdings (40.17) sought the deletion of 14A.7.1 and redrafting “in accordance with guidance from the objectives and policies as set out in Schedule 3A of the RMA Amendment Act and the NZ Urban Design Protocol” but did not provide any recommended wording.

In regard to the New Zealand Urban Design Protocol there was opposition from further submitters to the referencing of this. Although a useful reference document and one that has historically informed a number of more recent ‘urban design guides’ it is not considered appropriate for the District Plan to require compliance with a guidance document that has been prepared outside the Schedule 1 process of the RMA.

The objective, policy and methods set has been reviewed as part of the submission and subsequent reporting process which requires some consequential amendments of the matters of discretion. As is demonstrated by the submissions there are a range of views from having more “controls” and being more directive to having far less. As the entire matters of discretion for ‘urban design’ have been challenged it is necessary to review the entirety of this section.

Ōmokoroa Country Club are requesting the consideration of reflectivity and colour, and material palettes. Although these may be matters that individual developers prescribe as covenants on their own developments these are largely personal taste matters and it is not appropriate for one party to prescribe to the wider community what colour or materials should be used on land not in their ownership. Limits on materials and the like is likely to have cost implications for developments and adversely affect the affordability of housing. Within any community there is a need for a variety of different housing forms which will also have varying building qualities. This required to respond to housing needs and demand and is consistent with the MDRS objectives and policies.

Of the other matters raised it is considered that the matters are adequately covered by the proposed matters and have been further refined through expert conferencing which included representatives on behalf of the Ōmokoroa Country Club.

This encapsulates the matters raised and provides greater direction that the proposed “high level of.....” wording proposed by the submitter which is difficult to define.

At the other extreme Kāinga Ora (29.55) have provided just four matters of discretion on urban design as replacement to those proposed. The matters proposed by Kāinga Ora cover some similar aspects as proposed but are generic in their nature and do not provide sufficient identification of matters which could adversely affect the delivery of a well functioning urban environment in the Western Bay context.

The expert conferencing on urban design matters included experts on behalf of: Kāinga Ora, Ōmokoroa Country Club, Urban Taskforce for Tauranga, Classic Group, Brian Goldstone, TDD Limited, Vercoe Holdings, Jace Investments, Jace Orchards, Kiwi Green NZ Limited, Pete Linde and Western Bay of Plenty District Council.

As a result of the conferencing a revised ‘urban design’ sub-section was produced. This was agreed by all parties with the exception that the expert on behalf of Kāinga Ora did not agree with the inclusion of the advice note in regard to advising that Council’s Residential Design Outcomes document provides guidance to assist with addressing the matters of discretion.

On the expert conferencing agenda was “earthworks – performance standards and matters of discretion.” Due to time constraints a full discussion was not possible however there was agreement that Council staff would draft alternate criteria relating to land form and earthworks which was to be circulated to the other experts for feedback via email. New criteria were forwarded the following day. At the time of deadline for feedback only one response was received from the expert on behalf of Kāinga Ora.

Based on recommendations in the Section 42A Report – Section 14A – Part 2, the performance standards that directly related to earthworks (14A.4.2.g) have been removed. This also had a

subsequential effect of requiring the removal of the matters of discretion for non-compliance with earthworks (14A.7.16) which is addressed in the Topic 17 report. The Reporting Team however intends to retain the matters of discretion for earthworks for applications for subdivision, four or more units, comprehensive mixed use developments, retirement villages and rest homes to manage visual and other effects.

This has resulted in amendments to both 14A.6.1 Matters of Control – Subdivision for the purpose of the construction and use of residential units and 14A.7.1 Urban Design. In regard to the latter there was an existing matter under “development layout” which addressed earthworks in part. This has now been deleted with additional matters introduced which in part were based on the proposed matters of discretion for non-compliance with earthworks. Related additional matters of control have also been included in regard to subdivision for the purposes of the construction and use of residential units as discussed in the preceding report.

The revised matters of discretion on urban design have been adopted on the basis of the Joint Witness Statement. The recommendations in this report (and following reports) refine the matters of discretion and are assessed as being an efficient and effective means of achieving the Plan Change objectives.

RECOMMENDATION

That a revised Option 3 be accepted:

Amend 14A.7.1 in part in alignment with the Joint Witness Statement dated 1 August 2023 as applicable.

That 14A.7.1 be amended in part as follows:

14A.7.1, Restricted Discretionary Activities – Four or More Residential Units on a Site, Comprehensive Mixed Use Developments, Retirement Villages and Rest Homes

In considering an application for four or more residential units on a site, comprehensive mixed use developments, retirement villages or rest homes, Council shall consider the following: ~~to assess the overall contribution of the development to deliver a high quality and well-functioning urban environment.~~

Objectives and policies

~~a. Whether the proposal is consistent with the objectives and policies.~~

Activity performance standards

~~ab. In addition to the above, wWhether the proposal meets the following activity performance standards:~~

Density Standards

Height, height in relation to boundary, setbacks, building coverage, outdoor living space (per unit), outlook space (per unit), windows to street and landscaped area.

Other standards

Residential unit yield, residential unit typology, minimum storey requirements, impervious surfaces, vehicle crossing and access, streetscape, earthworks, height of fences, walls and retaining walls and specific requirements for Lot 601 DP 560118 and Lot 603 DP 560118 (Ōmokoroa).

Relevant Structure Plan

Whether the proposal:

- be. Meets any staging requirements (if applicable).
- ce. Provides required active reserves as identified on the Structure Plan including location, area and aspect requirements.
- de. Provides walkways and cycleways identified on the Structure Plan.
- ef. Provides required roading in accordance with the layout identified on the Structure Plan and demonstrating linkages to adjacent sites as applicable including “future roads”.
- fg. Provides service infrastructure as identified on the Structure Plan that is in compliance with the Development Code or approved alternative design.

Urban Design

Whether the proposal achieves a positive urban design residential outcome by addressing the following matters, demonstrating the following qualities:

Note: Council’s adopted Residential Design Outcomes illustrates recognised high quality urban design principles and provides direction on how to achieve these through good design. To aid delivery of high quality outcomes the Residential Design Outcomes should be referred to. Council may require an independent review of the assessment provided in regard to the matters addressed in (x) to (x) which follow. The extent and detail of this review will be commensurate with the scale and intensity of the proposed development.

An urban design assessment is to be provided with the application prepared by a suitably qualified person(s). The extent and detail of this assessment will be commensurate with the scale and intensity of the proposed development.

Advice note: Council’s Residential Design Outcomes document provides guidance to assist with addressing the matters of discretion

g. Development Layout

Whether the design and layout of the development:

- i. Responds positively to the planned urban form of the neighbourhood, including any relevant Structure Plan.
- ii. Provides for a level of density that supports town centres and public transport routes.
- iii. Provides for a range of housing choice.
- iv. Minimises the visual impact of retaining walls/structures

h. Integrated multi-modal network

The establishment of an integrated multi-modal network that is designed to:

- i. Provide connectivity within the development and to the surrounding area.
- ii. Provide an inclusive and accessible urban environment.

- iii. Provide for public transport, pedestrians, cyclists and alternate transport modes.
- iv. Provide efficient access for emergency and service vehicles.

i. Public Interface

Whether the development contributes to a safe and attractive interface with public spaces by:

- i. Providing passive surveillance between housing and public spaces, reserves and accessways.
- ii. Providing a clear and visible residential entrance from the street.
- iii. Providing building recesses, varied architectural treatment and landscaping to break up the visual appearance of the built form.
- iv. Retaining mature trees and providing on-site landscaping.
- v. Comprehensively designing roadscape and front yard private landscaping to achieve an integrated frontage outcome.

j. Residential Amenity and Privacy

Whether the development provides a high level of onsite amenity and privacy by:

- i. Building design that provides living areas orientated towards the sun.
- ii. Locating windows, balconies, outdoor living spaces and communal living areas to maintain privacy for adjacent properties/residential units.

k. Service Areas

Whether the development provides:

- i. Adequate service areas for waste management and other utilities so that they do not cause adverse odour and are screened from public interfaces

l. Integrated Stormwater Management Design

- i. Providing water sensitive urban design including the retention of permeable areas and the treatment of stormwater.
- ii. The management of stormwater collection, discharge and overland flowpaths to enable on-site treatment of stormwater and ensure attenuation is the same or better than pre-development levels.
- iii. The management of stormwater collection, discharge and overland flowpaths to minimise flooding to properties and to protect people and buildings from flooding.

m. Earthworks

- i. Whether the design and layout of development recognises and is sensitive to natural landform and topography.
- ii. The extent to which any required earthworks minimises the need for retaining walls that are of a scale and location that adversely affects the visual qualities of the area.
- iii. Whether earthworks and any subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites due to creating higher building sites than the pre-development land form.
- iv. Cultural values associated with the existing natural landform.

- v. The extent to which any resource consent/s previously granted for earthworks have already addressed (i) to (iv) above.

~~g. — Development Layout~~

~~i. — A design and development outcome that utilises the existing natural landform, landscape values and transportation network unless the earthworks are required as a result of a comprehensive mixed-use development plan or reflect a structure plan outcome.~~

~~ii. — The design and establishment of a place with its own identity (look and feel).~~

~~iii. — Good linkages for people of all ages and abilities to the surrounding open space and movement networks.~~

~~h. — Site and Building Design~~

~~i. — A range of housing characteristics including a variety in:~~

- ~~• — residential unit size (floor area)~~
- ~~• — bedroom numbers~~
- ~~• — storeys~~
- ~~• — typology (stand-alone, duplex, terrace or apartment)~~
- ~~• — affordability options.~~

~~ii. — Providing private land with a strong interface between both roads and private ways/access lots serving three or more sites, through use of integrated fencing, landscaping and building design.~~

~~iii. — Providing open space character including on-site landscaping, retention of mature trees, provision of shared driveways and streetscape/access way design.~~

~~iv. — Building designs that provide privacy and areas orientated towards the sun.~~

~~v. — Maximising permeable areas by providing multi-level residential developments.~~

~~vi. — Providing for wider community interaction and integration by ensuring public linkages and connected developments.~~

~~vii. — Where proposed buildings are attached, how the design of the buildings (or other means) provides for a variation in the visual appearance of built form. This includes using methods such as landscaping, recesses, projections and variations in colour and materials to mitigate adverse visual effects.~~

~~viii. — Locating windows, balconies, outdoor living spaces and communal living areas as to maintain privacy for adjacent properties/residential units.~~

~~ix. — Providing passive surveillance of roads, parks, walkways, other public spaces and private ways/access lots serving three or more sites.~~

~~x. — Providing adequate service areas for waste management and other utilities so that they do not cause adverse odour, and are screened from roads and private ways/access lots serving three or more sites.~~

- ~~xi. — Providing water sensitive urban design including the retention of permeable areas and the treatment of stormwater.~~
- ~~xii. — If the development includes a balance area, the ability of the balance area to meet all design outcomes in a complementary manner to the preceding development including yield and infrastructure requirements and any proposed conditions of consent or other legal mechanism to ensure these outcomes are delivered.~~
- ~~xiii. — For comprehensive mixed use buildings, a legible residential entrance at ground floor that can be accessible for all users. This entrance should either face or be visible from the street.~~
- ~~xiv. — For comprehensive mixed use buildings, all services including water, wastewater, stormwater, ventilation, power, and telecommunication ducting/pipework from the roof to ground being incorporated into the architectural design of the building so not to be visible when viewed from the public realm, unless specifically required to be located externally and visible for their function.~~

~~i. — Public Space Integration~~

- ~~i. — The location of reserves so that they are centrally located, highly accessible, highly visible, generally level, have a sunny aspect and are of a size sufficient to ensure functionality and the provision of landscaping including trees.~~
- ~~ii. — Integration of residential development with adjoining reserves that are included in the structure plan, including stormwater reserves, walkways and cycleways.~~
- ~~iii. — A development that provides a safe environment for people of all ages and abilities.~~
- ~~iv. — An attractive and safe landscape in public areas that provides for trees and other plants that support the local ecosystem.~~

~~j. — People Movement~~

- ~~i. — An integrated multi-modal people-centric network that provides connectivity within the development and with the surrounding area and wider neighbourhood.~~
- ~~ii. — An inclusive urban environment which avoids exclusive use areas that provide a barrier for community wider interaction.~~
- ~~iii. — A development that links with the road, walkway, cycleway and reserves (recreation, local purpose) network.~~
- ~~iv. — Providing vehicle crossings and any on-street parking in a manner that safeguards pedestrians, cyclists and other non-vehicular modes of movement. On-street parking in this case means on roads and privateways/access lots serving three or more sites.~~
- ~~v. — Designing roads and privateways/access lots serving three or more sites in a manner that re-enforces the liveability of the area by facilitating and encouraging~~

~~human engagement and minimising dominance of motorised vehicles:~~

~~vi. The development and surrounding area having enough population density to support public transport and minimise reliance on private motor vehicles:~~

~~vii. Providing efficient access for emergency vehicles and service vehicles:~~

~~i. Other Infrastructure~~

~~i. The effective and efficient location of services to enable functionality and maintenance, including any required easements:~~

~~ii. Design of services which provides for the extension of services to other properties as applicable to provide effective and efficient servicing of the whole urban area:~~

~~iii. Paying financial contributions to ensure that the costs of development are appropriately allocated and/or providing innovation and alternative design that leads to an increased lifecycle for infrastructure and improved environmental outcome:~~

~~iv. The management of stormwater collection, discharge and overland flowpaths to enable on-site treatment of stormwater and ensure attenuation is the same or better than pre-development levels:~~

~~v. The management of stormwater collection, discharge and overland flowpaths to minimise flooding to properties and to protect people and buildings from flooding:~~

The following submissions are therefore:

ACCEPTED IN PART

Submission	Point Number	Name
14	1	Peter Musk
18	27 & 30	Fire and Emergency New Zealand
29	55	Kāinga Ora
47	60	The North Twelve Limited Partnership
FS 69	29	Jace Investments
FS 74	15	Ōmokoroa Country Club
FS 74	9, 31, 35	Ōmokoroa Country Club
FS 76	31, 32, 35, 36, 46	Retirement Villages Association
FS 77	31, 32, 35, 36, 46	Ryman Healthcare

REJECTED

Submission	Point Number	Name
26	39	Classic Group

34	44	Retirement Villages Association
39	29	Urban Taskforce for Tauranga
40	17	Vercoe Holdings
42	13	Brian Goldstone
56	10	Ōmokoroa Country Club
FS 69	23	Jace Investments
FS 74	28	Ōmokoroa Country Club
FS 76	34	Retirement Villages Association
FS 76	37	Retirement Villages Association
FS 77	34	Ryman Healthcare
FS 77	37	Ryman Healthcare

SECTION 32AA ANALYSIS

The following provides a further evaluation of the changes made to the Plan Change / Proposal since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. As a significant change is recommended to urban design matters of discretion as a result of submissions a further s32AA analysis is provided below.

Efficiency & Effectiveness in Achieving the Objectives	Amend 14A.7.1 in part in alignment with the Joint Witness Statement on urban design and planning dated 1 August 2023 as applicable
Costs Environmental effects Economic effects Social effects Cultural effects Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	Environmental The revised matters of discretion reduce the number of matters being assessed which could result in an increase in adverse effects on the environment by not having the same extent of analysis. Economic No direct economic costs Social Potentially the reduction of matters of discretion being assessed could result in an increase in adverse effects on the functioning of the urban environment which may have social costs. Cultural The revisions to the matters of discretion do not change the analysis as it relates to cultural effects.
Benefits Environmental	Environmental

<p>Economic Social Cultural</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>The revised matters of discretion refine the key areas of interest which should focus assessments more clearly to provide positive environmental effects.</p> <p>Economic</p> <p>By reducing the number of matters of discretion and refining them to have an improved focus this should ensure that resources are used efficiently and that a well functioning urban environment is supported.</p> <p>Social</p> <p>The improved focus should ensure that a well functioning urban environment is developed that supports the positive functioning of the community.</p> <p>Cultural</p> <p>The improved focus should ensure that a well functioning urban environment is developed and related environmental and cultural values are protected as applicable.</p>
<p>Quantification</p>	<p>Not practicable to quantify.</p>
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<p>Sufficient and certain information is available.</p>

TOPIC 3 – RULE 14A.7.2 – NON-COMPLIANCE WITH BUILDING AND STRUCTURE HEIGHT

BACKGROUND

The base building height controls were introduced as a MDRS as a requirement of the Amendment Act. In some areas where higher density residential development is being promoted increased height limits have been introduced. There is one area in Ōmokoroa that has a specific maximum height requirement linked to an Environment Court decision.

SUBMISSION POINTS

Two submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.61) supported the matters of discretion as being appropriate for assessment of buildings exceeding height limits. Kāinga Ora – Homes and Communities (29.56) supported the building height matters of discretion but sought that the height in relation to boundary should be combined with building height. They proposed one additional matter in this regard. Retirement Villages Association (FS 76.38) and Ryman Healthcare (FS 77.38) opposed the Kāinga Ora submission “as it does not provide for the benefits of retirement villages or recognise their functional and operational needs” and is inconsistent with the primary submissions of both parties.

OPTIONS

Option 1 – Retain non-compliance with building and structure height matters of discretion as notified.

Option 2 – Combine non-compliance with building and structure height and height in relation to boundary into one and include one matter of discretion for height in relation to boundary.

DISCUSSION

The proposed Plan Change is constructed so that each performance standard has specific matters of discretion and is laid out in a consistent manner. To combine two matters is inconsistent. Maximum height and height in relation to boundary although having a relationship are two different matters and it is appropriate to consider separately.

RECOMMENDATION

That Option 1 be accepted:

Retain non-compliance with building and structure height matters of discretion as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	61	The North Twelve Limited Partnership
FS 76	38	Retirement Villages Association
FS 77	38	Ryman Healthcare

REJECTED

Submission	Point Number	Name
29	56	Kāinga Ora

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 4 – RULE 14A.7.3 – NON-COMPLIANCE WITH HEIGHT IN RELATION TO BOUNDARY

BACKGROUND

The base height in relation to boundary performance standards are in accordance with the MDRS as a requirement of the Amendment Act, except that the standard has been amended to be more enabling in regard to unit titles and written approvals.

SUBMISSION POINTS

Three submission points were received. Four further submission points were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.62) supported the matters of discretion as being appropriate for assessment of buildings exceeding height in relation to boundary matters.

The New Zealand Housing Foundation (32.13) supported in part but requested additional matters of discretion. Retirement Villages Association (FS 76.39) and Ryman Healthcare (FS 77.39) opposed the New Zealand Housing Foundation submission “as it does not provide for the benefits of retirement villages or recognise their functional and operational needs” and is inconsistent with the primary submissions of both parties.

As discussed in the preceding report Kāinga Ora – Homes and Communities (29.56) sought that height in relation to boundary should be combined with building and structure height. They proposed one matter in regard to in this regard height in relation to boundary. As that particular aspect is in regard to the subject topic that element is addressed within this report. Accordingly, for completeness the previous Retirement Villages Association (FS 76.38) and Ryman Healthcare (FS 77.38) which opposed the Kāinga Ora submission are again referenced.

Retirement Villages Association (34.35) supports the height in relation to boundary provisions in principle but seek a further exclusion for “boundaries adjoining open space and recreation zones, commercial and mixed use zones, and special purpose zones”.

OPTIONS

Option 1 – Retain non-compliance with height in relation to boundary matters of discretion as notified.

Option 2 – Retain non-compliance with height in relation to boundary matters of discretion as notified but include additional matters.

Option 3 – Delete non-compliance with height in relation to boundary matters of discretion as notified and replace with one matter.

DISCUSSION

The New Zealand Housing Foundation requested two additional matters of discretion as follows:

- e. Any unusual site characteristics.
- f. Visibility of the non-compliance from a public place such as a reserve.

These were opposed by Retirement Villages Association and Ryman Healthcare.

In regard to the first matter it is agreed that there is merit in considering specific unusual site characteristics which may provide some basis for non-compliance noting that the other matters still remain valid. This could include designs working with the existing topography rather than carrying out extensive earthworks, geotechnical constraints or unusually shaped lots.

The second matter is not considered as being required as the visibility aspect from a height in relation to boundary aspect is effectively covered by proposed matter (b) which states the following:

- b. How the non-compliance combines with the overall building bulk to create an increased visual dominance on other properties.*

This matter is concerned with visual matters which can be applied to public places as well as privately owned properties.

Kāinga Ora have effectively requested the deletion of all matters except one. This is due to the previous request to combine height with height in relation to boundary matters, however as it is recommended that these matters remain separate it also follows that the matters of discretion should be retained.

RECOMMENDATION

That Option 2 (as amended) be accepted:

Retain non-compliance with height in relation to boundary matters of discretion as notified but include an additional matter.

That 14A.7.3 be amended in part as follows:

- e. Any unusual site characteristics that may justify a height to boundary infringement.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	62	The North Twelve Limited Partnership
FS 76	38	Retirement Villages Association
FS 77	38	Ryman Healthcare

ACCEPTED IN PART

Submission	Point Number	Name
32	13	New Zealand Housing Foundation
FS 76	39	Retirement Villages Association
FS 77	39	Ryman Healthcare

REJECTED

Submission	Point Number	Name
29	56	Kāinga Ora

SECTION 32AA ANALYSIS

The changes proposed are minor. Accordingly, no s32AA analysis is required.

TOPIC 5 – RULE 14A.7.A – NON-COMPLIANCE WITH SETBACKS

BACKGROUND

The setback performance standards are as set by the MDRS as a requirement of the Amendment Act with the addition of more enabling provisions in regard to unit titles and written approvals and more restrictive standards in regard to the railway and a specific site that had standards applied through an Environment Court decision.

SUBMISSION POINTS

Five submission points were received. Six further submission points were received. The submission points on this topic are summarised as follows:

KiwiRail (30.3) requested a new matter of discretion in regard to non-compliance with the setback from the railway corridor. Kāinga Ora (FS 70.14) and the New Zealand Housing Foundation (FS 73.3) opposed the submission.

The North Twelve Limited Partnership (47.63) supported the matters of assessment.

Pete Linde (19.18) supported in part but requested an additional matter to support efficient use of sites. Retirement Villages Association (FS 76.40) and Ryman Healthcare (FS.77.40) opposed the submission.

Kāinga Ora (29.57) sought the deletion of one standard associated with visual connections between residential units and the road. Retirement Villages Association (FS 76.41) and Ryman Healthcare (FS.77.41) supported the submission.

Fire and Emergency New Zealand (18.28) requested new matters of discretion to address emergency services access issues.

OPTIONS

Option 1 – Retain non-compliance with setbacks matters of discretion as notified.

Option 2 – Retain non-compliance with setbacks matters of discretion as notified but include additional matters.

Option 3 – Retain non-compliance with setbacks discretion as notified and delete one matter.

DISCUSSION

Railway Corridor

KiwiRail requested that an additional matter be included as follows:

- f. The location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

The Plan Change includes greater setbacks than the MDRS consistent with the Operative District Plan provisions and which were identified as an existing qualifying matter based on being:

“a matter required for the purpose of the safe or efficient operation of nationally significant infrastructure” under Section 771(e) of the RMA.”

It is noted that Kāinga Ora maintain that the set backs provided by the MDRS are considered appropriate to maintain safety and opposed the Kiwirail submission. On that basis a residential building could be located 1m from the railway corridor. The setback performance standards are addressed in the Section 42A Report – Section 14A – Part 2- Activity Performance Standards. The New Zealand Housing Foundation also oppose the submission based on inconsistency with their primary submission.

Although it is agreed that there could be health and safety aspects related to locating a residential building closer to the railway corridor the requested matter of control is not assessed as being appropriate. The setbacks only relate to internal property boundaries and the proposed matter appears to relate to people not accessing the railway corridor which affects land beyond a properties boundary and accordingly is beyond the ambit of the performance standard.

From a resource consent processing perspective KiwiRail is likely to be recognised as an affected party in situations where there is non-compliance with the setback and accordingly would have the opportunity to assess the specific proposal.

Section 4C-Amenity of the District Plan includes specific performance standards in regard to noise and acoustic effects which are the most applicable health and safety matters in a RMA context. The location of a building or structure within the prescribed setback would be considered to trigger the need for assessments under that Section.

The exact concerns of Kāinga Ora and the New Zealand Housing Foundation are unclear.

Emergency ingress/egress

Fire and Emergency New Zealand requested the following new matters of discretion to address access issues related to emergencies:

Front yard

- d. The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs.

Side and rear yards

- f. The extent to which the non-compliance compromises the efficient movement of residents and emergency services and the provision for the health and safety of residents in meeting their day-to-day needs.

The concern of Fire and Emergency New Zealand is in regard to pedestrian access and egress. The District Plan already allows neighbours to give written approval to side yard encroachments. The RMA also allows certain boundary activities to be a 'deemed permitted boundary activity' under S87BA. Therefore, such a matter of discretion could only be considered when written approvals are not obtained and resource consent is required. It is considered that this is not very likely to occur and the usefulness of the additional matters is questionable in the current context. Although accepting this as a valid concern and emerging issue with diminished yard setbacks the issue fits better as a building design issue and should be addressed through the appropriate legislation, noting that this may require change. It can be noted however that as a matter of discretion for four or more residential units providing efficient access for emergency vehicles is a matter to be addressed.

Other Matters

Pete Linde has requested that a new matter of discretion be inserted as follows:

“Support site design measures and methods that seek to more effectively utilise available environmental opportunities to provide enhanced character and amenity experiences where adverse environmental effects are still reasonably internalised with development site boundaries.”

The intent of the above is understood to assist in the positive activation of the interface with residential units and private way/access lot situations with the view that better design outcomes may be able to be achieved through design that infringes the yard setback. This could be achieved by a reduced setback or alternatively a zero lot boundary which can create better utilisation of sites. As part of a comprehensive development the effects can be internalised.

Retirement Villages Association (FS 76.40) and Ryman Healthcare (FS 77.40) further submitted opposing the above submission. The basis of the opposition was that the submission point does not provide for the benefits of retirement villages or recognise their functional and operational needs and is inconsistent with both parties' primary submission. How this adversely affects retirement village operations is unclear and is unlikely to have any relationship for retirement villages if contained within one certificate of title.

To provide more explicit acknowledgement of potential benefits of not complying with the setback requirements it is recommended that a new matter of discretion is provided. The recommended wording that follows is based on the submitters in part but is more concise.

“Whether the non-compliance is internalised within a development and provides a more efficient use of land and related improved amenity outcomes”.

Kāinga Ora supported by further submissions from Retirement Villages Association and Ryman Healthcare sought the deletion of:

- b. The residential unit design enabling a visual connection between the residential unit and the road.

Considering the scale of potential infringement noting that the MDRS has a minimum of 1.5m for front yards the values of the matter of discretion is very limited and it is agreed that this matter should be removed.

RECOMMENDATION

That a combination of options 2 and 3 be accepted:

Retain non-compliance with setbacks matters of discretion as notified, except delete one matter and replace with a new matter.

That the Plan Change be amended as follows:

- ~~b. The residential unit design enabling a visual connection between the residential unit and the road. Whether the non-compliance is internalised within a development and provides a more efficient use of land and related improved amenity outcomes.~~

The following submissions are therefore

ACCEPTED IN PART

Submission	Point Number	Name
19	18	Pete Linde
47	63	The North Twelve Limited Partnership

REJECTED

Submission	Point Number	Name
18	28	Fire and Emergency New Zealand
30	3	KiwiRail
FS 70	14	Kāinga Ora
FS 73	3	New Zealand Housing Foundation
FS 76	41	Retirement Villages Association
FS 77	41	Ryman Healthcare

SECTION 32AA ANALYSIS

The changes proposed are minor and refine the matters of discretion. Accordingly, no s32AA analysis is required.

TOPIC 6 – RULE 14A.7.5 – NON-COMPLIANCE WITH BUILDING COVERAGE

BACKGROUND

The building coverage performance standard is 50% in accordance with the MDRS as a requirement of the Amendment Act. The Section 42A Report – Section 14A- Part 2 on the activity performance standards in regard to coverage (14A.4.2.e) has recommended that the permitted coverage be increased to 60% for the Ōmokoroa 3C overlay area.

SUBMISSION POINTS

Two submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

Kāinga Ora (29.58) requested the deletion of matters of discretion 14A.7.5.b and 14A.7.5.c. which relate to other performance standards in regard to setbacks, landscaped area and outdoor living space (per unit), and additional levels respectively. Retirement Villages Association (FS 76.42) and Ryman Healthcare (FS 77.42) further submitted in support.

The North Twelve Limited Partnership (47.65) supported the matters of assessment in part but requested the removal of 14A.7.5.c.

OPTIONS

Option 1 – Retain matters of discretion on non-compliance with coverage matters of discretion as notified.

Option 2 – Retain one matter of discretion (14A.7.5.a) on non-compliance with coverage matters of discretion as notified and delete all others (14A.7.5.b & 14A.7.5.c).

Option 3 – Retain one matter of discretion (14A.7.5.a), on non-compliance with coverage matters of discretion as notified, and amend 14A.7.5.b and delete 14A.7.5.c.

DISCUSSION

Cross reference of other performance standards

As notified Rule 14A.7.5. matters of discretion include the following:

- b. *Whether the proposal complies with activity performance standards for setbacks, landscaped area and outdoor living space (per unit), and if not, whether compliance with these standards could be used to mitigate adverse effects of the building bulk.*

Kāinga Ora supported by Retirement Villages Association and Ryman Healthcare through further submission have requested the deletion of the clause as whether the proposal complies with other performance standards does not assess the subject issue. It is agreed that there is no benefit in referencing other performance standards which makes the provision unclear as to the purpose, which is only in regard to building coverage. Each of the matters stated has its own set of matters of discretion. There are however relationships to landscaping and setbacks from boundaries that may reduce the impacts of more site coverage and the matters could be reworded to better address this. Recommended wording as follows:

Whether the effects of additional coverage are off-set by additional landscaping, increased setbacks from boundaries.

Additional building stories

Kāinga Ora and The North Twelve Limited Partnership oppose clause c which states the following:

- c. *Whether the building coverage can be reduced by providing an additional storey.*

Their concerns are that this does not address the subject issue and that whether the building should be multi-level per is not a decision for Council to make or exercise control over as that is the applicant's choice and consideration.

The intent of the matter is to consider in cases where coverage is exceeded if this could be avoided or reduced by consideration of the building/development design. The proposed matter brings into consideration whether the building could go up rather than out. As the matter of discretion only comes into effect if coverage is being exceeded it is not controlling the choice of design but highlighting a way where the coverage could potentially be reduced so as not to infringe the performance standard or reduce any non-compliance. The issue is however considered to be able to fall within 14A.7.5.a which states:

- a. *The dominance of built form and how the building bulk is visually reduced by design.*

Design aspects can include multi-levels and accordingly this aspect does not need to be duplicated and clause c is recommended to be deleted.

RECOMMENDATION

That Option 2 (amended) be accepted.

Option 2 – Retain non-compliance with setbacks matters of discretion as notified but delete matters related to other performance standards and amendreference to “additional storey” to more clearly address the issue related to the performance standard.

That the Plan Change amended as follows:

- ~~b. Whether the proposal complies with activity performance standards for setbacks, landscaped area and outdoor living space (per unit), and if not, whether compliance with these standards could be used to mitigate adverse effects of the building bulk.~~
- ~~b. Whether the effects of additional coverage are off-set by additional landscaping and increased setbacks from boundaries.~~
- ~~e. Whether the building coverage can be reduced by providing an additional storey.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
29	58	Kāinga Ora
47	65	The North Twelve Limited Partnership

ACCEPTED IN PART

Submission	Point Number	Name
29	58	Kāinga Ora
FS 76	42	Retirement Villages Association
FS 77	42	Ryman Healthcare

SECTION 32AA ANALYSIS

The changes proposed are minor and refine the matters of discretion only. Accordingly, no s32AA analysis is required.

TOPIC 7 – RULE 14A.7.6 – NON-COMPLIANCE WITH OUTDOOR LIVING SPACE (PER UNIT)

BACKGROUND

The MDRS has been applied as per the requirement of the Amendment Act.

SUBMISSION POINTS

One submission point was received. No further submissions were received. The submission points on this topic are summarised as follows:

The North Twelve Limited Partnership (47.66) supported the standard.

OPTION

Option 1 – Retain proposed matters of discretion for non-compliance with outdoor living space (per unit) as notified.

DISCUSSION

The submitter supported the matters of discretion noting they are generally appropriate for assessment of buildings not complying with outdoor living space.

RECOMMENDATION

That Option 1 be accepted.

Retain proposed matters of discretion for non-compliance with outdoor living space (per unit) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	66	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 8 – RULE 14A.7.7 – NON-COMPLIANCE WITH OUTLOOK SPACE (PER UNIT)**BACKGROUND**

The MDRS has been applied as per the requirement of the Amendment Act.

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

The North Twelve Limited Partnership (47.67) supporting the standard was received.

OPTION

Option 1 – Retain proposed matters of discretion for non-compliance with outlook living space (per unit) as notified.

DISCUSSION

The submitter supported the matters of discretion noting are generally appropriate for assessment of buildings not complying with outlook living space.

RECOMMENDATION

That Option 1 be accepted.

Retain proposed matters of discretion for non-compliance with outlook living space (per unit) as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	67	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 9 – RULE 14A.7.8 – NON-COMPLIANCE WITH WINDOWS TO STREET**BACKGROUND**

The MDRS has been applied as requirement of the Amendment Act.

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

The North Twelve Limited Partnership (47.68) supporting the standard was received.

OPTION

Option 1 – Retain proposed matters of discretion for non-compliance with windows to street as notified.

DISCUSSION

The submitter supported the matters of discretion noting are generally appropriate for assessment of buildings not complying with the windows to street performance standard.

RECOMMENDATION

That Option 1 be accepted.

Retain proposed matters of discretion for non-compliance with windows to street as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	68	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 10 – RULE 14A.7.9 – NON-COMPLIANCE WITH LANDSCAPED AREA

BACKGROUND

The landscaped area performance standard is as per the MDRS as a requirement of the Amendment Act.

SUBMISSION POINTS

Two submission points were received. Two further submission points were received. The submission points on this topic are summarised as follows:

Kāinga Ora (29.58) requested the deletion of matters of discretion 14A.7.9(e) which relates to stormwater infrastructure and overland flowpaths. Retirement Villages Association (FS 76.43) and Ryman Healthcare (FS 77.43) further submitted in support.

The North Twelve Limited Partnership (47.69) supported the matters of assessment.

OPTIONS

Option 1 – Retain non-compliance with landscaped areas matters of discretion as notified.

Option 2 – Retain non-compliance with setbacks matters of discretion as notified but delete 14A.7.9(e) which relates to stormwater infrastructure and overland flowpaths.

DISCUSSION

Kāinga Ora requested the deletion of 14A.7.9(e) which states the following:

- e. The potential adverse effects on stormwater infrastructure and overland flowpaths.*

They consider that the potential adverse effects on stormwater infrastructure and overland flow paths is more appropriately covered by the stormwater rules in Section 12 – Subdivision and Development. It is agreed that although the landscaped area does have a stormwater function

in part it is more appropriate for stormwater aspects to be considered within the District Plan where these matters are more specifically covered.

RECOMMENDATION

That Option 2 be accepted.

Retain non-compliance with setbacks matters of discretion as notified except delete 14A.7.9(e).

That the Plan Change be amended as follows:

~~e. The potential adverse effects on stormwater infrastructure and overland flowpaths.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
29	58	Kāinga Ora
FS 76	43	Retirement Villages Association
FS 77	43	Ryman Healthcare

ACCEPTED IN PART

Submission	Point Number	Name
47	69	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The changes proposed are minor and refine the matters to the issue. Accordingly, no s32AA analysis is required.

TOPIC 11 – RULE 14A.7.10 – NON-COMPLIANCE WITH RESIDENTIAL UNIT YIELD

BACKGROUND

As a performance standard to support the provision of medium-density residential development minimum yield requirements are required as a performance standard.

SUBMISSION POINTS

Two submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

Kāinga Ora (29.60) supported in part but requested the deletion of six matters of discretion. The North Twelve Limited Partnership (47.70) supported the matters of assessment.

OPTIONS

Option 1 – Retain non-compliance with residential unit yield matters of discretion as notified.

Option 2 – Retain non-compliance with residential unit yield matters of discretion as notified but delete clauses 14A.7.10(e), (i), (j), (k), (l) and (m).

DISCUSSION

Kāinga Ora supports, in part, the matters of discretion listed however, considered that these matters can be condensed to avoid repetition and to ensure that the matters are appropriate for the consideration of non-compliance with the residential unit yield. The submission also has a relationship with their submission on the related performance standard (activity performance standard 14A.4.2.A) which is discussed In the Section 42A Report – Section 14A – Part 2 – Activity Performance Standards. The outcome sought from the latter was to increase the minimum yield targets to deliver outcomes they considered more aligned with both Medium Density Residential Zone and High Density Residential Zone densities. Kāinga Ora supported clauses (a), (b), (c), (d), (f), (g) & (h).

The clauses sought to be deleted are as follows:

- e. *How the proposal provides for private space taking into account the size, orientation and shape of the space.*
- i. *How the proposal provides infrastructure services on-site in accordance with the Development Code or approved alternative.*
- j. *How the proposal utilises water sensitive urban design principles for stormwater management and ensures that attenuation is the same or better than pre-development levels.*
- k. *Whether combined vehicle crossings have been utilised to avoid the need to create separate vehicle crossings.*
- l. *Whether the distance between separate vehicle crossings would adversely affect pedestrian safety or the ability to accommodate street trees.*
- m. *How any shortfall in financial contributions is to be mitigated.*

It is agreed that the above clauses are not directly applicable to whether yields are being met or not and can be deleted. In regard to (m) although this is an important matter it is more appropriately that this is addressed in Section 11 – Financial Contributions than as a matter of discretion within S14A.7.10.

The North Twelve Limited Partnership considered the matters of discretion as being appropriate.

RECOMMENDATION

That Option 2 be accepted.

Retain non-compliance with residential unit yield matters of discretion as notified but delete clauses 14A.7.10(e), (i), (j), (k), (l) and (m).

That the Plan Change be amended as follows:

14A.7.10 Restricted Discretionary Activities – Non-Compliance with Residential Unit Yield

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (a) Residential Unit Yield, Council shall consider the following:

- a. Any geotechnical or topographical reasons for why the yield requirements cannot be met.
- b. Whether residential units which fail to meet the yield requirements can meet all other relevant activity performance standards.
- c. The extent to which the proposed yield is in response to meeting the specific living requirements of the community that the housing development type is designed for including any need for ancillary non-residential buildings.
- d. Demonstration that the land being developed will retain the potential to comply with the required yield in the future e.g. if there is a balance area proposed. This can be achieved by providing an indicative future additional residential unit layout. A consent notice or other legal mechanism may be applied to ensure future development meets the required yield requirements.
- e. ~~How the proposal provides for private space taking into account the size, orientation and shape of the space.~~
- f. The distance and accessibility to public facilities (e.g. schools, commercial areas, reserves and public transport routes).
- g. Adverse effects on existing infrastructure, including stormwater overland flowpaths.
- h. Infrastructure capacity within the subject catchment in relation to the anticipated stormwater, water, wastewater and transport demands generated by the proposed activity.
- i. ~~How the proposal provides infrastructure services on-site in accordance with the Development Code or approved alternative.~~
- j. ~~How the proposal utilises water sensitive urban design principles for stormwater management and ensures that attenuation is the same or better than pre-development levels.~~
- k. ~~Whether combined vehicle crossings have been utilised to avoid the need to create separate vehicle crossings.~~
- l. ~~Whether the distance between separate vehicle crossings would adversely affect pedestrian safety or the ability to accommodate street trees.~~
- m. ~~How any shortfall in financial contributions is to be mitigated.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
29	60	Kāinga Ora

ACCEPTED IN PART

Submission	Point Number	Name
47	70	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

The changes proposed are minor. The deletion of a number of clauses refines the matters of discretion to be more aligned with the specific performance standard. The matters deleted are considered either not specifically yield related or are better assessed in other parts of the District Plan.

Accordingly, no s32AA analysis is required.

TOPIC 12 – RULE 14A.7.11 – NON-COMPLIANCE WITH RESIDENTIAL UNIT TYPOLOGY**BACKGROUND**

To ensure that a range of building typologies was being delivered the plan change included a requirement for a specified maximum proportion of stand alone residential buildings in residential developments of six or more. This has been assessed in the Section 42A Report – Section 14A Part-2 – Activity Performance Standards, with the recommendation that this performance standard (Activity Performance Standard 14A.4.2.b.) be deleted. Accordingly, it follows that "matters of discretion" on this matter are no longer required and assessment of submissions other than to record whether accepted, accepted in part or rejected.

SUBMISSION POINTS

Five submission points were received. No further submission points were received. The submission points on this topic are summarised as follows:

Submissions were received from six parties, five requested the deletion of the entire performance standard and one Kāinga Ora requested the deletion of two clauses.

OPTION

Option 1 – Delete whole sub-section and all proposed matters of discretion for non-compliance with Residential Unit Typology as notified.

DISCUSSION

As the residential unit typology performance standard is recommended to be deleted there is no requirement for matters of discretion in this regard.

RECOMMENDATION

That Option 1 be accepted.

Delete whole sub-section and all proposed matters of discretion for non-compliance with Residential Unit Typology as notified.

That the Plan Change be amended as follows:

~~14A.7.11 Restricted Discretionary Activities – Non-Compliance with Residential Unit Typology~~

~~In considering an application that does not comply with Activity Performance Standard 14A.4.2 (b) Residential Unit Typology, Council shall consider the following:~~

- ~~a. The extent of and reasons for the non-compliance.~~
- ~~b. Whether and to what extent a variety of different housing typologies has been proposed such as duplex, terraced housing or apartments.~~
- ~~c. Whether and to what extent a variety of residential unit sizes, bedroom numbers and levels / storeys are proposed.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
26	40	Classic Group
39	30	Urban Taskforce for Tauranga
40	18	Vercoe Holdings
42	14	Brian Goldstone
47	71	The North Twelve Limited Partnership

ACCEPTED IN PART

Submission	Point Number	Name
29	61	Kāinga Ora

SECTION 32AA ANALYSIS

Please refer to Report Section 42A Report - Section 14A – Part 2 - Activity Performance Standards in regard to residential unit typology (14A.4.2.b).

TOPIC 13 – RULE 14.A.7.12 – NON-COMPLIANCE WITH MINIMUM STOREY REQUIREMENT IN THE ŌMOKOROA MIXED USE RESIDENTIAL PRECINCT

BACKGROUND

To support the mixed use component within this precinct there is a minimum requirement of buildings being two storeys (except for residential units which are permitted by complying with the density standards). Matters of discretion have been developed in regard to non-compliance with this requirement.

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

Kāinga Ora (29.62) have requested that standard 14A.7.12.b be deleted.

OPTIONS

Option 1 – Retain proposed matters of discretion for non-compliance with the minimum storey requirement in the OMURP as notified.

Option 2 – Retain proposed matters of discretion for non-compliance with the minimum storey requirement in the OMURP as notified except delete 14A.7.12.b.

DISCUSSION

Kāinga Ora seek that the following clause be deleted:

- b. The extent to which the proposal is consistent with the planned character of the Ōmokoroa Mixed Use Residential Precinct.*

The submitter considers that the ‘planned character’ is generally described in Objective 8 and Policy 17 and Kāinga Ora considers matters (a), (c) and (d) of 14A.7.12 adequately cover this without requiring (b). It is agreed that there is sufficient objective and policy direction to not require this specific matter of discretion and accordingly it is recommended that this matter be deleted.

RECOMMENDATION

That Option 2 be accepted.

Retain proposed matters of discretion for non-compliance with the minimum storey requirement in the OMURP as notified except delete 14A.7.12.b

That the Plan Change be amended as follows:

- ~~b. The extent to which the proposal is consistent with the planned character of the Ōmokoroa Mixed Use Residential Precinct.~~

The following submission is therefore:

ACCEPTED

Submission	Point Number	Name
29	62	Kāinga Ora

SECTION 32AA ANALYSIS

The changes proposed are minor and refine aspects of the matters of assessment. Accordingly, no s32AA analysis is required.

TOPIC 14 – RULE 14A.7.13 – NON-COMPLIANCE WITH IMPERVIOUS SURFACES

BACKGROUND

There are specific performance standards that set out impervious surface limits which vary depending on location and are linked to requirements of comprehensive stormwater consents and related catchment management plans.

SUBMISSION POINTS

Seven submission points were received. Two further submission points were received. The submissions on this topic are as summarised as follows:

Urban Taskforce for Tauranga (39.31), Classic Group (26.41), Brian Goldstone (42.15) and Vercoe Holdings (40.19) all seek deletion of the whole sub-section. These submissions are linked to their respective submissions in regard to the linked performance standard. Bay of Plenty Regional Council (FS 67.30, FS 67.31) lodged further submissions in opposition to the submissions from Brian Goldstone and Vercoe Holdings and requested that the proposed matters remain.

Bay of Plenty Regional Council (25.44) also made a primary submission requesting referencing and consideration of catchment management documents.

Pete Linde (19.17) sought the deletion of clause b which relates to whether the amount of impervious surfaces can be reduced by providing an additional storey.

The North Twelve Limited Partnership (47.72) supported the matters of discretion but this was subject to another submission on the actual performance standards being accepted which requested the impermeable surfaces being increased to 70% of areas within the Te Puke Stormwater Management Area.

OPTIONS

Option 1 – Retain proposed matters of discretion for non-compliance with Impervious Surfaces as notified.

Option 2 – Retain proposed matters of discretion for non-compliance with Impervious Surfaces as notified except delete clause 14A.7.13.b.

Option 3 – Retain proposed matters of discretion for non-compliance with Impervious Surfaces as notified except delete clauses that don't directly address the matter.

Option 4 – Delete whole sub-section and all proposed matters of discretion for non-compliance with Impervious Surfaces as notified.

DISCUSSION

The submissions range from deleting the entire sub-section, deletion of one clause to adding additional matters. The deletion of the entire sub-section is linked with the discussion on the linked performance standard. This is reported in the Section 42A Report – Section 14A – Part 2- Activity Performance Standards. The recommendation of that report is that the impervious surface performance standard (R14A.4.2.d) will remain and accordingly it is a requirement to have linked matters of discretion.

As proposed a number of the matters are considered to be supporting design solutions or wider potential effects rather than addressing the actual effect (which may be able to be addressed by design). An example as raised by Mr Linde is:

“b. Whether the amount of impervious surfaces can be reduced by providing an additional storey.”

Although this may be part of a design solution the actual matter of interest is whether the site can hold, treat and drain stormwater to the required standard (as is stated in clause (a)). Another example is concerns about the potential adverse effects on Council’s stormwater infrastructure and network (including capacity). Although a valid concern if the development can hold, treat and drain stormwater to the required standard then there should not be any wider adverse effects on the Council network.

It is recommended to remove those matters which are of this nature with some subsequential rewording to broaden clause (a).

Bay of Plenty Regional Council has requested additional but has not actually specified wording to include referencing and consideration of catchment management documents. Section 12 – Subdivision and Development of the District Plan includes more specific stormwater management matters. As with the concern about the wider Council network the referencing of these documents does not address the matter in contention directly.

RECOMMENDATION

That Option 3 be accepted.

Retain proposed matters of discretion for non-compliance with Impervious Surfaces as notified except delete clauses 14A.7.13. b–e, & f and amended wording of a.

That the Plan Change be amended as follows:

14A.7.13 Restricted Discretionary Activities – Non-Compliance with Impervious Surfaces

In considering an application that does not comply with Activity Performance Standard 14A.4.2 (d) Impervious Surfaces, Council shall consider the following:

- a. Whether the ~~site area not covered in impervious surfaces~~ can hold, treat and drain stormwater to the required standard.
- b. ~~Whether the amount of impervious surfaces can be reduced by providing an additional storey.~~
- e. ~~Any innovations to better store and treat stormwater on-site that requires a reduced permeable area.~~
- d. ~~The potential adverse effects on Council’s stormwater infrastructure and network (including capacity).~~
- e. ~~How additional stormwater runoff from exceeding the maximum limit of impervious surfaces is to be mitigated.~~
- f. Whether a development proposal as a whole can be demonstrated to comply with the maximum limit of impervious surfaces despite any non-compliance from an individual lot or lots.

~~g. Compliance with the Ōmokoroa and Te Puke Comprehensive Stormwater Management Plans:~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
19	17	Pete Linde

ACCEPTED IN PART

Submission	Point Number	Name
26	41	Classic Group
39	31	Urban Taskforce for Tauranga
40	19	Vercoe Holdings
42	15	Brian Goldstone
47	72	The North Twelve Limited Partnership
FS 67	30	Bay of Plenty Regional Council
FS 67	31	Bay of Plenty Regional Council

REJECTED

Submission	Point Number	Name
25	44	Bay of Plenty Regional Council

SECTION 32AA ANALYSIS

The changes proposed are minor and refine aspects of the matters of assessment. Accordingly, no s32AA analysis is required.

TOPIC 15 – RULE 14A.7.14 – NON-COMPLIANCE WITH VEHICLE CROSSINGS AND ACCESS

BACKGROUND

The proposed plan change has a specific provision that addresses the potential for the dominance of vehicle accesses and associated vehicle crossings and associated amenity and potential safety adverse effects in medium density residential development.

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

Fire and Emergency New Zealand (18.29) have requested an additional matter of discretion that considers the impacts of non-compliance on the ability to provide efficient access for emergency vehicles and service vehicles.

OPTIONS

Option 1 – Retain proposed matters of discretion for non-compliance with vehicle crossing and access as notified.

Option 2 – Retain proposed matters of discretion for non-compliance with vehicle crossing and access as notified and include an additional matter of discretion that considers the impacts of non-compliance on the ability to provide efficient access for emergency vehicles and service vehicles.

DISCUSSION

The intent of the provision is to restrict the size of vehicle accesses and associated vehicle crossings, however the submission is seeking an additional matter of discretion that considers the impacts of non-compliance on the ability to provide efficient access for emergency vehicles and service vehicles. It follows that as this matter addresses increasing the scale of access and related vehicle crossings that the concern about the ability to provide efficient access for emergency vehicles is not relevant in this context.

In regard to private ways and access lots the standards for these are addressed in Section 12 – Subdivision and Development. It can also be noted that for four or more residential units a matter of discretion includes providing efficient access for emergency vehicles and service vehicles.

Accordingly, it is assessed that the requested amendment is not required.

RECOMMENDATION

That Option 1 be accepted.

Retain proposed matters of discretion for non-compliance with vehicle crossing and access as notified.

The following submissions are therefore:

REJECTED

Submission	Point Number	Name
18	29	Fire and Emergency New Zealand

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 16– RULE 14A.7.15 – NON-COMPLIANCE WITH STREETScape

BACKGROUND

The proposed plan change has a specific provision that addresses the potential for garages and other buildings excepting residential units to dominate the frontage with the street (14A.4.2.f).

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic is summarised as follows:

The North Twelve Limited Partnership (47.73) supported the provision based on the matters of discretion being appropriate for assessment of buildings not complying with streetscape requirements.

OPTIONS

Option 1 – Retain proposed matters of discretion for non-compliance with streetscape as notified.

DISCUSSION

The only specific submission on this matter supports the provision and accordingly no change is required.

RECOMMENDATION

That Option 1 be accepted.

Retain proposed matters of discretion for non-compliance with streetscape as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	73	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 17– RULE 14A.7.16 – NON-COMPLIANCE WITH EARTHWORKS

BACKGROUND

The Plan Change as notified included specific matters that controlled/managed earthworks. This was subject to numerous submissions opposing the performance standard and related matters. This has been assessed in the Section 42A Report – Section 14A – Part 2- Activity Performance Standards, with the recommendation that this performance standard be deleted. Accordingly, it follows that "matters of discretion" on this matter are no longer required and assessment of submissions other than to record whether accepted, accepted in part or rejected.

SUBMISSION POINTS

Seven submission points were received. Two further submission points were received. The submissions points on this topic are as summarised as follows:

Urban Taskforce for Tauranga (39.32), Vercoe Holdings (40.20), Brian Goldstone (42.16) and Classic Group (26.42) requested the deletion of the whole sub-section.

Kāinga Ora (29.63) requested the deletion of two clauses and the shifting of the remaining matters of discretion to the 'district wide' section of the District Plan. Retirement Villages Association (FS 76.44) and Ryman Healthcare (FS 77.44) lodged further submissions in support of Kāinga Ora.

The North Twelve Limited Partnership (47.74) supported in part based on the matters being generally appropriate for infill and individual site development but noting that the matters are already covered by the regional council in regard to greenfield development and were not required for those works.

Jace Investments and Kiwi Green New Zealand (58.26) support the "default activity classification of RDA" but make no specific comment on the matters of discretion.

OPTION

Option 1 – Delete whole sub-section and all proposed matters of discretion for non-compliance with earthworks as notified.

DISCUSSION

As the earthworks performance standard (Rule 14A.4.2(g)) is recommended to be deleted there is no requirement for matters of discretion in this regard.

RECOMMENDATION

That Option 1 be accepted.

Delete whole sub-section and all proposed matters of discretion for non-compliance with earthworks as notified.

That the Plan Change be amended as follows: recommendation

14A.7.16 Restricted Discretionary Activities – Non-Compliance with Earthworks

~~In considering an application that does not comply with Activity Performance Standard 14A.4.2 (g) – Earthworks, Council shall consider the following:~~

- ~~a. The alteration to existing ground levels and the degree to which the resultant levels are compatible with the surrounding environment and natural landform.~~
- ~~b. The potential adverse effects on land stability.~~
- ~~c. The potential adverse effects on any building/structure, network utility or tree which is on another site or road reserve.~~
- ~~d. The ability to repair or replace a retaining wall associated with the earthworks over time without adversely affecting any residential unit or underground services.~~

- e. ~~Whether earthworks and subsequent retaining walls lead to a loss of privacy between the subject site and surrounding sites.~~
- f. ~~Amenity values associated with the shape and appearance of the existing natural landform as viewed from other sites and public places such as roads, footpaths and reserves.~~
- g. ~~Cultural values associated with the existing natural landform.~~
- h. ~~Ensuring that adequate prior notice is given to hapū prior to excavation commencement.~~
- i. ~~For Ōmōkoroa, whether the monitoring of earthworks and land disturbance is provided for. See Appendix 7.4.9.~~
- j. ~~The necessity of the earthworks as demonstrated as part of a comprehensive development or to give effect to structure plan requirements.~~
- k. ~~The extent to which any resource consent/s previously granted for earthworks have already addressed the matters in (g) – (i) above.~~
- l. ~~The ability to manage stormwater runoff and the extent to which the location, speed, volume and direction of overland flowpaths at or within close proximity to a neighbouring boundary is maintained.~~

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
26	42	Classic Group
39	22	Urban Taskforce for Tauranga
40	20	Vercoe Holdings
42	16	Brian Goldstone

ACCEPTED IN PART

Submission	Point Number	Name
29	63	Kāinga Ora
47	74	The North Twelve Limited Partnership
FS 76	44	Retirement Villages Association
FS 77	44	Ryman Healthcare

REJECTED

Submission	Point Number	Name
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58	26	Jace Investments and Kiwi Green New Zealand
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SECTION 32AA ANALYSIS

Please refer to analysis in the Section 42A Report – Section 14A – Part 2- Activity Performance Standards – Topic 23.

TOPIC 18 – RULE 14A.7.17 – NON-COMPLIANCE WITH HEIGHT OF FENCES, WALLS AND RETAINING WALLS

BACKGROUND

The Plan Change includes performance standards that prescribe the maximum permitted height for fences, walls and retaining walls.

SUBMISSION POINT

One submission point was received. No further submission points were received. The submission point on this topic summarised as follows:

The North Twelve Limited Partnership (47.75) supported the provision based on the matters of discretion being appropriate for assessment of buildings not complying with streetscape requirements.

OPTIONS

Option 1 – Retain proposed matters of discretion for non-compliance with streetscape as notified.

DISCUSSION

The only submission supports the provision and accordingly no change is required.

RECOMMENDATION

That Option 1 be accepted.

Delete proposed matters of discretion for non-compliance with streetscape as notified.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
47	75	The North Twelve Limited Partnership

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is required.

TOPIC 19 – RULE 14.A.7.19 – DISCRETIONARY AND NON-COMPLYING ACTIVITIES –GENERAL

BACKGROUND

Matters of assessment for discretionary activities are included in the operative District Plan sections for Residential and Medium-Density Residential. For consistency the same approach has been used for Section 14A – Ōmokoroa and Te Puke Medium Density Residential.

SUBMISSION POINTS

Two submission points were received. No further submissions were received. The submission points on this topic are summarised as follows:

Urban Taskforce for Tauranga (39.33) and Classic Group (26.43) requested the deletion of the whole sub-section.

OPTIONS

Option 1 – Retain proposed matters of assessment for discretionary and non-complying activities as notified.

Option 2 – Retain proposed matters of assessment for discretionary and non-complying activities as notified except remove repetition and unnecessary references.

Option 3 – Delete whole sub-section and all proposed matters of assessment for discretionary and non-complying activities as notified.

DISCUSSION

Both submissions stated that *“providing guidance for considering discretionary and non-complying activities is unnecessary.”* The submitters noted that the relevant matters are as set out in Section 104 of the RMA.

It is agreed that Section 104, 104B and 104D of the RMA sets out generally the matters to be considered when assessing resource consent applications that are either discretionary (104, 104B) or non-complying (104, 104B, 104D) however this does not mean that specific matters cannot be identified for assessment. This is utilised in this section of the District Plan currently i.e. Medium Density Residential and other sections and helps ensure that applications cover such matters. To not have a similar approach within the same overall section would be inconsistent.

It is considered however that the actual matters can be reviewed under these submissions. There are some matters which effectively repeat the Act such as relevant objectives and policies and can be deleted. There are other matters that are effectively covered by cross reference to restricted discretionary matters and do not require repeating. The matters also include two documents that are external to the District Plan and it is considered that there should not be any mandatory requirement to address these although noting that applicants can still do.

To be consistent with the District Plan layout and to provide additional direction on matters that should be addressed it is recommended that the sub-section be retained but be amended to reduce repetition or unnecessary references.

RECOMMENDATION

That Option 2 be accepted.

Retain proposed matters of assessment for discretionary and non-complying activities as notified except remove repetition and unnecessary references.

That the Plan Change be amended as follows:

14A.7.19 Discretionary and Non-Complying Activities – General

In considering an application for a discretionary or non-complying activity, Council's assessment shall include but is not limited to the following:

- ~~a. Relevant objectives and policies.~~
- b. The extent of non-compliance (if any) with the activity performance standards and the actual and potential effects on the environment.
- c. The matters of discretion in 14A.7.1 – 14A.7.157.
- ~~d. How well the development integrates with the surrounding development, land use and zoning.~~
- ~~e. Consistency with the Ngā tohutohu hoahoa ā-motu mō te wharenoho mātoru-waenga National medium density design guide.~~
- ~~f. Consistency with Council's "Residential Design Outcomes – How to Achieve Quality Residential Developments".~~
- ~~g. What provision is made for pedestrian and vehicular access.~~
- ~~h. The adverse effects on the amenity values of residential and reserve land.~~
- i. In the Ōmokoroa Mixed Use Residential Precinct, the impacts of commercial activities exceeding the permitted gross floor area upon the economic viability and vitality of the neighbouring Ōmokoroa Town Centre.

The following submissions are therefore:

ACCEPTED IN PART

Submission	Point Number	Name
26	43	Classic Group
39	33	Urban Taskforce for Tauranga

SECTION 32AA ANALYSIS

The changes proposed are minor and refine aspects of the matters of assessment. Accordingly, no s32AA analysis is required.

