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**IN THE ENVIRONMENT COURT  
AT WELLINGTON**

**I TE KŌTI TAIAO O AOTEAROA  
KI TE WHANGANUI-A-TARA ROHE**

**ENV-2024-WGTN-**

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**IN THE MATTER OF**

**of the Resource Management Act 1991**

**AND IN THE MATTER OF**

**Proposed Plan Change 3 'Urban Form and  
Development' to the Consolidated  
Regional Policy Statement, Regional Plan  
and Regional Coastal Plan for the  
Manawatū-Whanganui Region (One Plan)**

**BETWEEN**

**MINISTER OF DEFENCE**

**Applicant**

**AND**

**MANAWATŪ-WHANGANUI REGIONAL  
COUNCIL**

**Respondent**

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISIONS ON THE  
PROPOSED PLAN CHANGE 3 TO THE REGIONAL POLICY STATEMENT FOR THE  
MANAWATŪ-WHANGANUI REGIONAL COUNCIL**

**23 August 2024**

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**CROWN LAW  
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**TO:** The Registrar  
Environment Court  
Wellington

## **INTRODUCTION**

1. The Minister of Defence (the **Minister**) appeals against parts of the decision by the Manawatū-Whanganui Regional Council in respect of Proposed Plan Change 3 **Proposed PC3**). Proposed PC3 is intended to amend the Urban Form and Development chapter of the Regional Policy Statement (**RPS-UFD**) component of the Manawatū-Whanganui One Plan to give effect to the National Policy Statement on Urban Development 2020 (**NPS-UD**).
2. The Minister, through the New Zealand Defence Force (the **NZDF**), made a submission on 15 November 2022 seeking appropriate recognition of the potential adverse effects of urban development on NZDF infrastructure in the Manawatū-Whanganui region.
3. A copy of that submission is included as **Appendix A**.
4. The Minister made a further submission on 24 February 2023. A copy of that further submission is included as **Appendix B**.
5. The Hearing Panel appointed by the Council to hear and make recommendations on submissions on Proposed PC3 recommended that NZDF's submissions on UFD-O3 be approved in part. The Hearing Panel recommended that the NZDF's submissions to include reference to infrastructure and other physical resources (as that term is identified in the Energy, Infrastructure and Transport chapter of the RPS (RPS-EIT)) in UFD-I3 and UFD-P4 be declined. The Panel's recommendations were accepted by the Council (the **Decision**).
6. A copy of the Decision is included as **Appendix C**.
7. The Minister is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
8. The Minister received notice of the Plan Change on 12 July 2024.

## REASONS FOR THE APPEAL

9. The reasons for the appeal are that the Decision does not promote the sustainable management of resources in accordance with section 5 of the RMA in that it:
  - 9.1 does not manage the use, development, and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, as required by section 5 of the RMA;
  - 9.2 does not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as required by section 5 of the RMA;
  - 9.3 does not promote the efficient use and development of natural and physical resources; and
  - 9.4 does not represent the most appropriate way to achieve the objectives of the RPS as required by section 32 of the RMA.
10. Without limiting the generality of paragraph 9, the Minister's specific reasons for appealing are that:
  - 10.1 Defence facilities are nationally and regionally significant and are critical to enabling NZDF to meet Defence purposes set out in section 5 of the Defence Act 1990.
  - 10.2 Urban development proximate to NZDF facilities can lead to reverse sensitivity issues for those facilities.
  - 10.3 The importance of NZDF facilities is recognised in the One Plan, particularly NZDF facilities are within the term "infrastructure and physical resources of regional or national importance" (as

identified in the **RPS-EIT**).<sup>1</sup>

- 10.4 NZDF facilities are not appropriately and consistently addressed in the decision version of Proposed PC3.

#### **RELIEF SOUGHT**

11. The Minister seeks the following relief (additions shown in underline, removals shown as ~~striketrough~~):

*RPS-UFD-13*

RPS-UFD-13 is amended as follows:

Growth in urban environments\* that is not well planned and integrated with infrastructure^, (including infrastructure and physical resources of regional or national importance (as identified in RPS-EIT-P1)) and other required services may result in urban environments\* that do not function well. This can lead to effects\* on the urban and natural environment including for example, freshwater^, effects\* on existing infrastructure (including infrastructure and physical resources of regional or national importance (as identified in RPS-EIT-P1)), and lack of resilience to the effects of climate change^.

These issues can also apply to smaller towns and settlements whose functioning is influenced by the way in which growth and development occurs...<sup>2</sup>

*RPS-UFD-03*

RPS-UFD-03 is amended as follows:

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<sup>2</sup> Following the One Plan, ^ means the word has the meaning in the RMA, \* means the word has the meaning as defined in the Definitions of the One Plan at 1-25 onwards.

The intensification and expansion of urban environments\* that:

- (1) contributes to well-functioning urban environments that ...
- (f) ~~manage~~ avoid adverse effects\* on the operation, maintenance and upgrade of nationally significant infrastructure\*, including infrastructure and other physical resources^ of regional or national importance (as identified in RPS-EIT-P1).

*RPS-UFD-P4*

RPS-UFD-P4 is amended to say:

- (1) Intensification and expansion of urban environments\* is provided for and enabled in district plans^ where:...
- (f) ~~to the extent reasonably possible,~~ the operation, maintenance and upgrade of nationally significant infrastructure\* (and infrastructure and physical resources of regional or national importance (as identified in RPS-EIT-E1)) ~~are~~ is-not compromised, and  
—  
...
- (2) In addition to meeting the criteria in (1) above, the expansion of urban environments\* must only occur where it:
  - (d) ~~manages~~ avoids adverse reverse sensitivity effects\* on land\* with existing incompatible activities, including adjacent to the urban environment\* boundary, and

- (e) ~~to the extent reasonably possible,~~ does not compromise the operation, maintenance and upgrade of nationally significant infrastructure\* (and infrastructure and physical resources of regional or national importance (as identified in RPS-EIT-E1)).

11.1 Any such alternative or consequential amendments required to give effect to this relief.

**ATTACHMENTS**

Appendix A - The Minister's submission on Proposed PC3 submission

Appendix B – The Minister's further submission on Proposed PC3

Appendix C - Manawatū-Whanganui Regional Council *Hearing of Submissions and Further Submissions on Proposed Plan Change 3: Report and Recommendations of Commissioners (2024)*

Appendix D - Names and addresses of persons served with this notice is included



## Submission on Proposed Plan Change 3 (Urban Form & Development) - Horizons One Plan

**To:** Horizons Regional Council  
**Email:** [submissions@horizons.govt.nz](mailto:submissions@horizons.govt.nz)

**Submitter:** New Zealand Defence Force  
**Contact Person:** Lucy Edwards, Senior Statutory Planner

**Address for Service:** New Zealand Defence Force  
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Auckland 1142  
Attention: Karen Baverstock

**Phone:** 021 934 270 / 021 966 140  
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- 1 The New Zealand Defence Force (NZDF) has military interests throughout New Zealand including in the Manawatu-Wanganui Region. This includes the Linton Military Camp located near Palmerston North, as well as the Raumai Weapons Range near Whanganui, RNZAF Base Ohakea and the Waiouru Military Camp and training area.
- 2 Palmerston North is an 'urban environment' as defined in the National Policy Statement on Urban Development (NPS-UD)<sup>1</sup>. The nearby Linton Military Camp is the largest Army base in New Zealand and is extensively used for housing, training facilities including a rifle range, office accommodation and vehicle and equipment storage and maintenance. There are over 2,000 personnel based at the Linton Military Camp. As well as being essential for fulfilling NZDF's role under the Defence Act 1990, the Camp makes a significant contribution to the economic and social well-being of Palmerston North as well as the wider Manawatū-Whanganui Region.
- 3 Proposed Plan Change 3: Urban Development (PC3) sets out objectives and policies to give effect to the NPS-UD. Specifically it seeks to enable sufficient development capacity to meet expected demand, and for the planning of well-functioning urban environments. NZDF recognises the requirement to give effect to the NPS-UD and the need for development and the benefits that this can bring. It is not opposed to development and intensification provided that its interests, which include the ongoing operation of Defence facilities, are protected now and into the future.
- 4 NZDF, on behalf of the Minister of Defence, is highly conscious of:

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<sup>1</sup> Whanganui, Levin and Fielding are also defined as urban environments.



- a. The role of defence facilities including the Linton Military Camp as strategic infrastructure and the recognition given to it under the Horizons One Plan Regional Policy Statement (RPS) as being '*a physical resource of regional or national importance*'.
  - b. The need to preserve the operational and training capabilities of the Military Camp so that it can be used to meet NZDF's obligations under section 5 of the Defence Act 1990.
  - c. The potential for development within Palmerston North to occur in proximity to the Linton Military Camp (PC3 UFD-13 recognises that development pressures often occur on the fringes of some of the Region's urban areas. A recent example of this being the Kākātangiata urban growth area located to the north of the Linton Military Camp).
- 5 Accordingly, the position of NZDF is that development must be appropriately located and designed in relation to established infrastructure, and needs to be managed in a way that avoids effects on regionally or nationally significant infrastructure.
  - 6 The existing provisions of the RPS appropriately provide for this approach. Specifically the provisions in Chapter 3: *Infrastructure, Energy, Waste, Hazardous Substances and Contaminated Land* including Objective 3.1 and Policies 3.1 and 3.2. However there is no connection between these existing RPS provisions and PC3. Considering the directive nature of the NPS-UD and associated PC3 provisions, there is the potential for these to be given primacy over other provisions within the RPS.
  - 7 This gap is acknowledged in the Section 32 Report, specifically in relation to the alternatives considered in Section 9 of this report<sup>2</sup> and the gap analysis contained in Appendix D. As noted in the Section 32, an integrated review of these matters, which includes infrastructure, with supporting evidence, is necessary to ensure a coherent response and to avoid inconsistency/conflict within the RPS. This more integrated approach was not supported given statutory and resource/capacity constraints, noting a more holistic review can occur when the RPS is reviewed as part of future works programmes.
  - 8 While acknowledging the constraints on a more fulsome review, NZDF notes there is no certainty regarding the scope or timing of a future review to ensure greater integration between existing and proposed RPS provisions. In the interim, further clarity is required on the relationship between PC3 and existing RPS provisions.
  - 9 NZDF therefore requests the changes set out below (or wording to similar effect). Proposed changes to PC3 are shown in green underlined text.

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<sup>2</sup> Alternative 2 is to expand the scope of the PPC to address all environmental issues arising from urban development.

## Issues

### UFD-I3: Demand for housing, business land\*, infrastructure^ and community services\*

A growing population increases demand for housing, business land\*, infrastructure^ and community services\*. Growth needs to be provided for in a way that contributes to well-functioning urban environments\*, is integrated with infrastructure^ planning and funding decisions, manages effects\* on the urban and natural environment and on infrastructure and physical resources of regional or national importance, and improves resilience to the effects\* of climate change^.

## Objectives

### UFD-O3: Urban form and function

The intensification and expansion of urban environments\*:

- (1) contributes to well-functioning urban environments\* that
  - (a) enable all people, communities and future generations to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future,
  - (b) increase housing capacity and housing choice,
  - (c) achieve a quality, sustainable and compact urban form that relates well to its surrounding environment,
  - (d) are well connected by a choice of transport modes including public transport\*, ~~and~~
  - (e) protects infrastructure and physical resources of regional or national importance and provides for its ongoing operation, and
  - (e) manage adverse environmental effects\*.

## Policies

### UFD-P4: Urban intensification and expansion

(1) Intensification and expansion of urban environments\* is provided for and enabled in district plans^ where:

- (a) it contributes to a well-functioning urban environment\*,
- (b) it provides for a range of residential areas that enable different housing types, site\* size and densities that relate well to the surrounding environment,
- (c) higher density development is in close proximity to centre zones\*, public transport\*, community services\*, employment opportunities, and open space,
- (d) development is well serviced by existing or planned development infrastructure\* and public transport\*, and additional infrastructure\* required to service the development capacity\* is likely to be achieved, and
- (e) it protects natural and physical resources that have been scheduled within the One Plan in relation to their significance or special character.

(2) In addition to meeting the criteria in (1) above, the expansion of urban environments\* must only occur where it:

- (a) is adjacent to existing or planned urban areas,

- (b) will not result in inefficient or sporadic patterns of settlement and residential growth and is an efficient use of the finite land resource,
- (c) is well-connected along transport corridors,
- (d) manages adverse reverse sensitivity effects\* on land with existing incompatible activities adjacent to the urban environment\* boundary, and avoids adverse effects, including reverse sensitivity effects, on infrastructure and resources of regional or national importance.

NZDF **could not** gain an advantage in trade competition through this submission.

NZDF is directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade environment or the effect of trade competition.

NZDF **wishes to be heard** in support of this submission. If others make a similar submission, **we will consider** presenting a joint case with them at the hearing.



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Person authorised to sign  
on behalf of New Zealand Defence Force

Date 15/11/2022



New Zealand Defence Force  
Defence Estate and Infrastructure  
NZDF Headquarters  
Private Bag 39997  
Wellington 6045

## Further Submission on Proposed Plan Change 3 (Urban Form & Development) – Horizons One Plan

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Palmerston North 4442

**Email:** [submissions@horizons.govt.nz](mailto:submissions@horizons.govt.nz)

**Submitter:** New Zealand Defence Force

**Contact Person:** Lucy Edwards, Senior Statutory Planner, Defence Estate and Infrastructure

**Address for Service:** New Zealand Defence Force  
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Wellington 6045  
Attention: Lucy Edwards

**Phone:** +64 21 934 270

**Email:** [lucy.edwards@nzdf.mil.nz](mailto:lucy.edwards@nzdf.mil.nz)

This is a further submission by the New Zealand Defence Force (NZDF) on proposed Plan Change 3 (Urban Form & Development) – Horizons One Plan.

NZDF has an interest in the proposal that is greater than the interest of the general public as NZDF represents a relevant aspect of the public interest<sup>1</sup>.

The table annexed as **Appendix A** and forming a part of this further submission contains:

1. The submissions which NZDF supports or opposes;
2. The particular parts of those submissions supported or opposed;
3. Reasons for support or opposition; and
4. The decision sought by NZDF (whether the submission should be allowed or disallowed).

NZDF **does** wish to be heard in support of its further submission. If others make a similar submission, NZDF will consider presenting a joint case with them at a hearing.

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<sup>1</sup> Set out in section 5 of the Defence Act 1990

A copy of this further submission has been sent to each person who made the original submission.

A handwritten signature in black ink, appearing to be 'L. Edwards', written in a cursive style.

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Person authorised to sign  
on behalf of New Zealand Defence Force

Date 24/02/2023

## Appendix A: Further Submissions on Plan Change 3

Ref#	NZDF supports or opposes the submission of:	Support or opposition	The particular part of the submission NZDF supports or opposes is:	The reasons for NZDF support or opposition are:	NZDF seeks the following:
1	Transpower	Support in part	UFD-O3	<p>NZDF supports this submission point in so far as it seeks to provide for protection of infrastructure through the management of effects of intensification and expansion of urban environments. The ongoing protection and operation of defence facilities is of primary importance for NZDF.</p> <p>However, NZDF deems it more appropriate to refer to 'Infrastructure^ and other Physical Resources of Regional or National Importance' (as set out in Policy 3-1). The list of 'Infrastructure and other Physical Resources of Regional and National Importance' set out at Policy 3-1 includes Transpower assets and would provide a more tailored region-specific definition than the NPS-UD definition.</p>	<p>The submission be allowed with amendments.</p> <p>A definition of 'Infrastructure^ and other Physical Resources of Regional or National Importance' be added that refers back to Policy 3-1.</p>
2	Transpower	Support in part	UFD-P4	<p>NZDF supports this submission point in so far as it seeks to provide for protection of infrastructure through the management of effects of intensification and expansion of urban environments. The ongoing protection and operation of defence facilities is of primary importance for NZDF.</p> <p>However, NZDF deems it more appropriate to refer to 'Infrastructure^ and other Physical Resources of Regional or National Importance' (as set out in Policy 3-1).</p>	<p>The submission be allowed with amendments.</p> <p>A definition of 'Infrastructure^ and other Physical Resources of Regional or National Importance' be added that refers back to Policy 3-1.</p>
3	Transpower	Support	UFD-P6	<p>NZDF supports the proposed amendments to this provision, particularly the second alternative that proposes to remove "as far as reasonably practicable", on the basis that it would provide greater direction to the user of the plan.</p> <p>NZDF considers it necessary that a definition of 'Infrastructure^ and other Physical Resources of Regional or National Importance' be added that refers back to Policy 3-1.</p>	<p>The submission be allowed.</p> <p>A definition of 'Infrastructure^ and other Physical Resources of Regional or National Importance' be added that refers back to Policy 3-1.</p>

<i>Ref#</i>	<i>NZDF supports or opposes the submission of:</i>	<i>Support or opposition</i>	<i>The particular part of the submission NZDF supports or opposes is:</i>	<i>The reasons for NZDF support or opposition are:</i>	<i>NZDF seeks the following:</i>
4	Transpower	Oppose	Definitions	The Horizons Plan contains a very specific list of “Infrastructure^ and other Physical Resources of Regional or National Importance” in Policy 3-1 and therefore NZDF considers that a definition reflective of this approach is more appropriate.	Reject the proposed changes by Transpower.  A definition of ‘Infrastructure^ and other Physical Resources of Regional or National Importance’ be added that refers back to Policy 3-1.
5	KiwiRail	Support	UFD-11	NZDF supports the inclusion proposed by KiwiRail to recognise urban development and land use changes can result in reverse sensitivity effects, and that the interfaces between conflicting land uses must be appropriately managed. Reverse sensitivity is a key concern for NZDF as it has the potential to impact on the ongoing safe and efficient operation of defence facilities.	The submission be allowed.
6	KiwiRail	Support in part	UFD-13	NZDF supports the amendment proposed by KiwiRail to recognise that growth needs to be provided for in a way that avoids the potential for reverse sensitivity effects. However, NZDF considers that ‘transport corridors’ should be broadened to read “Infrastructure^ and other Physical Resources of Regional or National Importance” to recognise that potential reverse sensitivity effects affect a number of different infrastructure facilities and assets, including defence facilities.	The submission be allowed.  If the submitter’s relief is accepted, then “Infrastructure^ and other Physical Resources of Regional or National Importance” should replace “transport corridors”
7	KiwiRail	Support	UFD-O1	NZDF support the inclusion proposed by KiwiRail to ensure reverse sensitivity effects are appropriately managed.	The submission be allowed.
8	KiwiRail	Support in part	UFD-P1	NZDF support the amendment proposed by KiwiRail to recognise that growth needs to be provided for in a way that avoids the potential for reverse sensitivity effects. However, NZDF considers that ‘transport corridors’ should be broadened to read “Infrastructure^ and other Physical Resources of Regional or National Importance” to recognise that potential reverse sensitivity effects affect a number of different infrastructure facilities and assets, including defence facilities.	The submission be allowed.  If the submitter’s relief is accepted, then “Infrastructure^ and other Physical Resources of Regional or National Importance” should replace “transport corridors”

<i>Ref#</i>	<i>NZDF supports or opposes the submission of:</i>	<i>Support or opposition</i>	<i>The particular part of the submission NZDF supports or opposes is:</i>	<i>The reasons for NZDF support or opposition are:</i>	<i>NZDF seeks the following:</i>
9	KiwiRail	Support	UFD-P2	NZDF support the inclusion proposed by KiwiRail to ensure reverse sensitivity effects on infrastructure, are carefully managed but considers that it should read "safe and efficient operation of 'infrastructure^ and other Physical Resources of Regional or National Importance' for consistency with the Plan and points above.	The submission be allowed with amendments.  If the submitter's relief is accepted, then "Infrastructure^ and other Physical Resources of Regional or National Importance" should replace "infrastructure, including transport corridors"



## Address of submitters

Submitter	Address
Transpower	C/o: Trudy Burney Transpower 31 Gilberthorpes Road, Islington 8042, Christchurch environment.policy@transpower.co.nz
KiwiRail	C/o: Pam Butler KiwiRail Holdings Limited Private Bag 92138, Victoria Street West, Auckland 1142

# "Appendix C"

**Manawatū-Whanganui Regional Council**

**Hearing of Submissions and Further Submissions**

**on**

**Proposed Plan Change 3**

**Report and Recommendations of Commissioners**

**Commissioners**

**Trevor Robinson (Chair)**

**Elizabeth Burge**

**Fiona Gordon**

**Miria Pomare**

## TABLE OF CONTENTS

1. INTRODUCTION .....	3
2. SUMMARY OF PLAN CHANGE 3 AS NOTIFIED .....	13
3. INFRASTRUCTURE .....	16
4. TERRITORIAL AUTHORITY MATTERS .....	28
5. CONSISTENCY WITH THE NPSHPL .....	42
6. ACTIVE AND PUBLIC TRANSPORT .....	49
7. CLIMATE CHANGE ADAPTATION .....	54
8. REMAINING GENERAL SUBMISSIONS .....	62
9. OTHER MATTERS .....	67
10. CONCLUSIONS .....	68

## 1. INTRODUCTION

### 1.1 Background and Appointment of Hearing Panel

1. The subject of this Report is Plan Change 3 to the Manawatū-Whanganui (**Horizons**) Regional Plan, otherwise known as the **One Plan**, which seeks to give effect to the National Policy Statement for Urban Development 2020 (**NPSUD**).
2. The One Plan is made up of both Regional Policy Statement and Regional Plan components. Plan Change 3 amends only Regional Policy Statement components.
3. Plan Change 3 was notified on 17 October 2022.
4. 19 Submissions and (after the summary of those submissions was notified) three further submissions were received on Plan Change 3.
5. Manawatū-Whanganui (**Horizons**) Regional Council appointed a 4 person Hearing Panel to hear and make recommendations on those submissions and further submissions, made up of:
  - (a) Trevor Robinson (Barrister and Independent Chair);
  - (b) Elizabeth Burge (Planner and Independent Commissioner);
  - (c) Fiona Gordon (Councillor);
  - (d) Miria Pomare (Independent Commissioner).
6. We record that Commissioner Gordon identified a personal conflict she had with Transpower New Zealand. As a result, she took no part on the hearing of or our deliberations on Transpower's submission.

### 1.2 Hearing Arrangements

7. To assist the efficient operation of the hearing, the Hearing Panel made detailed procedural directions for the conduct of the hearing including provision for pre-circulation of the Section 42A Report (of which Ms Leana Shirley was the Reporting Officer), expert submitter evidence, rebuttal evidence, legal submissions and other submitter presentations.
8. The hearing commenced on 7 February 2024 and concluded at 12:15pm the following day.
9. Over the course of the hearing we heard from the following parties:

- (a) For Horizons Regional Council:
- Nick Jessen (Counsel);
  - Leana Shirley (Planning);
- (b) For Transpower New Zealand Limited (**Transpower**)<sup>1</sup>:
- Rebecca Eng;
  - Pauline Whitney (Planning);
- (c) For Palmerston North City Council<sup>2</sup>:
- Keegan Aplin-Thane;
- (d) For New Zealand Defence Force (**NZDF**)<sup>3</sup>:
- Rebecca Davies;
- (e) For Manawatū District Council<sup>4</sup>:
- Matthew Mackay (Planning)
- (f) For Rangitīkei District Council<sup>5</sup>:
- Katrina Gray and Tiffany Gower (Planning);
- (g) For Fonterra Limited (**Fonterra**)<sup>6</sup>:
- Alice Gilbert (Counsel);
  - Suzanne O'Rouke;
  - Emma Hilderink-Johnson (Planning);
- (h) For Horowhenua District Council<sup>7</sup>:
- Lauren Baddock and Lisa Poynton (Planning).

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1 Submitter S1

2 Submission S11)

3 Submission S15 and Further Submission FS1

4 Submission S10

5 Submission S12

6 Submission S14 and Further Submission FS2

7 Submission S7

10. We also received tabled statements on behalf of KiwiRail Holdings Limited<sup>8</sup> and NZ Transport Agency Waka Kotahi<sup>9</sup>.
11. At the conclusion of the hearing, we varied our previous timetabling direction and fixed the date for Council Reply as 6 March. Subsequently we issued a Minute outlining issues on which we would be particularly assisted by receiving further feedback from the Reporting Officer, Ms Shirley and/or Mr Jessen as counsel for Horizons Regional Council.
12. Still later, we received an informal request from Ms Shirley to enlarge the date for Reply. Given that the only party affected by such an enlargement was the Hearing Panel itself, we advised that a short extension would be acceptable. We received the Council's Reply on 8 March 2024.

### 1.3 Statutory Framework

13. As above, Plan Change 3 seeks to make amendments to the Regional Policy Statement section of the One Plan.
14. Section 59 of the Resource Management Act 1991 (RMA) states:

*“The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues in the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.”*
15. Section 61(1)(da) states separately that regional councils must prepare and change their Regional Policy Statements in accordance with, among other things, a National Policy Statement and a National Planning Standard. Section 62(3) of the RMA states separately that a region must give effect to a National Policy Statement and a National Planning Standard.
16. The expressed purpose of Plan Change 3 was to give effect to the NPSUD. Other National Policy Statements of potential relevance to Plan Change 3 are the National Policy Statement on Electricity Transmission 2008 (**NPSET**), the National Policy Statement for Freshwater Management 2020 (**NPSFM**), the National Policy Statement for Highly Productive Land 2022 (**NPSHPL**) and the National Policy

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<sup>8</sup> Submission S4

<sup>9</sup> Submission S2

Statement for Indigenous Biodiversity 2023 (**NPSIB**). We discuss each of these higher order documents in greater detail later in this Report.

17. National Planning Standards were Gazetted in 2019. The Section 32 evaluation supporting Plan Change 3 recorded<sup>10</sup> the fact that Plan Change 3 had been prepared so as to be consistent with the National Planning Standards 2019.
18. Section 61(2) of the RMA further directs that when changing a Regional Policy Statement, the Regional Council shall have regard to, among other things, management plans and strategies prepared under other Acts, the extent to which the Regional Policy Statement needs to be consistent with the policy statements and plans of adjacent Regional Councils, any Emissions Reduction Plan made in accordance with Section 5Z1 of the Climate Change Response Act 2002, and any National Adaptation Plan made in accordance with Section 5ZS of the same Act.
19. The Section 32 Evaluation Report notes a number of relevant regional and local policies, plans and strategies at Section 3.3.2, including the Regional Land Transport Plan, the Regional Public Transport Plan, the Wellington Regional Growth Framework (which includes Horowhenua District), and the Horowhenua Growth Strategy 2040. We adopt the Section 32 Report's summary of the relevant provisions in these various documents and have taken account of them.
20. Neither the Section 32 Report nor the Section 42A Report drew our attention to any relevant provisions in the policy statements and plans of adjacent Regional Councils. We did not discuss the reasons for this with Ms Shirley, but we would assume that this is because the urban environments the subject of Plan Change 3 are all internal to the region, that is to say they are not near a regional boundary where their development might need to be consistent with the policy statements and plans of the adjacent Regional Council. Levin is a potential exception in this regard, due to the links between it and the Wellington urban environment. However, we are aware that Change 1 to the Wellington Regional Policy Statement, which seeks among other things to give effect to the NPSUD in the Wellington Region, is proceeding in parallel with Plan Change 3, and that decisions on it are not yet available.
21. Neither the Section 32 Report nor Ms Shirley's Section 42A Report discussed the potential relevance of the Emissions Reduction Plan and National Adaptation Plan prepared in accordance with the Climate Change Response Act 2002. However, we

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<sup>10</sup> At page 8

note that Method 2 inserted by Plan Change 3 records the relevance of targets set in the Emissions Reduction Plan in decision-making and UFD-P8 addresses climate change issues, including adaptation to the effects of climate change, more generally.

22. Lastly, in terms of relevant statutory inputs, we note the direction in Section 61(2A) that when changing a Regional Policy Statement, Council must take into account “*any relevant planning document recognised by an iwi authority*”. Section 3.3.1 of the Section 32 Evaluation Report noted a number of potentially relevant iwi planning documents, as follows:
- (a) Ngāti Rangi Taiao Management Plan;
  - (b) Ngaa Rauru Kītahi Puutaiao Management Plan;
  - (c) Te Kāuru Eastern Manawatū River Hapū Collective Te Kāuru Taiao Strategy;
  - (d) Ngāti Maniapoto Ko Ta Maniapoto Mahere Taiao;
  - (e) Ngāti Tuwharetoa Iwi Environmental Management Plan;
  - (f) Ki Uta, Ki Tai, Nga Puna Rau o Rangitikei, Catchment Strategy and Action Plan;
  - (g) He Mahere Putahitanga – a pan-tribal iwi planning document on behalf of the Central North Island Forests.
23. Some of these documents were identified as having no provisions specifically relating to urban development, but the Evaluation Report summarised relevant provisions in those that did. We note in particular that the Ngāti Rangi Taiao Management Plan seeks that future housing development projects will promote sustainable living, and Ko Ta Maniapoto Mahere Taiao provisions seeking to enable the people of Maniapoto to develop papakāinga and marae, promoting and supporting urban planning to reduce transport emissions, ensuring new land use developments use low impact urban design and sustainable options for on-site stormwater management and that urban planning and development be conducted in accordance with best practice principles.
24. Having noted matters of statutory relevance, we record finally, among matters that are not relevant, the provisions of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Our reading of that Amendment Act was that it applies only to ‘Specified Territorial Authorities’ and that none of the



territorial authorities making up the Horizons Region qualified as such. Counsel for Horizons Regional Council confirmed his agreement with our assessment.

#### 1.4 NPSUD

25. Because the purpose of Plan Change 3 is to give effect to the NPSUD, it is important that we have a clear understanding as to what that document provides for.

26. We note first that the NPSUD applies to urban environments. The definition of urban environment is as follows:

*“Means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:*

*(a) is, or is intended to be predominantly urban in character; and*

*(b) is, or is intended to be party, of the housing and labour market of at least 10,000 people.”*

27. Our understanding is that Palmerston North, Whanganui, Levin and Feilding qualify as urban environments although we note Ms Baddock’s view (for Horowhenua District Council) that Foxton, Foxton Beach and Shannon are all sufficiently close to Levin to be classed as part of the Levin urban environment.

28. Ms Baddock had no evidence of the extent of movement between these outlying settlements and Levin and so we make no finding on that question. We accept, however, that the open ended nature of the definition means that one should not assume that each identified urban area stops where identifiably urban development stops.

29. It is, however, these urban areas whose development Plan Change 3 seeks to provide policy direction.

30. The NPSUD further categorises urban developments into three tiers, Tier 1, Tier 2 and Tier 3. Tier 1 and 2 are listed in the Appendix to the NPSUD. Palmerston North is identified as a Tier 2 urban environment. Whanganui, Levin and Feilding are not listed in the Appendix and as a result, they qualify as Tier 3 urban environments.

31. There is a separate definition of local authorities also in three tiers, depending on the nature of the urban environments they have within their boundaries. Horizons Regional Council and Palmerston North City Council are accordingly Tier 2 local

authorities. Whanganui District Council, Manawatū District Council and Horowhenua District Council are Tier 3 local authorities.

32. The key objective of the NPSUD is that New Zealand:

*“...has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, now and into the future” (Objective 1).*

33. Policy 1 provides guidance on the key elements of a well-functioning urban environment. As counsel for Fonterra drew to our attention, Policy 1 is expressed in an inclusive manner. There may be other aspects of well-functioning urban environments other than those listed.

34. Other objectives of the NPSUD focus on:

(a) Improvement to housing affordability (Objective 2)

(b) Enabling more people to live in areas that are suitable for urban development by reason of employment opportunities, public transport services or high demand (Objective 3):

(c) Providing for change in New Zealand’s urban environments, including to amenity values (Objective 4);

(d) Taking into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (Objective 5);

(e) Integrated strategic and responsive decision-making at local authority level (Objective 6);

(f) Robust and frequently updated information to inform planning decisions (Objective 7); and

(g) Urban environments that both support reductions in greenhouse gas emissions and are resilient to climate change effects now and in the future (Objective 8).

35. A key direction in Policy 3 is that all tiers of local authorities provide:

*“at least sufficient development capacity to meet expected demand for housing and for business land over the short-term<sup>11</sup>, medium term<sup>12</sup> and long-term<sup>13</sup>.”*

36. Policy 5 directs that Regional Policy Statements applying to Tier 2 and 3 urban environments enable heights and density of urban form:

*“....commensurate with the greater of:*

*(a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or*

*(b) relative demand for housing and business use in that location.”*

37. We record that the potential for urban development, whether intensification of existing urban areas or development of greenfield areas at the margins of existing urban environments, has the potential to impinge on the National Grid, highly productive land and areas of indigenous biodiversity, bringing the provisions of the NPSET, NPSHPL and NPSIB respectively into play. Urban development also has the potential to adversely affect surface water quality, bringing the NPSFM into play. We discuss these potential tensions later in this Report as part of our examination of the provisions of Plan Change 3.

38. We note, however, Ms Shirley’s view<sup>14</sup> that our ability to give effect to other national direction is constrained by the submissions on Plan Change 3. In other words, the legal obligation on us to give effect to national direction does not confer jurisdiction to recommend amendments to the Plan Change that have not been sought in submissions. We agree with Ms Shirley in that regard. Accordingly, where we have found that Plan Change 3 does not give effect to national direction, but no submission has sought relief in terms that would permit us to remedy that omission, we have drawn Council’s attention to that as something that will need to be addressed through a future Plan Change.

## **1.5 Approach to Scope Issues**

39. Because Plan Change 3 makes amendments on a targeted basis to only part of the Regional Policy Statement component of the One Plan, there is potential for

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<sup>11</sup> Defined as within the next 3 years

<sup>12</sup> Defined as 3-10 years (from now)

<sup>13</sup> Defined as 10-30 years (from now)

<sup>14</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 8

submissions to seek relief not 'on' the Plan Change. Caselaw indicates that we have no jurisdiction to recommend acceptance of such submissions.

40. In her Section 42A Report, Ms Shirley noted two areas where the scope of Plan Change 3 was an issue. The first revolved around the extent to which provisions could be incorporated in Plan Change 3 to give effect to the NPSHPL. The second related to maintaining and improving freshwater quality as part of urban development (thereby giving effect to the NPSFM).
41. To these, we would add the request by Horowhenua District Council, developed in the evidence of Ms Baddock and Ms Poynton, to add sustainable growth and well-functioning urban environments as a keystone issue in the One Plan.
42. We will examine each of these issues in detail below but, to avoid repeating ourselves, we record that in respect of such scope issues, the High Court provides guidance in its decision in *Palmerston North City Council v Motor Machinists Limited*<sup>15</sup>. In that case, Kós J adopted the bipartite test approved in an earlier High Court decision<sup>16</sup> which involves asking:
  1. First whether a submission is addressed to the extent to which the Variation/Plan Change changes the pre-existing status quo;
  2. Whether classifying a submission as being on a Variation/Plan Change would permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected.
43. Kós J described the first limb as a filter. It provides the dominant consideration.
44. In his analysis, Kós J emphasised the relevance of the Section 32 Evaluation Report. If the relief sought in a submission is not adequately assessed in the Section 32 Report, in his view, it was unlikely to meet the first limb set out above.
45. The Environment Court<sup>17</sup> has subsequently suggested that this aspect of Kós J's decision needs to be applied with some care, noting that read literally, such an approach would enable a Council to ignore potential options for addressing the matter that is the subject of a Plan Change, and then prevent submitters from validly raising

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<sup>15</sup> [2013] NZHC 1290.

<sup>16</sup> *Clearwater Resort Limited v Christchurch City Council* AP34/02, 14 March 2003, William Young J

<sup>17</sup> *Bluehaven Management Limited and Rotorua District Council v Western Bay of Plenty District Council* [2016] NZEnvC 191

those options in their submissions. The Environment Court therefore suggested that a submission point or approach that is not expressly addressed in the Section 32 analysis ought not to be considered out of scope if it was an option that *should* have been considered in the Section 32 analysis. We accept that gloss on Kós J's reasoning.

46. In his decision, Kós J accepted that incidental or consequential extensions of zoning changes proposed in a Plan Change are permissible "*provided that no substantial or further s32 analysis is required to inform affected persons of the comparative merits of that change*".
47. Kós J also emphasised the need for caution when applying the second limb set out above. He noted the absence of any requirement to advise directly affected parties of submissions relevant to their interests, the very short timeframe within which further submissions must be lodged following notification of the summary of submissions, and the potential in practice for interested parties to be unaware of such submissions. Kós J noted also that since the earlier *Clearwater* decision, the RMA had been changed to limit the ability to lodge further submissions, providing added force to the concern that William Young J had expressed about the need to ensure procedural fairness.
48. Recent Environment Court authority<sup>18</sup> suggests that the situation of a Plan Change giving effect to national direction may require some variation to these principles. It held that in a situation where the Plan Change does not make it clear that it was intended to give effect to the relevant national instrument (the NPSUD in that case) in part only, it was open for submitters to argue that what was proposed did not properly give effect to the national instrument.<sup>19</sup>
49. The Court, however, sounded a note of caution, indicating that to the extent that proposals deviate from the topics addressed by the Plan Change and the provisions amended, they will be increasingly difficult to justify.<sup>20</sup>

## **1.6 Pre-Hearing Process**

50. In her Section 42A Report, Ms Shirley detailed a series of pre-hearing meetings she had held with submitter groups on the topics raised in submissions. These meetings

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<sup>18</sup> *Beachlands South Limited Partnership v Auckland City* [2024] NZEnvC 035

<sup>19</sup> *Ibid* at [48]

<sup>20</sup> *Ibid* at [62]-[63]

appear to have served a valuable role in both informing her recommendations and in narrowing points in contention as between Council and the submitters.

51. We record that we have had regard to the matters canvassed at the pre-hearing meetings. However, because we need to be satisfied that changes from the notified version of Plan Change 3 are appropriate, we have not adopted Ms Shirley's recommendations arising from the pre-hearing meetings in every case. We discuss the points in greater detail in the following sections.

## **1.7 Format of Report**

52. Ms Shirley's Section 42A Report divided her analysis into six topics, as follows:

1. Infrastructure;
2. Territorial Authority matters;
3. Consistency with the NPSHPL;
4. Active and Public Transport;
5. Climate Change Adaption;
6. Remaining General Submissions.

53. Our Report follows the same breakdown of submission topics.

## **2. SUMMARY OF PLAN CHANGE 3 AS NOTIFIED**

### **2.1 Background**

54. At notification of Plan Change 3, existing provisions relating to urban development in the Operative Regional Policy Statement section of the One Plan sat within Chapter 3. This was a combined chapter dealing with infrastructure, energy, waste, hazardous substances and contaminated land.

55. Plan Amendment 3 separated out the urban form and development provisions from the balance of what was Chapter 3 with effect from 27 February 2024 as part of a comprehensive reconfiguration and relabelling of One Plan provisions designed to give effect to the National Planning Standards. The new Chapter was entitled RPS – UFD – Urban form and development. Infrastructure provisions remained in a separate chapter entitled RPS – EIT – Energy, infrastructure and transport. We refer to the revised headings in our report, noting previous nomenclature where required.

56. The issues in the new UFD Chapter focused on the influence of urban development that is not strategically planned on the piecemeal and inefficient provision of associated infrastructure (UFD-I1) and for the potential for urban growth on versatile soils to limit their use as production land (UFD-I2).
57. Operative Objective UFD-O1 (previously Objective 3-3) addresses the first of these issues by seeking strategically planned urban development “*which allows for the adequate and timely supply of land and associated infrastructure*”. Objective UFD-O2 (previously Objective 3-4) focuses on ensuring that territorial authorities consider the benefits of retaining class 1 and 2 versatile soils for use as production land when providing for urban growth and rural residential subdivision. Existing policies reflect on the objectives, focussing on alignment of infrastructure asset planning with urban growth and paying particular attention to the benefits of the retention of class 1 and 2 versatile soils for use as production land.

## **2.2 Changes made by Plan Change 3**

58. Plan Change 3, as notified, significantly expanded the Urban Form and Development Chapter with an enlarged scope and background and a new discussion of the NPSUD. Existing text on the inter-relationship between urban growth and versatile soils was retained.
59. The first existing issue was similarly enlarged with reference to the inter-relationship between planning of urban development and achievement of a well-functioning urban environment, as well as noting the link to such development meeting the needs of current and future communities.
60. The second existing issue was retained largely unchanged.
61. A third issue was added noting the need to provide for urban growth in a way that contributes to well-functioning urban environments, is integrated within infrastructure planning and funding decisions, manages effects on the urban and natural environment, and improves resilience to the effects of climate change.
62. The existing two objectives were similarly expanded. UFD-O1 now focusses on ensuring sufficient development capacity and land supply for housing and business uses, co-ordination of development, development infrastructure and other infrastructure, provision for the needs of people, communities and future generations through quality, sustainable urban form and support for competitive land and development markets to improve housing affordability.

63. UFD-O2 was not amended. However, a further three additional objectives were inserted providing for urban form and function (UFD-O3), the inter-relationship between urban development and the Treaty of Waitangi (UFD-O4) and the inter-relationship between urban development and climate change (UFD-O5). The latter focusses both on resilience to the effects of climate change and support for reduction in greenhouse gas emissions.
64. Consistent with the expansion and scope of the objectives, Plan Change 3 provided for eight policies. Of these, renumbered UFD-P3 was largely unchanged from operative UFD-P2 (previously Policy 3-5).
65. UFD-P1 was developed to provide separate direction both for provision of sufficient development capacity for housing and business land over the short, medium and long term, and co-ordination between urban growth and provision of development infrastructure.
66. UFD-P2 develops the former issue directing provision of sufficient development capacity and land supply over time through provision for urban intensification and urban expansion within District Plans, local authorities being responsive to unanticipated or out of sequence plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, and ensuring housing bottom lines are met in the Palmerston North City District Plan.
67. UFD-P4 provides further direction on when and how intensification and expansion of urban environments is provided for and enabled in District Plans.
68. UFD-P5 focusses on the inter-relationship between the form and design of subdivision, use and development in urban environments and well-functioning urban environments, provision for a range of housing types and densities in employment choices, provision for marae and papakāinga, and enabling of multiple or amalgamated properties.
69. UFD-P6 provides guidance as to what might be considered a significant addition to development capacity from unanticipated or out of sequence development.
70. UFD-P7 provides direction in relation to hapū and iwi involvement in urban development. Sub-policy (2) provides direction on substantive elements of land use strategies.



71. UFD-P8 provides direction in relation to the inter-relationship between urban development and climate change. Sub-policy (2) retains existing policy guidance<sup>21</sup> on territorial authority decisions and controls in relation to sustainable transport options and encouragement for energy-efficient house design and access to solar energy. Sub-policy (1) directs development of urban environments in ways to reduce greenhouse gas emissions and improve resilience to the effects of climate change. These provisions are supported by four new detailed methods, together with expanded reasons and anticipated environmental results.
72. Lastly, Plan Change 3 contains a series of new definitions drawn from the NPSUD.

### **3. INFRASTRUCTURE**

#### **3.1 Summary of Relevant Submission Points**

73. Ms Shirley summarised the submissions under this topic as seeking better recognition of nationally significant infrastructure and the potential reverse sensitivity effects from urban development on such infrastructure.
74. More particularly she noted:
- (a) Transpower's submissions seeking multiple changes to Plan Change 3 to ensure consistency of wording to give effect to the NPSET;
  - (b) Submissions from Transpower, KiwiRail, Waka Kotahi and NZDF all raising points regarding the potential for urban development to create reverse sensitivity effects on infrastructure that is nationally significant or of regional or national importance, and seeking amendments to the scope and background, UFD-I1, UFD-I3, UFD-O3 and UFD-P4;
  - (c) Horowhenua District Council seeking to ensure Plan Change 3 does not foreclose future development options due to the absence of existing public transport. Ms Shirley noted that that Council also requested consideration be given to allowing development provided development infrastructure has been planned.

#### **3.2 Matters in Contention**

75. Ms Shirley advised us that her meeting with interested submitters on these issues produced agreement for:

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<sup>21</sup> RPS-EIT-P5.2 and 3

- (a) Inclusion of the NPSUD definition of Nationally Significant Infrastructure to support UFD-03 and UFD-P4;
- (b) Amendments to UFD-I1 and UFD-I3 to recognise reverse sensitivity effects on infrastructure of national importance as an issue associated with urban development;
- (c) Amendments to UFD-03 to avoid the creation of reverse sensitivity effects on nationally significant infrastructure and infrastructure of national or regional importance;
- (d) Amendments to UFD-P1 and UFD-P6 to provide more guidance for infrastructure upgrades that can or will be made;
- (e) Amendments to UFD-P4 to provide for the operation, maintenance and upgrade of nationally significant infrastructure.

76. Consistent with the agreed outcomes of the pre-hearing meeting, Ms Shirley recommended the following amendments to the notified Plan provisions in her Section 42A Report:

- (a) UFD-I1: Insert a new sentence, following the existing statement of potential outcomes from poorly planned urban development, *“It can also have the potential to create reverse sensitivity effects”*;
- (b) Amend UDF-I3 so that the existing statement that growth needed to be provided for is made specific to growth *“in urban environments<sup>22</sup>”* and adds as an additional descriptor of how it needs to be provided for, *“avoids the creation of reverse sensitivity effects on existing infrastructure of national significance”*;
- (c) Amend UFD-O3(1) to add, as an additional clause (f) describing how the intensification and expansion of urban environments might contribute to well-functioning urban environments:

*“Manage reverse sensitivity effects on the operation, maintenance and upgrade of nationally significant infrastructure, including infrastructure of regional or national importance.”*

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<sup>22</sup> As defined in the NPSUD

- (d) Amend UFD-P1(2) and UFD-P6 to reference the planning of development infrastructure and planned upgrades to such infrastructure respectively;
- (e) Amend UFD-P4(1) and (2) to insert new sub-clauses providing for enablement of intensification of expansion in urban environments in District Plans where “*the operation, maintenance and upgrade of nationally significant infrastructure is not compromised*” and restricting the expansion of urban environments to situations where it “*does not compromise the operation, maintenance and upgrade of nationally significant infrastructure*”;
- (f) Include the NPSUD definition of Nationally Significant Infrastructure in the Plan Change.

77. As regards the last of these recommendations, Ms Shirley discussed the fact that the One Plan currently lists a range of regionally and nationally important infrastructure in Policy 3-1 (now EIT-P1). She noted that the NPSUD definition was both broader in some respects than the list of regionally and nationally important infrastructure in Policy 3-1 (it includes, for instance, the state highway network, which is not explicitly referenced in Policy 3-1, and it has a more all-encompassing definition of the National Grid) and narrower in some respects (NZDF facilities in the Horizons Region are recognised as nationally and regionally important, but are not nationally significant infrastructure in terms of the NPSUD definition). She did not consider that adding the NPSUD definition produced a conflict with existing provisions, provided UFD-O3 was expanded to reference infrastructure of regional and national importance (as above).

### **3.3 Other Evidence on Infrastructure Issues**

- 78. The evidence of infrastructure providers that was pre-circulated largely supported Ms Shirley’s recommendations on this topic. The tabled statement of KiwiRail and the evidence of Ms Whitney for Transpower took issue, however, with the generality of the suggested amendment to UFD-03. KiwiRail drew attention to the fact that the recommended issue references avoidance of the creation of reverse sensitivity effects and the recommended policy directs that reverse sensitivity effects do not compromise nationally significant infrastructure.
- 79. Ms Whitney suggested that to give effect to the NPSET, the new sub-clause (f) needed to be expanded to include reference to effects other than reverse sensitivity on nationally significant infrastructure and to state that the way in which such effects would be managed would be to ensure infrastructure is not compromised.

80. The statement of Ms Davies for NZDF recorded her opposition to inclusion of the NPSUD definition of Nationally Significant Infrastructure because it does not include NZDF facilities. She noted that NZDF facilities such as Linton Military Camp and the RNZAF Base at Ohakea, which are recognised as nationally and regionally important within the One Plan, are at risk of reverse sensitivity effects for implementation of Plan Change 3, but are not protected by the reverse sensitivity provisions in the Plan Change. She suggested, accordingly, amendments to UFD-I3, UFD-O3 and UFD-P4 to include reference to infrastructure and physical resources of regional and national importance.
81. Lastly, the planning evidence of Ms Hilderink-Johnson, supported by the corporate evidence of Ms O'Rourke and legal submissions for Fonterra Limited, sought expansion of the provisions related to management of reverse sensitivity effects on nationally significant infrastructure to include effects on regionally significant industry, such as Fonterra's Longburn Plant.
82. In her rebuttal evidence, Ms Shirley responded to the evidence of Ms Whitney for Transpower, Ms Hilderink-Johnson and Ms O'Rourke for Fonterra<sup>23</sup>.
83. Ms Shirley accepted the logic of Ms Whitney's evidence and recommended that UFD-O3(1)(f) be amended to read:

*"The intensification and expansion of urban environments:*

*(1) Contributes to well-functioning urban environments that...*

*(f) Manage effects (including reverse sensitivity effects) on the operation, maintenance and upgrade of nationally significant infrastructure\*, including infrastructure of regional or national importance, to ensure the infrastructure is not compromised."*

84. Ms Shirley did not, however, support the amendments Ms Hilderink-Johnson had suggested. She was concerned that the threshold for whether an economic activity is regionally or nationally beneficial would be uncertain and that it was not clear what industries apart from Fonterra would be included within this new classification. Addressing the substance of Fonterra's concerns, while she accepted that the existing direction to manage adverse effects does not direct how potentially adverse

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<sup>23</sup> Ms Davies Statement for NZDF was not pre-circulated before we received Ms Shirley's rebuttal evidence and we received it as a non-expert representation on NZDF's behalf.

reverse sensitivity effects should be addressed in all circumstances, it does provide guidance that adverse sensitivity effects on incompatible activities require consideration and control in the context of new urban development. She recorded her view that it was appropriate for territorial authorities to consider what such management requires in a more focussed way.

85. When Ms Shirley presented her Section 42A Report, we raised three issues with her that are relevant to this hearing topic. The first related to the way in which UFD-I3 in particular was framed. Our question was whether it was appropriate for issues to set out policy positions, that is to say, not just to state what the problem is, but to outline the answer.
86. Ms Shirley's initial response was that it was not appropriate, and that she would need to think through the implications of that and advise further in her Reply.
87. The second issue we raised with Ms Shirley was to inquire what the basis was for constraining urban development (contrary to the direction of the NPSUD) in order to protect infrastructure, other than the National Grid (which can rely on the NPSET). Ms Shirley advised that the starting point for her consideration of this issue had been Transpower's submission but she would need to consider that question and, again, address it in Reply.
88. Lastly, we asked whether, even as regards the National Grid, the suggested protection for nationally significant infrastructure went further than could be justified because Policy 10 of the NPSET directs that decisionmakers must manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading and development of that network is not compromised "*to the extent reasonably possible*". Ms Shirley pointed to the reference in UFD-O3 to managing effects but, as we noted, she had recommended that be tightened up to state that management must ensure that nationally significant infrastructure is not compromised, and that the strength of direction is backed up by UFD-P2(d). She accepted that she had not considered that aspect of the NPSET, and again advised that she would address it further in Reply.
89. We also asked Ms Shirley to comment on the NZDF position. We asked in particular whether in her view, NZDF's concern about reverse sensitivity effects was well founded as a matter of fact. In Ms Shirley's view, it was not, because live firing at Linton could be heard in Palmerston North as it is. She also pointed to the existing provisions in Chapter 3 (now RPS-EIT) which do apply to NZDF.

90. Ms Whitney addressed some of these questions when she appeared for Transpower. She accepted that the NPSUD makes no provision for nationally significant infrastructure other than in relation to Tier 1 territorial authorities, but pointed out that Transpower's submission sought recognition of effects on the National Grid in the alternative.
91. As regards the qualification in Policy 10 noted above, Ms Whitney suggested that it was reasonably possible for us to recommend the more directive wording she supported, and Ms Shirley had accepted. Discussing the point further with her, Ms Whitney was unsure as to what the rationale for that qualification was and suggested that it might be appropriate to insert it into the objective.
92. When Ms Davies appeared for NZDF, she made it clear that the sensitivity NZDF was concerned about was in relation to expansion of Palmerston North onto land on the north side of the Manawatu River from the Linton Army Camp, and the live firing range in particular<sup>24</sup>.
93. Discussing the matter further with her, she agreed that there had been no problems to date but identified as her principal concern that Plan Change 3 was creating almost a tiered protection system in which defence facilities would have a lesser level of protection than 'nationally significant infrastructure'.
94. The other party to provide feedback on these matters was Fonterra. Counsel for Fonterra, Ms Gilbert, pointed out to us that NPSUD Policy 1 was inclusive insofar as it identified what matters contribute to a well-functioning urban environment. She submitted that a purposive interpretation of the NPSUD would identify effects on both nationally significant infrastructure and regionally and nationally significant industry as being relevant to well-functioning urban environments.
95. Responding to counsel for Fonterra in his Reply, Mr Jessen for the Council identified that Ms Gilbert had made what appeared to be a general reference to a purposive approach to interpreting the NPSUD as a whole, without particular focus on a defined statutory interpretation issue or textural ambiguity. In his view, a purposive approach did not justify qualifying the NPSUD to require consideration of nationally significant

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<sup>24</sup> While Ms Davies' written statement had mentioned risks to Ohakea, we found it difficult to envisage how development of urban environments could have an effect on the Air Force base given the distances involved, and Ms Davies did not expand on her reasoning.

infrastructure other than the National Grid, or by extension, nationally and regionally significant industry.

96. Mr Jessen did, however, submit that a proper interpretation of NPSUD Policy 1 entitled the Council to provide “*appropriately framed regional direction as to reverse sensitivity, beyond just that required to respond to the NPS-ET*”. Mr Jessen reinforced the point that Ms Gilbert had already made, namely that Policy 1 is inclusive – it describes well-functioning urban environments as “*at a minimum*” having the specified attributes. Accordingly additional elements or considerations may be necessary beyond what is listed as what constitutes a well-functioning urban environment.
97. In his submission, it can therefore be argued that a well-functioning urban environment is one that actively addresses conflicts between incompatible land uses.
98. Building on that reasoning, Ms Shirley stated her view that a well-functioning urban environment is one that is sensitive to effects including reverse sensitivity effects on the surrounding environment “*and as a matter of common sense, nationally significant infrastructure*”.
99. She therefore maintained her view that it was appropriate for Plan Change 3 to include provision for management of reverse sensitivity effects on both the National Grid (because of the NPSET), and nationally significant infrastructure more broadly. Ms Shirley recommended only a minor change to the wording of UFD-03(1)(f), accepting in this regard our suggestion that the English expression could be improved.
100. As regards the way in which the issues were expressed, Ms Shirley’s view in Reply was that UFD-I1 and UFD-I2 did not require amendment, but that UFD-I3 required redrafting to appropriately express the issue that other provisions would address. Her redrafted version read:

*“Growth in urban environments\* that is not well planned and integrated with infrastructure and other required services may result in urban environments\* that are not well-functioning for the community. This can lead to effects on the urban and natural environment including for example, freshwater^, effects on existing infrastructure, and lack of resilience to the effects of climate change. It is important that growth in urban environments\* is provided for in a way that contributes to well-functioning urban environments\*.*

*These issues can also apply to smaller towns and settlements where it is also important for growth and development to contribute to well-functioning communities.”*

101. Addressing the third question, regarding the need to incorporate the qualification “to the extent reasonably possible” from NPSET Policy 10, Ms Shirley’s view was that such qualifications are better located in the policies of Plan Change 3 rather the objective.

### **3.4 Analysis and Recommendations**

102. Looking first at the formulation of the issues, we agree with Ms Shirley’s assessment that the concern we identified about issues including policy direction does not apply to UFD-I1 and UFD-I2. We do not recommend further amendments to those issues beyond the changes Ms Shirley has recommended.
103. In relation to UFD-I3, we consider that Ms Shirley’s reformulation is a significant improvement. We remain concerned, however, that it contains two statements that are in the nature of a policy direction, being the final sentence of the first paragraph and the single sentence making up the second paragraph. Both are framed with the language “*it is important....*”. In our view, this is not appropriate for an issue, because it states an implicit policy position. We therefore recommend that the final sentence of the first paragraph in Ms Shirley’s revised issue be deleted, and that the additional sentence making up the second paragraph be reformulated. We return to discuss how it might be reformulated in the following section of our Report, where we discuss provisions relating to the towns and settlements that do not constitute urban environments.
104. We note that in her Section 42A revision of this issue, Ms Shirley introduced specific reference to freshwater. That too was revised in her Reply. We address that aspect of the issue later in this report, in the context of the appropriate response to the NPSFM. Putting that aspect to one side for the moment, we recommend two additional amendments. The first is to note that ‘infrastructure’ is used in the sense defined in the Act. The convention of the One-Plan is to show that as *infrastructure*<sup>^</sup> and we have followed that style in this context, and in other provisions in Appendix 1. where that is clearly intended<sup>25</sup>. The second stems from the way in which the revised

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<sup>25</sup> We have made minor editorial corrections in Appendix without further comment..



first sentence is framed, where it seems to us that Ms Shirley's understandable desire to use the language of the NPSUD has led to a somewhat strained English expression. We therefore recommend that the first paragraph of UFD-I3 be amended as follows (showing changes from Ms Shirley's Reply version):

*"Growth in urban environments\* that is not well planned and integrated with ~~infrastructure~~ infrastructure<sup>^</sup> and other required services may result in urban environments\* that ~~are not well-functioning for the community~~ do not function well. This can lead to effects on the urban and natural environment including for example, freshwater<sup>^</sup>, effects on existing ~~infrastructure~~ infrastructure<sup>^</sup>, and lack of resilience to the effects of climate change. ~~It is important that growth in urban environments\* is provided for in a way that contributes to well-functioning urban environments\*~~".*

105. Turning to the question of what provision might be made for infrastructure (and industry), we accept the point made by counsel for Fonterra, and by Mr Jessen for the Council, that NPSUD Policy 1 is inclusive, not exclusive. The clear implication is that there are additional matters that might contribute to well-functioning urban environments. The issue is what they might be.
106. Looking at the range of infrastructure defined by the NPSUD as nationally significant infrastructure and setting aside those items that are not relevant to the Horizons Region<sup>26</sup>, we consider that most of the other items of infrastructure have a clear relationship with the operation of urban environments either currently or potentially in the future<sup>27</sup>. Perhaps the only questionable item is the New Zealand rail network.
107. By contrast, the efficient operation of state highways is relevant to all of Horizons' urban environments. The efficient operation of the National Grid is similarly relevant to all urban environments also although in the Horizons Region, as far as we are aware, elements of the National Grid only pass through the urban area of Whanganui.
108. Airports are relevant to both Palmerston North and Whanganui urban environments. Port facilities are relevant to Whanganui also.
109. The same analysis casts doubt on the relief sought both by NZDF and Fonterra.

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<sup>26</sup> Most obviously the refinery pipeline between Marsden Point and Wiri, and rapid transit services

<sup>27</sup> As far as we are aware, there are no renewable electricity generation facilities that are located sufficiently close to any urban environment where this might be an issue, but we can foresee solar farms on the margins of an urban environment being constructed in future.

110. It is difficult to categorise defence facilities as having the same relationship to effective and efficient urban environments as, for instance, state highways. While NZDF might find it somewhat irksome that its facilities are in a second-tier situation, that follows from the fact that they are not recognised in the NPSUD. We accept Ms Shirley's logic for utilising the NPSUD definition, notwithstanding the obvious importance of defence facilities to both the Region and the nation for other reasons.
111. The same is even more the case with a rural processing industry, albeit an extremely large one such as Fonterra's Longburn Dairy Factory. We find the relationship between that and effective and efficient operation of urban environments somewhat tenuous. While we understand the concerns expressed by Ms O'Rourke regarding the potential for reverse sensitivity issues to pose problems in future for Fonterra's operations at Longburn, we agree with Ms Shirley that these issues are better addressed at the territorial authority level. To the extent that regional direction is required, the One Plan already provides that, although obviously not in as directive a manner as Fonterra would like.
112. Further, we agree with Ms Shirley that expanding the RPS provisions to include regionally significant industry requires clarity as to what might qualify as such, in order for us to assess the merits of doing so under Section 32AA of the Act. We did not have that clarity and that too was a reason why we agree with Ms Shirley's recommendation.
113. Turning to the way in which nationally significant infrastructure is provided for we are much less sure of the merits of Ms Shirley's proposed approach.
114. As above, Ms Shirley's response to our query as to whether the new UFD-O3(1)(f) needed to be qualified in the same way as Policy 10 of the NPSET was that qualifications such as this are better located in the policies rather than the objective<sup>28</sup>.
115. We consider that approach somewhat questionable, among other reasons, because Ms Shirley did not return to consider that possibility in the context of the UFD policies, although that may have been because she was considering it in the alternative (if the focus on reverse sensitivity was limited to the National Grid, which she did not recommend).

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<sup>28</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 50

116. More fundamentally, it seems to us that given the primary test for policies is whether they are the most effective and efficient means to achieve the objectives<sup>29</sup>, if an objective is strongly directive, qualified policies would likely not be the most effective and efficient means to achieve it.
117. In our view, that is the case with the recommended amendments to UFD-O3(1)(f), where the outcome sought is to manage effects to ensure that the operation, maintenance and upgrade of nationally significant infrastructure is not compromised.
118. We also consider that the reasoning which prompted Ms Shirley to recommend such a directive outcome (in her rebuttal evidence) is questionable. As above, Ms Shirley was persuaded by Ms Whitney's evidence that amending the approach to effects management in sub-clause (f) to state that it must ensure infrastructure is not compromised would better give effect to the NPSET.
119. Ms Whitney in fact put it somewhat higher than that, suggesting that Ms Shirley's Section 42A Report version of UFD-O3(1)(f) did not give effect to the NPSET. She also suggested that it was inconsistent with recommended Policy UFD-P4.
120. We do not consider that either point is correct. The sole objective in the NPSET is worded:

*“To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:*

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.”*

121. Policies 10 and 11 provide greater direction as to how the adverse effects of other activities on the network are managed.
122. In summary, the Section 42A version of the objective and policy governing reverse sensitivity effects had the same approach as the NPSET, with a generally framed objective, supported by more specific and directive policies, and we cannot understand how it could be said not to give effect to the NPSET.

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<sup>29</sup> Section 32

123. Further, we consider that an approach to managing effects on nationally significant infrastructure that is as directive as UFD-O3(1)(f) and UFD-P4(1)(f) cannot be justified as an inferred contributor to well-functioning urban environments on the evidence before us.
124. While, as Ms Whitney suggested, it is possible for urban development to occur in a way that ensures nationally significant infrastructure is not compromised, we did not hear evidence that would suggest that across the entire range of factual scenarios that might arise, that would be a reasonable outcome.
125. We therefore take our cue from NPSET Policy 10 and find that those requirements should be qualified by reference to the extent to which avoidance of reverse sensitivity effects is reasonably possible.
126. We do not consider that it is necessary to qualify both the objective and the policies if UFD-O3(1)(f) is returned to the form set out in the Section 42A Report. Further, in that event, it is not necessary to expand the reference to reverse sensitivity effects to cover all effects. UFD-O3(1)(e) already addresses adverse effects on the environment, and nationally significant infrastructure obviously forms part of the environment.
127. In summary, the only amendment we recommend to UFD-O3(1)(f) from the version set out in the Section 42A Report is to insert reference to facilities and assets of regional or national importance in order to provide 'line of sight' to the provisions of RPS-EIT (formerly Chapter 3).
128. We recommend that UFD-O3(1)(f) therefore reads as follows:
- “manage reverse sensitivity effects on the operation, maintenance and upgrade of nationally significant infrastructure\*, including infrastructure^ and facilities and assets of regional or national importance.”*
129. Consistent with our reasoning as above, we further recommend that UFD-P4(1)(f) be amended to read:
- “To the extent reasonably possible, the operation, maintenance and upgrade of nationally significant infrastructure\* is not compromised.”*
130. UFD-P4(1)(e) should be amended for consistency to insert the same qualification.

131. For the reasons set out above, we consider that this rewording both gives effect to the NPSUD and the NPSET, and is the most effective and efficient way in which to achieve Objective UFD-O3 in this regard.

#### **4. TERRITORIAL AUTHORITY MATTERS**

132. Under this general heading, Ms Shirley collected a series of submissions both from territorial authorities and other organisations relating to matters that impact territorial authorities and their functions. Her description of their general theme was that it revolved around improving certainty for territorial authorities and ensuring consistency with the NPSUD.

##### **4.1 Summary of Relevant Submission Points**

133. Ms Shirley identified some ten separate issues the subject of submissions under this general heading, as follows:
- (a) Horowhenua District Council sought changes to the One Plan to include urban development capacity as an additional 'big' issue identified in the Plan (the One Plan currently only defines four such issues and this would be a fifth);
  - (b) Horowhenua, Manawatū and Rangitīkei District Councils all sought more guidance on how Plan Change 3 applies to smaller settlements that do not meet the definition of 'urban environment';
  - (c) Ms Shirley noted a number of submissions seeking that Tier 3 local authorities be included in the housing bottom lines table under UFD-P2. Kāinga Ora sought that Levin in particular be included given its projected growth (to support the Wellington regional growth framework) is more akin to a Tier 1 or 2 Council;
  - (d) Palmerston North City Council sought removal of the words "*relates well to its surrounding environment*" in UFD-O3(1)(c) and UFD-P4(1)(b);
  - (e) Fonterra requested amendments to UFD-03 and UFD-P4(1) to include business land as well as land for housing;
  - (f) Palmerston North City Council and Horowhenua District Council raised related issues around the regional council's role in providing and consenting infrastructure necessary to support urban development;
  - (g) Horowhenua, Manawatū and Rangitīkei District Councils all sought separate policy direction for greenfield urban expansion and infill intensification. Ms Shirley

noted Horowhenua District Council as also seeking more direction to encourage more efficient utilisation of residential land;

- (h) Ms Shirley noted a number of submissions seeking to amend the reference in UFD-P7(2)(b) to make provision for papakāinga on general title land, not just Māori owned land (as notified). Kāinga Ora separately sought amendment to UFD-P5 to explicitly enable papakāinga and urban settings on general title land;
- (i) Horowhenua, Manawatū and Rangitīkei District Councils sought a more regional direction in the Plan Change, rather than repeating NPSUD provisions. They also sought that Plan Change 3 reflect the exact wording and order of the NPSUD unless there is a specific regional issue intended to be addressed, including importing NPSUD definitions in a way that catered for subsequent amendments to the National Policy Statement;
- (j) Ms Shirley noted Horowhenua, Manawatū and Rangitīkei District Councils as all raising concerns about provisions within Plan Change 3 appearing to blur the lines between regional and district authority functions.

#### **4.2 Matters in Contention**

134. Ms Shirley noted progress on a number of the issues raised in submissions under this topic, recommending in her Section 42A Report:

- (a) Amendments to UFD-O3(1)(b) and (c) and UFD-P4(1)(b) to insert reference to business land and remove the descriptor “*that relates well to its surrounding environment*”, as sought by Fonterra and Palmerston North City Council;
- (b) Amendments to UFD-O3(2) to remove the ‘or’ following each subclause in order to better align with the NPSUD;
- (c) Amendments to UFD-O4, again to better align with the wording of the NPSUD;
- (d) Amendments to UFD-P1 to delete reference to alignment of infrastructure asset management planning with land use strategies to manage urban growth and qualify UFD-P1(1) to be specific to urban environments, in both cases to better align with the NPSUD;
- (e) Amendments to UFD-P4(3) to align the language with NPSUD Policy 5;
- (f) Amendments to UFD-P5 to provide additional clarification around the roles and responsibilities in relation to the form and design of subdivision, use and

development in urban environments (making it clear that this is a territorial authority function);

- (g) Amendments to the heading of UFD-P6 to align with NPSUD clause 3.8;
- (h) Amendments to UFD-P7(2)(b) to remove the qualification on papakāinga restricting it to Māori owned land;
- (i) Amendments to Method 2 to include reference to regional council and territorial authority infrastructure planning.

135. Ms Shirley also recommended addition of text in the scope and background referencing small settlements that do not fall within the definition of 'urban environment'.

136. Ms Shirley did not recommend amendments to respond to a number of the submissions summarised above. In particular:

- (a) She considered listing of urban development as an additional 'big' issue in the RPS-SMR chapter (formerly Chapter 1) was out of scope;
- (b) She considered greater guidance for smaller settlements than set out above to be out of scope;
- (c) She considered specific reference to regional council responsibilities in relation to flood protection infrastructure would add complexity to the Plan Change and would go beyond the NPSUD definition of development infrastructure;
- (d) She did not support housing bottom lines being inserted for Tier 3 local authorities generally, but accepted that there was a case to be made for Levin (i.e. Horowhenua District Council) given the District Council's involvement in the Wellington-Wairarapa-Horowhenua Future Development Strategy;
- (e) She did not consider additional changes to UFD-P4 were required to differentiate greenfield development from infill intensification. In her view, UFD-P4 already provides that differentiation;
- (f) She did not consider that UFD-P5 needed to be amended to reference papakāinga. In Ms Shirley's view, Plan Change 3 already adequately enables papakāinga development in urban environments, particularly as recommended to be amended in the context of UFD-P7(2);

(g) She did not consider that UFD-O1 should be restricted to urban environments, since this would not preserve existing One Plan provisions.

#### **4.3 Other Evidence on Territorial Authority Issues**

137. Horowhenua District Council provided the most comprehensive evidential response to the Section 42A Report on these issues through the joint brief of Ms Baddock and Ms Poynton. Relevantly, they reiterated the Council's submission position seeking that the keystone environmental issues in Chapter 1 of the One Plan be expanded to five, with the fifth issue being 'sustainable growth in well-functioning urban environments'. For this purpose, they proffered detailed text that they sought be inserted into the One Plan.
138. Responding to Ms Shirley's concern about the scope for the suggested changes, their position was that scope was not limited to only the specific provisions proposed (or provisions proposed to be amended) given the purpose of Plan Change 3 was to give effect to the NPSUD, the relief they supported was 'on' the Plan Change because it was focussed on achieving this.
139. Ms Baddock and Ms Poynton supported their Councils' submission seeking greater direction on development infrastructure to support growth. They recommended a new policy be inserted worded as follows:
- "Development infrastructure and other infrastructure needed to support Territorial Authorities ability to [sic] the requirements of UFD-P1 will be provided for so long as this will not cause inappropriate environmental effects."*
140. Ms Baddock and Ms Poynton also disagreed with Ms Shirley that UFD-P4 provides adequate differentiation of the difference between greenfield development and infill development. Their position was that greenfield development by its nature makes the urban form less compact. Accordingly, they recommended an amendment to UFD-O3(1)(c) to qualify the outcome related to compact urban form by reference to what can reasonably be achieved when urban expansion is involved. They also recommended an amendment to UFD-P4(1)(b) to make it clear that intensification might not necessarily provide for both residential and business activities.
141. Addressing Ms Shirley's invitation to provide feedback on the potential to insert housing bottom lines for Levin, Ms Baddock and Ms Poynton expressed concern that due to differences in methodology as between the future development strategy and housing and business land assessments for the Wellington-Wairarapa-Horowhenua



undertaken by the Wellington Regional Leadership Committee, and the District Council's own work, there was potential for significant under estimates in the actual demand for housing if the former were used as the basis for housing bottom lines for Levin. They did not support inserting such housing bottom lines.

142. Lastly, they recommended that Method 1 and 2 of Plan Change 3 be amended to qualify the reference to Horowhenua District Council being within the Wellington Regional Leadership Committee to note that this might not be a permanent arrangement.
143. Responding in her Rebuttal, Ms Shirley noted that the Council had not to date considered issue prioritisation, and this had not occurred as part of the development and notification of Plan Change 3. She did not consider it would be appropriate to determine the issue to be of such prominence in the limited context of Plan Change 3, noting that the question whether urban growth is at a level that warrants it being considered as a keystone issue requires further analysis.
144. Ms Shirley similarly did not consider there to be sufficient justification for the proposed policy, in particular for singling out development infrastructure for specific enabling or elevated recognition within the RPS. In her view, development infrastructure resource consents should be considered by the Regional Council on their environmental merits rather than solely due to their association with an urban growth proposal.
145. Ms Shirley noted that she had considered possible amendments to Method 2 as an alternative, but felt that they may lead to uncertainty in the consenting process.
146. As regards the suggested change to UFD-O3(1)(c), Ms Shirley accepted that urban expansion may not always achieve a compact urban form, but in her view, any apparent inconsistency in wording arises in the processing of urban expansion that is not well planned or managed and which leads to situations such as urban sprawl, inefficient land use, and community fragmentation. She considered that urban growth focusing on compact urban form should be retained as an objective.
147. Ms Shirley agreed, however, with the suggested amendment to UFD-P4(1)(b).
148. In her Rebuttal evidence, Ms Shirley noted the position taken by Ms Baddock and Ms Poynton in relation to housing bottom lines for Levin. She accepted that and maintained her recommendation that that submission point not be accepted.

149. Ms Shirley supported the suggested changes Ms Baddock and Ms Poynton had recommended to Methods 1 and 2.
150. At the hearing, we queried Ms Baddock and Ms Poynton about the suggested issue surrounding their “*big issue*” relief, and whether any interested party could have anticipated the text now suggested to be included. They accepted that the specific wording was somewhat challenging in this respect. While some elements could be anticipated from the submission relief, whether the exact wording now suggested could be anticipated was an open question.
151. We asked also whether the wording of their suggested policy was appropriate insofar as it stated that infrastructure ‘will’ be provided, when that would be subject to processes under other Acts. They responded that they were not intending to pre-empt Regional Council funding decisions and that perhaps their wording needed to be reframed in terms of what RMA plans provided for. They also agreed that the English expression needed some work.
152. Lastly, we asked Ms Baddock and Ms Poynton about the concern they had about requirements for compact development. They noted that infill development already faces challenges, especially with respect to stormwater management. In their view, it was helpful if the Plan Change provisions are sufficiently flexible to accommodate different levels of intensification.
153. In her Reply, Ms Shirley provided us with additional information about the progress of territorial authorities in providing for protected short, medium and long term demand for housing. Perhaps unsurprisingly, it indicated that the relevant territorial authorities face a range of demand scenarios between Ruapehu District with no urban environments and not currently in a growth phase at one end of the spectrum, and Horowhenua District experiencing high population growth which has been ongoing for approximately eight years and is expected to continue for at least the next 20 years, at the other. Territorial authorities are similarly in different positions in terms of their planning responses to predicted growth with some still at the strategic planning stage and others either having commenced or contemplating District Plan changes/reviews in the near future.
154. We asked Ms Shirley to consider also how UFD-P4(1)(b) might address the risk of development solely providing for residential use, with no provision for business use, while also recognising that it could be impractical to require development to do both. As Ms Baddock and Ms Poynton had observed, small-scale intensification cannot be

expected to provide for business activities. As above, Ms Shirley suggested that these competing considerations might best be addressed if sub-policy (b) were reworded to focus on the 'contribution' intensification and expansion makes to providing a range or residential and business areas.

155. As above, Ms Shirley had responded to Territorial Authority submissions seeking greater clarity as to the respective roles of regional and district/city councils under Plan Change 3 by recommending that UFD-P5 be prefaced by a statement that it was the responsibility of Territorial Authorities to ensure the identified outcomes are achieved. Mr Aplin-Thane for Palmerston North City Council expressed concern about the achievability of UFD-P5(4) in all cases, and both he and Mr Mackay for Manawatū District Council requested clarification of the balance of the policy. We therefore asked Ms Shirley to consider whether the end result was too directive. Her response, in Reply, was to agree that the level of direction needed softening and she recommended amendments to indicate that what is required is an 'overall' assessment of form and design issues, and more specifically to qualify sub-policy 4 with an appropriateness test.
156. Turning to Rangitīkei District Council, the joint evidence of Ms Gray and Ms Gower focussed principally on their Council's desire for guidance as to how its smaller communities might be developed. They recommended that UFD-I3 be amended to focus on communities rather than urban environments.
157. They did not pursue the Council's submission seeking differentiation between greenfield development and infill intensification and supported Ms Shirley's proposed amendments to UFD-P1.
158. They supported Ms Shirley's recommendation also to remove the qualification on papakāinga (that it be on Māori owned land) from UFD-P7(2)(b) and sought that reference to urban environments in UFD-P7 similarly be broadened to include towns and settlements. In relation to the former, they noted their preference to work with tangata whenua on a revision of the definition of papakāinga currently in their Council's Operative District Plan.
159. In her Rebuttal evidence, Ms Shirley supported some reference in UFD-I3 but, as above, this was subsequently overtaken by her reconfiguration of the issue in Reply. As we have recorded, her revised issue would include the statement that:

*“These issues can also apply to smaller towns and settlements where it is also important for growth and development to contribute to well-functioning communities.”*

160. Ms Shirley did not support the suggested broadening of UFD-P7. In her view, Ms Gray and Ms Gower’s request went beyond the direction of the NPSUD and the scope of Plan Change 3 as notified. In her view, that amendment would also create inconsistencies with both the NPSUD and the balance of Plan Change 3. Furthermore, she considered that the requested change would need to be explored with iwi and hapū to seek their feedback on whether this policy should be expanded to smaller communities, beyond the scope of the NPSUD. Due to timing, this engagement has not occurred<sup>30</sup>.
161. Ms Baddock and Ms Poynton supported the amendments made by Ms Shirley. However, they considered additional changes were necessary to UFD-P7(1). They considered that the current phrasing of this part of the policy does not fully articulate the nuanced role iwi and hapū play in a plan preparation process, as it focuses only on planning decisions and not the pre-notification stage. As a result, they recommended the following changes that in their opinion more closely reflect NPSUD Policy 9:

***“UFD-P7: Hapū and iwi involvement in urban development***

*(1) Local authorities, in taking account of the principles of Te Tiriti o Waitangi (Treaty of Waitangi) in relation to urban environments, must Ensure planning decisions\* involving urban environments\* provide for Treaty of Waitangi (Te Tiriti o Waitangi) principles by enabling hapū and iwi involvement in urban development planning processes, including in decision making where appropriate, to ensure provision is made for their needs, aspirations, and values, to ensure urban environments\* enable Māori to express their cultural traditions and norms.*”

162. They considered that the above recommended change is a more effective means of ensuring planning decisions take into account the principles of Te Tiriti o Waitangi (Treaty of Waitangi), which is required by proposed plan change objective UFD-O1, as it better recognises the role of iwi and hapū in plan preparation (e.g. before planning decisions are made). This also better aligns with the NPSUD. They did,

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<sup>30</sup> Rebuttal Statement Ms Leana Shirley 24 January 2024 para 70

however, acknowledge that this was their opinion and had not had sufficient time to canvass this with their iwi and hapū partners<sup>31</sup>.

163. Ms Shirley accepted this amendment in her Reply, adding a minor grammatical change to the balance of the policy.
164. She noted that territorial authorities such as Rangitīkei District are free to ensure that their District Plans or other policy documents are prepared or changed in order to provide for the matters contained in UFD-P7, if they are not already. They do not need direction from the Regional Policy Statement before doing so.
165. We asked Ms Shirley for further feedback on her recommended approach to papakāinga; whether, in particular, UFD-P7(2)(b) needed clarification as to what papakāinga is, and when such a provision would apply to it. In her Reply, Ms Shirley reiterated her view that it was not necessary to define papakāinga through Plan Change 3. She noted also a concern that a region-wide definition would likely not accord with the views of all iwi and hapū.
166. In reflecting on the discussions at the hearing and our questions, Ms Shirley, in Reply<sup>32</sup>, made the following observations in relation to UFD-P7:
  - (a) the policies are quite specific in that the application of UFD-P7(1) and (2) specifically refers to Māori. In her opinion, this discounts this Policy being applied to any other cultural or ethnic group;
  - (b) The policies are grounded in Te Tiriti o Waitangi which is the founding document ensuring partnership between Māori and the Crown (of which local government is the representative).
  - (c) UFD-P7 itself does not lend itself to non-Māori because the practice of papakāinga (to her knowledge) is a specifically Māori concept.
  - (d) Many iwi and hapū practice papakāinga differently, likely making it difficult to find one uniform answer that is supported across the region.
  - (e) A number of territorial authorities have a definition for papakāinga in their District Plans. For those who don't, work is underway with their local iwi and hapū to

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<sup>31</sup> Evidence Lauren Baddock and Lisa Poynton Horowhenua District Council 19 December 2023, paras 78-79

<sup>32</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 63

address what papakāinga might entail for their district. Of the territorial authorities who spoke at the hearings, her impression was that lack of a definition of papakāinga in the RPS would not create issues at a local level and that the current approach was generally supported.

167. We also asked Ms Shirley (via Minute 3) whether UFD-P7(1) should be amended to refer to iwi and hapū expressing their cultural traditions and norms.

168. Ms Shirley disagreed. She stated that Policy 1(a)(ii) of the NPSUD describes a well-functioning urban environment as one that as a minimum:

*“have or enable a variety of homes that:*

*...*

*(ii) enable Māori to express their cultural traditions and norms”*

169. Ms Shirley stated that while UFD-P7 is primarily giving effect to Policy 9 of the NPSUD (in providing for iwi and hapu participation in plan development), it also envelops the elements of a well-functioning urban environment as it relates to Māori. Given the higher order direction of the NPSUD and the engagement outcomes from hui during the Section 32 process, she did not recommend amending UFD-P7(1) to refer to iwi and hapū specifically. She further opined<sup>33</sup> that to the extent there may be some concerns as to what may constitute Māori expression of cultural traditions and norms and the identity of who is wishing to assert such traditions and norms, her expectation was that territorial authorities will be well positioned to make judgments on these matters in consultation with hapū and iwi.

170. Manawatū District Council appeared in the person of Mr Matthew Mackay who provided planning evidence. Mr Mackay expressed general support for the amendments Ms Shirley had recommended to better align the wording of Plan Change 3 with the NPSUD and with her proposed approach to smaller urban centres.

171. In relation to his Council’s request for separation of the policy direction for greenfield from that governing infill development, Mr Mackay noted that it was difficult to advance to the matter without a Regional Spatial Plan or equivalent to provide an evidential foundation for such policy changes. In the absence of that information, he accepted Ms Shirley’s recommendation. He also noted that the NPSHPL made his

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<sup>33</sup> Reply Statement Ms Leana Shirley 8 March 2024 paras 66-69

Council's submission seeking clarification of Method 2 somewhat moot, insofar as it implied that greenfield growth would only occur based on evidence of the lack of infill capacity. He did not pursue that matter.

172. What he did pursue, however, were his Council's submissions seeking that the methods be updated to better reflect the significance of infrastructure funding as a non-regulatory method for delivering urban environments. He disagreed with Ms Shirley's view that it was not necessary to outline funding mechanisms because, in his view, the NPSUD identifies infrastructure as a core determinant of available development capacity and the Proposed Plan Change 3 provisions already speak to the relevance of infrastructure funding and delivery in a co-ordinated manner.
173. He recommended additional text be inserted into Method 2 emphasising the need for Council planning and funding for future urban development, noting the important role of the long term plan in this regard. In her Rebuttal evidence, Ms Shirley accepted Mr Mackay's reasoning and recommended his suggested addition, subject to clarification that councils may seek alternative funding sources outside the LTP. We discussed that alternative wording with Mr Mackay, suggesting that it might be adopted subject to a further minor change to the last sentence to delete the implication that only if residential growth is planned "*through the LTP*" would satisfactory results be achieved. Mr Mackay was comfortable with that minor change and in Reply, Ms Shirley similarly expressed support for it.

#### **4.4 Analysis and Recommendations**

174. Addressing Horowhenua District Council's request that urban development issues be classified as a fifth keystone issue in the One Plan, while the recent Environment Court decision *Beachlands South Limited Partnership v Auckland City*<sup>34</sup> means that Horowhenua District Council's relief cannot be dismissed at the outset as being beyond scope, picking up on the Environment Court's caution regarding amendments addressing matters other than those covered by the Plan Change, we consider that this is such a case. It is not directed at those parts of the One Plan that Plan Change 3 seeks to amend.
175. Clearly though, urban development is an issue. Plan Change 3 recognises that and provides provisions to address it. Whether it is a 'big' issue in the context of the Region as a whole is, to our minds, questionable. Ms Baddock and Ms Poynton

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<sup>34</sup> [2024] NZEnvC 035

made a good case that it was a big issue in Horowhenua District, but we are less sure that that is the case in the balance of the Region. The material that Ms Shirley provided to us in Reply suggests that the other Councils are making good progress in addressing any urban development capacity shortfalls over the short, medium and long term.

176. Accordingly, it did not appear that this particular issue needed to be put 'in lights', to generate the required amount of attention.
177. Nor do we consider we have an adequate evidential basis to categorise urban development issues in relation to the existing four Big issues, or to those issues that have not to date been so categorised.
178. Lastly, we have a particular concern about natural justice and the extent to which the provisions suggested by Ms Baddock and Ms Poynton could have been anticipated by interested parties.
179. In the *Beachlands* case, the Environment Court was looking at that issue from the Court's perspective, with the additional powers provided by Sections 293 of the Act. That option is not available to us, and we are concerned that while Horowhenua District Council's submission clearly introduced the concept of an additional Big issue, no one could have anticipated the detailed text that Ms Baddock and Ms Poynton are now saying is appropriate to flesh out that concept. Moreover, they appeared to accept that that was the case.
180. Last but not least, we regard the relief sought by Horowhenua District Council as seeking to emphasise the importance of urban development among the many issues the Region faces. While that degree of emphasis is not inconsistent with the NPSUD, neither do we consider that it is required in order to give effect to the NPSUD.
181. For all these reasons, we recommend that Horowhenua District Council's submission on this point be rejected.
182. Turning to the new policy Ms Baddock and Ms Poynton suggested, they accepted that their initial wording was inappropriate because it purported to commit councils, including Horizons, to provide infrastructure, when that is a matter that councils must address separately under other legislation, in particular under the long term planning provisions of the Local Government Act 2002.



183. As above, they suggested that the policy might be reframed on the basis of what RMA plans would provide.

184. The problem with that response is that the end result would be a policy that said not much more than:

*“Plans will provide for [specified activities] so long as they do not cause inappropriate environmental effects.”*

185. Reframed in that way, we do not consider that the policy adds any value.

186. We recommend that Horowhenua District Council’s submission on this point also be rejected.

187. As regards the suggested need to qualify the reference in UFD-O3(1)(c) to a compact urban form, we find the concerns Ms Baddock and Ms Poynton expressed to be overstated. The revised version of this part of the objective Ms Shirley recommended would read:

*“The intensification and expansion of urban environments\*:*

*1. Contributes to well-functioning urban environments\* that...*

*(c) achieve a quality, sustainable and compact urban form.”*

188. That is not saying that urban environments cannot expand spatially. It is seeking, as an outcome, that they expand in a way that remains compact.

189. We are also concerned that the qualification Ms Baddock and Ms Poynton suggested might have the unsatisfactory result of providing an avenue for developers to support urban sprawl on the basis that that is all that can reasonably be achieved.

190. Again, we recommend that Horowhenua District Council’s submission on this point be rejected.

191. We accept Ms Shirley’s logic for not specifying housing bottom lines for Tier 3 urban environments. While, as she noted, In the specific case of Levin, there might be a case for specifying a housing bottom line due to its inter-relationship with the greater Wellington urban area, we accept the reasons Ms Baddock and Ms Poynton provided as to why this had some risks. We also note that we did not have evidence, either in relation to Levin or the other Tier 3 urban environments, as to what housing bottom lines a revised version of Plan Change 3 might specify. Even if we felt the point had

merit, we were therefore not in a position to recommend how the Plan Change might be amended to respond to Kāinga Ora's submission.

192. We therefore recommend that this submission point be rejected. The only amendments we recommend in this regard are minor consequential changes following from the correction of the housing bottom line for Palmerston North City that Ms Shirley noted.
193. Turning to the submissions of Rangitikei District Council, we accept generally, Ms Shirley's suggested response to the desire of that Council to provide guidance for the development of smaller towns and settlements. Given that the NPSUD is not focussed on such communities, it would be inappropriate to alter the focus of Plan Change 3 to include them in any substantial way. However, we agree that there are elements of the approach to urban environments that might assist territorial authority management of their smaller towns and settlements, and we consider that Ms Shirley has struck the right balance in this regard.
194. There is one exception. As previously noted, we have a problem with Ms Shirley's suggested formulation of UFD-I3, insofar as it discusses what outcomes are important.
195. In relation to that part of the issue she recommended be directed at smaller towns and settlements, we recommend that this be addressed by amending Ms Shirley's suggested wording to read as follows:

*"These issues can also apply to smaller towns and settlements, whose functioning is influenced by the way in which growth and development occurs."*

196. We agree with Ms Shirley and accept her reasons in relation to UFD-P7(1). As regards the provisions of UFD-P7 related to papakāinga, while we agree that UFD-P7(1) and (2) can be read as being specific to Māori, the generality with which UFD-P7(2)(b) is expressed<sup>35</sup>, in conjunction with the absence of any definition as to what papakāinga includes, and for whose benefit it may be undertaken, leaves it open to a broader interpretation. We do not think that is desirable. We accept that it is not desirable to accept a definition, for the reasons Ms Shirley, Ms Gray and Ms Gower gave us. We consider, however, that greater clarity can be provided in other ways.

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<sup>35</sup> With the recommended removal of reference to Māori-owned land as a qualification, it sticks out in UFD-P7(2) as not being 'specific to Māori', unlike the other sub-policies

We recommend that the opening words of UFD-P7(2) be amended to link sub-policy (2) more clearly to sub-policy (1), as follows:

*As part of making provision for iwi and hapu needs, aspirations, and values land\* use strategies must be proactively developed and implemented to manage urban development in a manner which:*

...

197. We consider that this amendment is more effective and efficient in giving effect to the NPSUD and the objectives of Plan Change 3.
198. In all other respects, we accept Ms Shirley's recommendations on Territorial Authority issues, essentially for the reasons she gave and we have summarised as above.

## **5. CONSISTENCY WITH THE NPSHPL**

### **5.1 Summary of Relevant Submission Points**

199. Ms Shirley summarised the submissions to this topic being that the plan change should be consistent with the National Policy Statement for Highly Productive Land (**NPSHPL**) and not cause conflict. Some submitters expressed the view that Plan Change 3 needed to place restrictions on the use of highly productive land.
200. Ms Shirley identified the key matters / topics raised in submissions in relation to the NPSHPL in her Section 42A Report<sup>36</sup> as being:
  - (a) Currently development onto versatile soils is resulting in reduction of options for their future use. The word "*may*" (third paragraph of Scope and Background) implies a question of doubt and does not reflect the reality that in the vast majority of cases such land use reduces options for their future productive use.
  - (b) Recommendation that this section be updated to reflect the NPSHPL. It is important that towns and settlements that don't meet the urban environment definition grow in a manner that creates well-functioning communities.
  - (c) Concerns that the directive nature of the NPSHPL has the potential to create tension with Plan Change 3.
  - (d) Repword provisions that refer to Class 1 and 2 soils to also refer to Class 3 and change "versatile soils" to "highly productive land".

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<sup>36</sup> Page 25 with reference to submissions S7, S9, S10, S12, S13, S14 and FS3

- (e) UFD-O2 and UFD-P3 are not strong enough and do not reflect the NPSHPL provisions, leading to potential conflict between RPS and NPSHPL.
- (f) UFD-O2 – the phrase, “*consider the benefits of retaining class I and II soils*” needs a stronger word than ‘consider’.
- (g) UFD-P3 – add following wording at end: “*and give it a weighting in decision making that would only see it used for urban growth or rural residential purposes in the most exceptional of circumstances*”.
- (h) UFD-P4 – request protection of versatile soils be mandated with an addition to the policy: “*avoids using versatile soils except in the most exceptional of circumstances.*”

## 5.2 Matters in Contention

201. Ms Shirley advised that the parties who attended the pre-hearing meeting on this issue<sup>37</sup> agreed that all references to ‘versatile soils’ in Plan Change 3 should be replaced with ‘highly productive land’, and that the NPSHPL definition of the latter term should be inserted in the Plan Change, subject to scope being available to make such a change. All participants of the pre-hearing agreed that Plan Change 3 was limited in its ability to achieve alignment with the NPSHPL.
202. In her Section 42A Report, Ms Shirley noted that the NPSHPL came into effect the same day that Plan Change 3 was notified. Its sole objective is to protect highly productive land for use in land-based primary production, both now and for future generations<sup>38</sup>. Regional Councils have responsibilities to identify highly productive land, and manage the effects of subdivision, use and development of that land in an integrated way. Regional Councils have three years from the commencement date of the NPSHPL to notify a change to their RPS with maps of all highly productive land (LUC Class 1, 2 and 3 that is not identified for urban development) in their region. Ms Shirley pointed out that Horizons is in the initial stages of preparing a change to the One Plan RPS to give effect to the implementation requirements of the NPSHPL, which includes the mapping requirement<sup>39</sup>.

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<sup>37</sup> Horowhenua, Manawātū and Rangitīkei District Councils, Fonterra and Public Health Service, MidCentral (Te Whatu Ora, Health New Zealand)

<sup>38</sup> National Policy Statement for Highly Productive Land 2022: <https://environment.govt.nz/assets/publications/National-policy-statement-highly-productive-land-sept-22-dated.pdf>

<sup>39</sup> Section 42A Report, paras 143-144

203. Ms Shirley identified an inherent relationship between the NPSHPL and NPSUD. Similar language has been used in the NPSHPL (e.g. sufficient development capacity, feasible, well-functioning urban environment) to enable interpretation across both national direction documents. Policy 2 and Clause 3.2 of the NPSHPL requires that highly productive land is managed in an integrated way that encourages local authorities and developers to consider the relationship between the NPSHPL and NPSUD. Policy 5 of the NPSHPL directs that urban rezoning of highly productive land is avoided.
204. In Ms Shirley's view the NPSHPL has some relevance to Plan Change 3. However, Plan Change 3 was drafted without the NPSHPL in mind and consequently was silent on the NPSHPL obligations. Because Plan Change 3 was not intended to give effect to the NPSHPL, she did not consider that there was scope for wholesale changes to attempt to completely implement the NPSHPL. In her view, however, Plan Change 3 at the very least should ensure that it does not create conflicts or inconsistency with the NPSHPL.
205. In his legal submissions for Horizons, Mr Jessen pointed out that besides questions of scope, there are issues in this plan change as to what is required in order for the Regional Policy Statement to "*give effect to a National Policy Statement*" which it must do in order to comply with the direction at s62(2) RMA<sup>40</sup> which we also discuss above in our decision. He noted that Plan Change 3 is called the "*urban development plan change*" which has overlapping issues with the NPSHPL<sup>41</sup>.
206. Ms Shirley noted that Plan Change 3 includes provisions which refer to 'versatile soils', which include Class 1 and 2 soils. These provisions have been incorporated from the operative RPS. They are only referenced in this part of the One Plan.
207. In Ms Shirley's view, adoption of the NPSHPL definition for highly productive land in Plan Change 3 would allow Horizons to give partial effect to the NPSHPL, confined to the One Plan's provision for urban development capacity (i.e. within the scope of Plan Change 3). She acknowledged that the NPSHPL applies to a larger area of soils (LUC Classes 1, 2 and 3) whereas the One Plan currently references versatile soils as being LUC Class 1 and 2 soils. However, as she pointed out, the constraints imposed by the NPSHPL apply now anyway to LUC Class 3 land, in addition to and

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<sup>40</sup> Legal Submissions Mr Jessen 2 February 2024 para 15

<sup>41</sup> Mr Jessen also noted overlapping issues with the NPSFM and the NPSET

separate from any requirements in the One Plan, so she was satisfied that this did not go beyond the scope of Plan Change 3.

208. In Ms Shirley's opinion<sup>42</sup> the submission of Dr Chris Teo-Sherrell<sup>43</sup> that requested additional amendments to provisions which specified that development of highly productive land would only occur as a last resort and in the most exceptional of circumstances, went further than the NPSHPL in constraining the use of 'highly productive land'. We did not hear from Dr Teo-Sherrell so were unable to gain a greater understanding of his view on scope.

### 5.3 Other Evidence on NPSHPL Issues

209. It is fair to say that there was what we would call a 'mass retreat' by the territorial authorities from agreements reached during the pre-hearing, to replace 'versatile soils' with highly productive land and include the NPSHPL definition of 'highly productive land'.
210. Ms Lauren Baddock and Ms Lisa Poynton (for Horowhenua District Council, which had sought this change in its submission) expressed disagreement with inserting highly productive land in their combined evidence after due consideration. They had concerns that the amendments would unintentionally make the RPS more permissive than the NPSHPL, specifically in relation to UFD-O2 and UFD-P3. They were also concerned that the amendments would possibly give a reader of the One Plan a false impression that the RPS has been amended to give effect to the NPSHPL. Ultimately, they preferred deferring this issue to a future plan change process to avoid potential confusion.
211. Mr Matthew Mackay, for Manawatū District Council, told us at the hearing that it would be "*cleaner and clearer*" to step back and not include highly productive land. Ms Katrina Gray and Ms Tiffany Gower (of Rangitīkei District Council) agreed and thought it would be easier to leave it to a later process.
212. In contrast Ms Hilderink-Johnson pointed out in her evidence for Fonterra that the effect of reverting to the existing One Plan references to versatile soils would have the effect of making it more restrictive than the NPSHPL, because it would not

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<sup>42</sup> Section 42A Report, para 152

<sup>43</sup> Submission 13, submission points 13.3, 13.4 and 13.5

recognise existing urban zonings of Class 1 and 2 land (such as the Industrial Zone over the farm adjacent to Fonterra's Longburn Plant).

213. In her Rebuttal<sup>44</sup>, Ms Shirley explained that Plan Amendment 3 was in the development stages and is designed to give effect to the National Planning Standards. As part of this process Plan Amendment 3 (which was subsequently adopted on 27 February 2024) includes a new table which makes it clear that the One Plan has not been reviewed to give effect to the NPSHPL.
214. We asked Ms Shirley what the extent of the change resulting from including Class 3 soils was and the extent to which altering reference to versatile soils to highly productive land would alter the effect of the provisions of Plan Change 3.
215. In her Reply Statement, Ms Shirley included maps of each district in the region showing soil classifications and noted that Levin, Aokautere (Palmerston North) and Whanganui are the urban environments with larger amounts of Class 3 soils surrounding their current urban boundary. For the Region's smaller communities that do not meet the definition of an urban environment, there are Class 3 soils located adjacent to urban areas in Ohakune, Foxton, Taihape, and throughout the Tararua District<sup>45</sup>.
216. She also said that:

*“Altering the reference in the issue (UFD-I2), objective (UFD-O2), and policy (UFD-P3) so they refer to the NPSHPL definition of highly productive land, has the effect of making those provisions relevant to areas mapped on NZLRI as having Class 3 soils across the region. At the same time, it means that these provisions would not apply to some areas of land in the region that have been identified for future urban development, or which have been subject to an urban rezoning, in accordance with the interim provisions under clause 3.5(7) of the NPSHPL”.*<sup>46</sup>

217. Ms Shirley gave Braeburn Industrial Area and the Kākātangiata urban growth area as relevant examples of identified future urban development areas, and stated that the effect of the change to the provisions would be that urban development within these areas would no longer need to have regard to the benefits of retaining versatile soils.

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<sup>44</sup> Rebuttal Evidence Ms Leana Shirley 24 January 2024 para 43

<sup>45</sup> Reply Statement Ms Leana Shirley 8 March 2024, paras 39-40

<sup>46</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 29

Here, the change to the provisions would address inconsistency, clarifying that the approach consistent with the NPSHPL applies, and that the benefit of retaining any versatile soils within those existing urban zoned areas would not need to be considered in a consenting process<sup>47</sup>.

218. She stated that *“while further areas of land will either be included or excluded by reference to the updated definition, the ‘effect’ of the change will not result in a significantly impactful regional direction. That is because the existing policy approach is only to “...consider the benefits of..” and “...must pay particular attention to the benefits of the retention of...” Class 1 and 2 versatile soils<sup>48</sup>.”* Ms Shirley noted also that the direction of the NPSHPL is stronger than the One Plan and so is likely to be given greater weight when determining how highly productive land should be managed.
219. In response to the territorial authorities, Ms Shirley was of the opinion that there would not be any cost or negative implications from including the NPSHPL definition of highly productive land. She considered that it would provide clarity and assistance to them and would not lead to any confusion about the continued application of the NPSHPL. She also did not agree with amending the definition to exclude Class 3 soils as in her opinion it would compromise the clarity of the definition.
220. Mr Jessen submitted in his closing legal submissions that:

*“Implementation clause 3.3 of the NPSHPL sits as a barrier to further changes to Plan Change 3 provisions. This clause explicitly requires that, in implementing the NPSHPL through regional policy statements, regional plans, and district plans, local authorities must actively involve tangata whenua<sup>49</sup>.”*

221. Mr Jessen considered this to be the primary obstacle preventing a more comprehensive implementation of the NPSHPL. Furthermore, consultation carried out under Plan Change 3 cannot serve as a substitute, as clause 3.3 requires active involvement of tangata whenua in giving effect to the NPSHPL and Plan Change 3 is not that plan change.

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<sup>47</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 32

<sup>48</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 31

<sup>49</sup> Closing legal submissions N Jessen 2 February 2024, para 34



#### 5.4 Analysis and Recommendations

222. We are mindful that while the objective of Plan Change 3 is to give effect to the NPSUD, the NPSHPL ‘overlaps’ with this. We cannot consider provisions enabling or allowing urban development on highly productive land without considering the consistency of such provisions with the NPSHPL. At least to that extent, amendments such as those proposed in the Horowhenua District Council’s submissions are in scope and ‘on’ Plan Change 3. We are also cognisant of the fact that the Territorial Authorities must implement the NPSHPL regardless of whether the Region’s soils have been mapped or not.
223. We agree with Mr Jesson’s submission that, due to the obligation to actively involve tangata whenua in Regional Policy Statement changes and to implement the NPSHPL, it is not appropriate to seek to fully implement the NPSHPL through Plan Change 3 even if there were scope to do so. We also agree with Ms Shirley that the focus in this process should be to reduce inconsistencies with the NPSHPL where that is possible.
224. That suggests to us that the status quo is not a tenable position. As Ms Hilderink-Johnson pointed out (and Ms Shirley agreed), that would have the effect that in some key locations, the One Plan restricts urban development in ways the NPSHPL does not require.
225. We have less concern with the inverse position; the One Plan being less restrictive than the NPSHPL. When and if that occurs, the latter will prevail. We also consider that the change made as part of Plan Amendment 3 to make it clear that the NPSHPL has not been given effect to date reduces the risk Ms Baddock and Ms Poynton were concerned about.
226. We agree with Ms Shirley’s concern about a hybrid approach; varying the NPSHPL definition of highly productive land to exclude Class 3 soils.
227. In summary, we accept Ms Shirley’s recommendation to make limited amendments to issue (UFD-I2), objective (UFD-O2), and policy (UFD-P3) so they refer to the NPSHPL definition of highly productive land (instead of versatile soils) and other minor wording amendments as set out in our Appendix 1. It follows that we also adopt Ms Shirley’s s32AA<sup>50</sup> evaluation for these amendments.

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<sup>50</sup> Section 42A Report, para 222

## **6. ACTIVE AND PUBLIC TRANSPORT**

### **6.1 Summary of Relevant Submission Points**

228. Ms Shirley noted that submitters made various points relating to provision of public and active transport as part of urban development and intensification through Plan Change 3. For some submitters, there was a desire to ensure a variety of transport modes are provided for in urban development. Other submitters expressed concern that the wording of Plan Change 3 created a risk that urban development could be constrained by lack of public transport (both planned and/or delivered) given this is the responsibility of the Regional Council, and follows a different planning and funding process under the Land Transport Management Act. Submitters also sought to ensure that the wording of Plan Change 3 does not foreclose future development options due to the absence of existing or planned public transport.
229. More particularly, Ms Shirley identified the key matters / topics raised in submissions in relation to public and active transport in her Section 42A Report<sup>51</sup> as being:
- (a) Include active transport under section UFD-O3 (2)(b).
  - (b) Amend UFD-P4 to recognise the importance of connecting active and public transport modes and transport corridors to provide a well-functioning urban environment.
  - (c) UFD-P4: minor wording change to sub clause (4) by way of enabling and encouraging active transport.
  - (d) UFD-O3 and UFD-P4: wording that recognises that greenfield areas in particular should be designed to accommodate future public transport. Clarify that public transport is a regional council function.
  - (e) Amend references to public transport services/corridors to recognise that public transport may not yet be available to all urban settlements, and require these services to be provided for.
  - (f) Minor amendments to ensure that the connectivity of active and public transport modes and transport corridors, and commercial services (including employment opportunities) is considered when considering unanticipated or out of sequence development.

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<sup>51</sup> Page 26 with reference to submissions S2, S7, S8, S13, S18, S19 and FS3

- (g) Future development should be putting public transport and active transport ahead of transport by motor car, whether internal combustion - or electrically powered, to achieve liveability and sustainability objectives.
- (h) There are a number of provisions related to development linked to public transport when there is barely any public transport in this Region. Insert much stronger links between public transport planning and the One Plan (and Spatial Plans, District Plans and subdivision consents).

## **6.2 Matters in Contention**

- 230. Participants at the pre-hearing meeting<sup>52</sup> agreed that Plan Change 3 should 'enable' well-connected public transport, rather than require it exist or be planned, and should ensure development is well-connected by a variety of transport modes.
- 231. Supporting that agreement, in her Section 42A Report, Ms Shirley noted that planning and provision of public transport is a function of the Regional Council and that the NPSUD definition of planned public transport is not helpful as it refers to public transport identified in a Regional Land Transport Plan. In reality, this Plan does not identify specific public transport proposals – its role is to set the high-level direction for all transport across the Region. She therefore agreed with amendment of the objectives and policies of Plan Change 3. The key outcome is to ensure urban development and intensification enables public transport (where it isn't available currently)<sup>53</sup>.
- 232. Regarding the submission from the Public Health Service<sup>54</sup>, which expressed concern that active transport was not adequately provided for by Plan Change 3, Ms Shirley considered that it was on the whole adequately provided for through urban development and intensification. She stated that Method 2 details how active transport is to be provided for. In her view, this gives effect to UFD-O3. However, she considered that there was an opportunity in UFD-O3(2)(b) to be more explicit about provision of active transport.

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<sup>52</sup> Waka Kotahi, Horowhenua District Council and Public Health Service (MidCentral, Te Whatu Ora, Health New Zealand)

<sup>53</sup> Section 42A Report, paras 166-167

<sup>54</sup> Submission S19

233. Responding both to the Public Health Service submission and to that of Horowhenua District Council, Ms Shirley recommended the following changes to UFD-O3(1)(d) and (2)(b):

***“UFD-O3: Urban form and function***

*The intensification and expansion of urban environments\*:*

*(1) contributes to well-functioning urban environments\* that*

*...*

*(d) are, or planned to be, well connected by a choice of transport modes including public transport\*, ~~and~~*

*(2) enable more people to live in, and more businesses and community services\* to be located in, areas of an urban environment\* where:*

*...*

*(b) it is able to be, or is, well-serviced by existing or planned public transport\* and active transport\*, ~~or~~*

*...”*

234. Ms Shirley<sup>55</sup> also agreed with Waka Kotahi<sup>56</sup> that urban development and intensification should enable a variety of transport modes as this is key to ensuring access and connectivity within communities. She agreed that the infrastructure necessary to enable active transport should be provided for as this is a key part of giving people transport choice and recommended changes to UFD-P4 to accommodate these themes.

235. In response to Dr Sharon Stevens<sup>57</sup>, Ms Shirley did not support including the word ‘safe’ in UFD-P8 as safe active travel is already provided for in UFD-O3(1)(a). She also considered that placing a requirement in the policies regarding protected cycleways, goes beyond the scope of the RPS in terms of specificity. We did not hear from Dr Stevens at the hearing and so were unable to gain a greater understanding of her submission.

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<sup>55</sup> Section 42A Report, para 169

<sup>56</sup> Submission S2 and S6

<sup>57</sup> Submission S8

236. In response to Waka Kotahi's request to include active transport in UFD-P4(1)(d), Ms Shirley explained that this clause relates to development infrastructure which is defined by the NPSUD and in Plan Change 3<sup>58</sup>. Development infrastructure includes all land transport (as defined by the LTMA), which in her opinion includes active transport. She therefore did not consider it necessary to reference active transport in this policy clause.
237. Ms Shirley supported Dr Teo-Sherrell's<sup>59</sup> request to change UFD-P8(2)(a) to require walking and cycling to be integrated into land use development as it aligns with other Objectives in Plan Change 3 which require development to be connected by a variety of transport modes.

### **6.3 Additional Evidence on Public Transport Issues**

238. We heard relatively little additional evidence on these issues at the hearing. Public Health Service did not appear, and Waka Kotahi tabled a statement largely agreeing with Ms Shirley's recommendations, although it continued to seek reference to 'active transport' in UFD-P4(1)(d).
239. As part of their joint evidence, Ms Baddock and Ms Poynton sought amendment to UFD-P4(2)(c) to provide for expansion of urban environments that are able to be well connected.
240. In her Rebuttal, Ms Shirley supported the thrust of Ms Baddock and Ms Poynton's evidence. Ms Shirley recommended the words "...or can be..." be inserted after "is" in UFD-P4(2)(c).
241. Discussing the issue with Ms Baddock and Ms Poynton, they suggested the policy could outline minimum requirements as to how it might be achieved. As an example, they suggested a possible requirement to make streets wide enough to enable retrofitting of bus stops, if required.
242. In our Minute 3, we asked Ms Shirley whether more clarity should be provided on how connections for transport modes and to transport corridors are provided for in UFD-P4(2)(c). In her Reply<sup>60</sup>, Ms Shirley was concerned that the inclusion of the words "can be" in clause (2)(c) she had recommended would also apply to transport

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<sup>58</sup> Section 42A Report, referring to para 171 Submission S2

<sup>59</sup> Submission S13

<sup>60</sup> Reply Statement Ms Leana Shirley 8 March 2024, paras 75-77

corridors, which is considered development infrastructure by the NPSUD and that this is more permissive than she had intended, as the planning of development infrastructure (such as transport corridors) is largely within the control of territorial authorities.

243. She considered that removing the words “*or can be*” was appropriate even though she accepted that the views that not every development area (particularly an expansion) will be ‘well connected’ at the time that it is proposed. In her view, phrased this way, it would require that a development proposal (or plan change to provide for expansion) addresses this item with a degree of certainty that is acceptable to the decision makers in the case, and it may also support conditions or plan provisions to ensure that this matter is provided for.
244. Ms Shirley’s revised recommended amendments to UFD-P4(2)(c) were as follows (showing changes from her Rebuttal evidence):

**“UFD-P4: Urban intensification and expansion**

(1)....

(2) *In addition to meeting the criteria in (1) above, the expansion of urban environments\* must only occur where it:*

(a) *is adjacent to existing or planned urban areas,*

(b) *will not result in inefficient or sporadic patterns of settlement and residential growth and is an efficient use of the finite land resource,*

~~(c) *is, or can be, well-connected along by a variety of transport modes and transport corridors*~~

(c) *is well-connected:*

*i. by a variety of transport modes, with demonstration of how provision of public transport will be enabled, and*

*ii. along transport corridors.”*

## 6.4 Analysis and Recommendations

245. We generally accept Ms Shirley’s reasoning on these matters. In particular, given her recommended amendment to UFD-O3(2)(b), which we agree with, to insert reference to active transport, it is not necessary to refer specifically to it in UFD-P4(1)(d) also.
246. The one area where we think the provisions would benefit from rewording is in relation to UFD-P4(2)(c). It seems to us that Ms Shirley’s final suggested amendment introduces an inherent contradiction by requiring that expanded urban areas be well connected by a variety of transport modes, while at the same time accepting that at least in the case of public transport, this may be matter for future action.
247. We accept the premise of Ms Baddock and Ms Poynton’s evidence; that urban development can provide the means by which different transport modes connect to new areas, but cannot ensure that different transport modes utilise the means provided. We therefore recommend that UFD-P4(2)(c) be worded as follows:

***“UFD-P4: Urban intensification and expansion***

(1) ...

(2) ...

...

(c) is well-connected along transport corridors and is designed to enable a variety of transport modes.”

## 7. CLIMATE CHANGE ADAPTATION

### 7.1 Summary of Relevant Submission Points

248. Ms Shirley noted that a number of submitters raised points seeking to understand and ensure climate change adaptation through Plan Change 3 is achievable.
249. More particularly Ms Shirley summarised the submissions relating to climate change adaptation in her Section 42A Report<sup>61</sup> as follows:

(a) UFD-O3(1) and UFD-P1 - to achieve climate change resilience and well-functioning urban environments, urban development needs to create healthier

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<sup>61</sup> Page 26 referring to submissions S2, S4, S5, S11, S14, S16, S17, S19

natural environments and design resilient forms and functions by improving and enhancing them.

- (b) In times of drought, earthquake or climate change emergencies, consideration is given to emergency water supplies. Amend UFD-P8 to include reference to emergency water supplies.
  - (c) Request more regional direction on how to ensure urban development is resilient to the effects of climate change.
  - (d) Revise UFD-O5 to create a clearer policy cascade, so that plan users can be clear whether the outcome intended is to reduce greenhouse gas emissions, or whether development should be managed in a way that reduces the relative potential for generating greenhouse gas emissions.
  - (e) UFD-O5: needs further expansion to make the objective clearer and more directive.
  - (f) UFD-P8 – needs to refer to a definition for “best practice” resilience.
250. Palmerston North City Council’s<sup>62</sup> submission expressed concerns about the phrasing of UFD-O5 and UFD-P8(1). In its view the plan needs to be clear whether the outcome intended is to reduce greenhouse gas emissions, or whether development should be managed in a way that reduces the relative potential for generating greenhouse gas emissions. The proposed wording could be read in a way that requires greenhouse gas reductions in all circumstances, with a risk that development doesn’t strictly meet this policy. It sought amendments to this policy to support reductions in greenhouse gas emissions.

## 7.2 Matters in Contention

251. Participants at the pre-hearing meeting<sup>63</sup> agreed to add the words “*support reductions in greenhouse gas emissions*” into UFD-P8(1), and that UFD-O5 does not need to be further amended to address greenhouse gas emissions.
252. Ms Shirley also noted that she agreed with three of the submissions points of Dr Teo-Sherrell, who she met with separately, resulting in suggested amendments to the scoping background section, UFD-I2 and UFD-P8(2) to better describe the effect of

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<sup>62</sup> Submission S11

<sup>63</sup> Waka Kotahi, Horowhenua District Council, Palmerston North District Council, Fish and Game NZ, Public Health Service, Fonterra, and Robert McLachlan



the use of more versatile soils on production options, and to provide greater direction on integration of sustainable transport options and to land use development.

253. In her Section 42A Report, Ms Shirley clarified that it was not the intention of Plan Change 3 to require development to reduce greenhouse gas emissions in the sense that development must improve the existing environment – rather any development and expansion should occur in a way that supports reductions in emissions, in line with Objective 8 of the NPSUD.
254. In Ms Shirley’s opinion<sup>64</sup>, the current wording of UFD-O5 is sufficiently clear that the intention is to ensure development supports reductions in greenhouse emissions. Method 2 also provides additional guidance in this respect. However, Ms Shirley noted that Policy UFD-P8 does not align with UFD-O5 and therefore required an amendment to address this submission point. As above, agreement was reached at the pre-hearing meeting to amend UFD-P8(1) to refocus and provide a pathway requiring urban development to ‘support reductions in’ greenhouse emissions.
255. Fonterra<sup>65</sup> requested that UFD-P8(1)(a) include wording to require minimisation of contributions to climate change “*as far as reasonably practicable*” to ensure that effects on climate change also take into account other factors that may impact reductions. Ms Shirley responded in her Section 42A Report<sup>66</sup> that in her view the meaning of minimise is sufficiently clear without further clarification and that based on the understanding in other NZ jurisdictions (e.g. Southland Water and Land Plan endorsed by the Environment Court) minimise means “*reduce to the lowest practicable extent*”.
256. Horowhenua District Council and Kāinga Ora<sup>67</sup> sought a definition for ‘best practice resilience’ in the context of impacts on climate change where that is referenced in UFD-P8(1)(c). Horowhenua District Council was concerned that it may require gold-plated solutions in every situation, when something more pragmatic may suffice.
257. Ms Shirley<sup>68</sup> agreed that some clarification on what is meant by ‘best practice resilience’ was valid and could create uncertainty for users in its current form. In her view the term ‘best practice’ was redundant as the word ‘resilience’ on its own

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<sup>64</sup> Section 42A Report, para 185

<sup>65</sup> Submission S11

<sup>66</sup> S42A Ms Leana Shirley 1 December 2023 para 186

<sup>67</sup> Submissions S7 and S17 respectively

<sup>68</sup> Section 42A Report, para 187

sufficiently conveys that development of urban environments would need to have the capacity to withstand the impacts of climate change as addressed by this policy and required by the NPSUD.

258. Public Health Service<sup>69</sup> sought to ensure Plan Change 3 requires provision for emergency water supplies as part of climate change resilience. In Ms Shirley's view<sup>70</sup>, provision of emergency water supply and messaging around encouraging the community to install such facilities is typically the function of territorial authorities. In many cases, this would be addressed in territorial authority Emergency Management Plans. She therefore did not consider this amendment to be appropriate in the context of the RPS.
259. Dr Sharon Stevens<sup>71</sup> sought amendments to place additional emphasis on green infrastructure for flood mitigation, which in her view is in conflict (or at least tension) with other aspects of the One Plan. In her Section 42A Report<sup>72</sup> Ms Shirley was of the view that this was already sufficiently addressed by UFD-P8(1)(a) which refers to water sensitive design and nature-based solutions. She did not perceive any conflict with other provisions of the One Plan.
260. Kāinga Ora sought changes to UFD-O5 for clarity and greater direction. The changes it sought were as follows:

*"UFD-O5*

*Regional and district plans contribute to the region being Urban environments\* resilient to the effects\* of climate change^ and support reductions in greenhouse gas^ emissions-, and where climate change mitigation is an integral part of well-functioning urban environments\* and rural areas."*

261. In response, Ms Shirley<sup>73</sup> stated that the current wording of this Objective aligns strongly with the wording in Objective 8 and Policy 1(f) of the NPSUD. In her view, UFD-O5 was sufficient in its intent and including reference to Regional and District Plans did not add certainty to the Objective. The requested changes to incorporate climate change mitigation as a part of well-functioning urban environments and rural

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<sup>69</sup> Submission S19

<sup>70</sup> Section 42A Report, para 188

<sup>71</sup> Submission S8

<sup>72</sup> Section 42A Report, para 189

<sup>73</sup> Section 42A Report, para 190

areas also goes beyond what is specified in the NPSUD. While mitigation is a key part of resilience to climate change and greenhouse gas emissions, it is not the only method for achieving this outcome. She therefore considered it unnecessarily prescriptive to reference this in UFD-O5. Lastly, the reference to rural areas was not supported by Ms Shirley as this Objective only relates to urban environments.

### 7.3 Additional Evidence on Climate Change Matters

262. We heard little additional evidence on these matters. Public Health Service, Kāinga Ora, Dr Teo-Sherrell and Dr Stevens did not appear. We did hear, however, from Fonterra.
263. In her evidence, Ms Emma Hilderink-Johnson, on behalf of Fonterra<sup>74</sup>, explained that because the legal understanding of the term minimise may change in the future, in her view, for the avoidance of doubt, “*as far as reasonably practicable*” should be added to UFD-P8(1)(a). She also did not consider it appropriate to include a definition of ‘minimise’ in the RPS as an alternative, as the term ‘minimise’ can rightly have different contextual meanings within the various provisions of the One Plan.
264. Ms Shirley addressed the issue further in her Rebuttal evidence. In her view, the term ‘minimise’ already implies a commitment to doing so within the reasonable and practical limits for the development in question. She preferred to leave it implicit as otherwise “*the words ‘as far as reasonably practical’ would introduce a potentially subjective loophole and dilute the clarity of the policy*”. Ms Shirley also noted her view that the natural meaning of ‘minimise’ is “*to reduce to the lowest level possible*”.
265. We asked Ms Shirley whether these various statements were entirely consistent (we found it difficult to understand how it could be implicit that minimise included consideration of what is reasonable and practical if the natural meaning focussed on what is possible).
266. She advised that she had been in error suggesting that reasonableness and practicability were implicit in the concept of minimisation. In her view, the intention of the policy was to focus on what is possible, and qualifying it by reference to what is practicable would weaken it in ways not intended. She agreed, however, that the policy needs to be clear either way.

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<sup>74</sup> Evidence of Emma Hilderink-Johnson (planning) Fonterra 19 December 2023 para 2.9 noting that her evidence mistakenly refers to UFD-P8(1)(c).

267. Ms Baddock and Ms Poynton did not address climate change resilience issues in their evidence for Horowhenua District Council
268. We asked Ms Shirley whether some direction should be provided as to what level of resilience is required to the effects of climate change. In her Reply<sup>75</sup>, Ms Shirley stated that the appropriate level of resilience improvements should be at the discretion of the local authority and may vary depending on the urban environment and its constraints. In the absence of more technical evidence specially addressing climate resilience or national direction on resilience, she considered the proposed wording of UFD-P8 to be appropriate in its current form. In particular, she was of the view that this policy in combination with the provisions of Chapter 9 (now RPS-HAZ under Plan Amendment 3) provide sufficient guidance for development in urban environments, while also aligning with the NPSUD. She therefore did not recommend any changes to UFD-P8.

#### **7.4 Analysis and Recommendations**

269. In the absence of any evidence from a number of the parties who submitted on these issues, we generally accept Ms Shirley's reasoning, as summarised above. There are two exceptions that require further discussion. The first is in relation to the use of the term 'minimise' in the context of UFD-P8(1)(a). We accept Ms Shirley's revised view that the natural and ordinary meaning of 'minimise' is "*reduce to the lowest extent possible.*" As Mr Jesson noted in his legal submissions, this accords with dictionary definitions<sup>76</sup>. We think Ms Shirley's reference to the Environment Court's decisions on the Southland Water and Land Plan do not assist in this regard. While the Court<sup>77</sup> made a consent order defining 'minimise' for the purposes of that Plan as "*reduce to the smallest amount reasonably practicable*", it did not say whether the suggested definition either altered or confirmed the meaning that would otherwise have been ascribed to it.
270. Nor do we agree with Ms Shirley's suggestion that if we leave the term unclarified, the Courts will tell us in due course what it means in this context. Section 32 requires evaluation of the costs and benefits of policy alternatives. High Court authority<sup>78</sup>

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<sup>75</sup> Reply Statement Ms Leana Shirley 8 March 2024 para 79-83

<sup>76</sup> See e.g. Dictionary.com

<sup>77</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2022] NZEnvC 265

<sup>78</sup> *Tauranga Environmental Protection Society v Tauranga City Council* [2021] NZHC 1201 at [149]

indicates that a policy framed around what is possible requires an assessment of technical feasibility irrespective of cost.

271. The difference between a policy direction that considers cost as a factor in determining whether particular actions are required, and one that considers technical possibilities irrespective of cost is obviously potentially significant.
272. It follows that it is important to know which applies and to evaluate it accordingly. Ms Shirley put it another way, saying that whatever the position was, it needed to be clear. We agree with that.
273. The key question is whether a meaning which tests the level of reduction on the basis of what is possible without regard to cost is appropriate in the context of the contribution urban design, building and infrastructure make to climate change.
274. Ms Shirley stated that the intention underlying this particular policy was to consider what reductions in contributions to climate change are possible.
275. Having reviewed the Section 32 evaluation, we found no indication that this particular direction was to be pursued without regard to cost implications. Neither the additional costs on land developers, or the possibility that development will not proceed because of those costs, were evaluated.
276. Ms Shirley was obviously concerned about the possibility for arguments to be made about how the policy should be implemented if it were qualified to provide for what is reasonable and practicable. That is a fair point. Providing the ability to make such arguments has costs of its own. However, if one were to turn the argument around and ask who would support policy requirements in relation to urban design, building and infrastructure if they imposed impractical and unreasonable costs, we wonder who would put their hand up.
277. Moreover, if the RPS does require imposition of impractical and unreasonable costs, as above, that has the potential to defeat the purpose of Plan Change 3, and discourage urban development.
278. For all of these reasons, we recommend that Fonterra's submission be accepted and UFD-P8(1)(a) be amended as follows:

***“UFD-P8: Urban development and climate change”***<sup>^</sup>

(1) ...

(a) *Use of urban design, building and infrastructure^ to minimise as far as practicable contribution to climate change^ of the development and its future use ...”*

279. We consider this amendment better aligns with the NPSUD and the purpose of Plan Change 3.
280. In relation to climate resilience, we agree with Ms Shirley that the qualification of resilience by reference to ‘best practice’ is not helpful. We remain, however, concerned that a reference to ‘resilience’ without any indication as to ‘how resilient?’ is problematic. Ms Shirley is correct and the relabelled RPS-HAZ-NH Chapter (previously Chapter 9) has valuable guidance on this matter. In particular the policies of that chapter governing flooding indicate that the event to be protected against is a 0.5% annual exceedance probability (1 in 200 years). That might be regarded as the required level of resilience, but the relevant policy (HAZ-NH-P10) does not actually say that.
281. Moreover, where other types of natural hazards are involved, HAZ-NH-P12 takes a different approach, directing management of future development in a way that ensures any increase in risk to human life, property or infrastructure from natural hazard events is avoided where practicable, or mitigated where the risk cannot be practicably avoided.
282. To better align UFD-P8(1)(c) with the HAZ-NH policies, we recommend that the former require a ‘risk-based’ approach be adopted in relation to resilience to the impacts of climate change. We consider that the following amendments provide users with clarity and are a more efficient and effective way to give effect to the NPSUD:

**“UFD-P8: Urban development and climate change^**

(1) ...

(a) ...

(b) ...

(c) *Requiring a risk based approach to their resilience to the impacts of climate change^, including sea level rise\* and ...”*

## **8. REMAINING GENERAL SUBMISSIONS**

### **8.1 Maintenance and enhancement of freshwater and the natural environment**

283. Fish and Game<sup>79</sup> sought to ensure Plan Change 3 maintains or enhances the natural environment within urban areas. Ms Shirley's<sup>80</sup> understanding was that the intention of Fish and Game's submission was to ensure that urban growth is not enabled at the expense of the quality of the natural environment (including freshwater receiving environments). Fish and Game sought a number of amendments to Plan Change 3<sup>81</sup> provisions along these lines. Ms Shirley noted that these requests were discussed at the pre-hearing meeting on climate change adaptation (where Fish and Game were an attendee), where it became apparent that although the submission sought improvement of the environment, Fish and Game's objective was to prevent worsening of conditions and to include specific outcomes for the environment in Plan Change 3 (not only outcomes for urban growth).
284. Ms Shirley's view did not change from her position at the pre-hearing – that being that the outcomes for natural values (including freshwater quality) are addressed by other chapters of the One Plan and there is no need to replicate those in Plan Change 3. She also considered that it is premature to attempt to get ahead of Horizons' NPSFM plan change by inserting references to elements of the NPSFM as the submission sought to do. Ms Shirley noted that the process of community engagement to determine the amendments necessary to the One Plan to give effect to the NPSFM is under way.
285. She was also of the view that Plan Change 3 was limited by the scope of the notified provisions and the NPSUD. She stated that Plan Change 3 does respond in part to Objective 1 and Policy 3 of the NPSFM. UFD-O3(e) – 'manages adverse environmental effects' responds to Objective 1 of the NPS-FM and UFD-P8 responds to Policy 3 of the NPS-FM by promoting resilient design methods in urban development, including water sensitive design and nature based solutions. To go further than this, would in her opinion, go beyond the scope of Plan Change 3 and pre-empt the outcome of the separate freshwater planning process being undertaken

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<sup>79</sup> Submission S5

<sup>80</sup> Section 42A Report, para 193

<sup>81</sup> Submission S5 requested amendments to provisions UFD-I3, UFD-O1(2), UFD-O3(1), UFD-P1(2) and UFD-P8(1)

by council, which will give effect to the NPSFM and be supported by technical evidence<sup>82</sup>.

286. In response to Fish and Game's submission, Ms Shirley<sup>83</sup> recommended accepting in part that there is a need for urban development to not be enabled at the expense of the natural environment and suggested UFD-I3 be amended as follows:

*Growth needs to be provided for in a way that contributes to well-functioning urban environments, is integrated with infrastructure planning and funding decisions, does not worsen effects on the urban and natural environment (including freshwater), and improves resilience to the effects of climate change.*

287. We did not hear from Fish and Game at the hearing, but Ms Baddock and Ms Poynton expressed concern about the implications the proposed amendment in their joint evidence for Horowhenua District Council. However, their substantive concerns were overtaken by questions about the way in which the issue was framed more generally.

288. As discussed above, Ms Shirley (in Reply) accepted that UFD-I3 needed to be reframed so it identified a problem, without stating what the solution was.

289. In relation to effects on freshwater, she suggested the following rewording:

*Growth in urban environments\* that is not well planned and integrated with infrastructure and other required services ... can lead to effects on the urban and natural environment including for example, freshwater^, ...."*

290. We agree that this reframing of the issue both addresses our general point, and appropriately addresses Fish and Game's point, at least at the issue level.

291. We have discussed above the extent to which there is scope within the Plan Change 3 process to give effect to the NPSHPL. Our discussion of these issues with both Mr Jessen and Ms Shirley prompted them to reconsider also the position Ms Shirley had taken on scope in relation to the NPSFM.

292. In summary, the same reasoning as was applied to the NPSHPL suggests that if urban development enabled/encouraged by Plan Change 3 has adverse effects on

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<sup>82</sup> S42A Ms Leana Shirley 1 December 2023 paras 194-195

<sup>83</sup> S42A Ms Leana Shirley 1 December 2023 para 197



water quality, the NPSFM needs both to be considered and potentially to qualify the extent to which urban development is indeed encouraged and enabled.

293. The breadth of Fish and Game’s submission provides jurisdiction to amend Plan Change 3 in this regard. The question we have to consider is how far it is appropriate for such amendments to go. This is against the background of the concern expressed by Ms Baddock and Ms Poynton in their evidence<sup>84</sup> that a direction not to worsen (i.e. to maintain) existing water quality may frustrate Territorial Authorities’ ability to implement the NPSUD and Plan Change 3 as development infrastructure ‘may inevitably’ have adverse effects on water quality and quantity.
294. In her Reply, Ms Shirley expressed the view that the (revised) framing of UFD-I3 and UFD-O3(1)(e) provides a sufficient overarching direction to ensure there is no conflict with the NPSFM<sup>85</sup>. We agree with that view. Although the objective is generally expressed, applying the same logic as we have employed in relation to the NPSET, we consider it appropriate in this context. Turning to the policies supporting that objective, in her Reply, Ms Shirley considered amendment to UFD-P4 was appropriate to recognise the relationship between urban intensification and expansion and acknowledge and reinforce the NPSFM direction to territorial authorities as per clause 3.5(4). As the provision would likely be relevant to territorial authority urban intensification and expansion plan change processes, such a policy would be reinforcing the same direction already provided through the NPSFM<sup>86</sup>.
295. Clause 3.5(4) of the NPS-FM states:

*“Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.*

296. Ms Shirley suggested a new clause (g) be added to UFD-P4(1) as follows:

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<sup>84</sup> Evidence Lauren Baddock and Lisa Poynton Horowhenua District Council 19 December 2023, para 41

<sup>85</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 21

<sup>86</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 24

(g) it promotes positive effects, and avoids, remedies, or mitigates the adverse effects (including cumulative effects) of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments\*.

297. She also recommended the NPSFM definition for 'receiving environments' be included using the same format as other NPS definitions included in Plan Change 3 as follows:

*Receiving environment: has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out below): includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including estuaries).*

298. In Ms Shirley's opinion these amendments provide the connection to the NPSFM which seeks to prioritise the health and wellbeing of freshwater through Te Mana o Te Wai, without creating conflict with the existing provisions of Chapter 5 (now RPS-LF under Plan Amendment 3) of the RPS or interfering with the Oranga Wai plan change being undertaken by Council.
299. We note and agree with the caution Ms Shirley also expressed about the potential downside risk of isolating provisions in the NPSFM for implementation through this Plan Change, without the thorough provision-by-provision analysis that will be undertaken through Oranga Wai<sup>87</sup>.
300. It seems to us though that this is just what Ms Shirley has done, highlighting and seeking to implement clause 3.5(4) without regard to broader thrust of the NPSFM, or indeed the current provisions of the One Plan.
301. Starting with the latter, LF-FW-O4 seeks, in broad terms, maintenance of existing water quality where that supports identified values, and enhancement where it does not. LF-FW-P6 and P7 support that general approach.
302. An RPS policy that directs avoiding, remedying, or mitigating adverse effects on water values does not appear to us to be consistent with those provisions insofar as it envisages a deterioration in water quality.

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<sup>87</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 23

303. Turning to the NPSFM, the sole objective prioritises the health and well-being of water bodies and freshwater ecosystems. This is supported by Policy 1 that directs management of freshwater in a way that gives effect to Te Mana o te Wai, a concept that has protection of the health of freshwater at its heart. Policy 5 emphasises that improvement of the health and well-being of degraded water bodies and freshwater ecosystems, and maintenance of all other water bodies and freshwater ecosystems is a minimum requirement.
304. It seems to us that a policy providing for avoiding, remedying, or mitigating the adverse effects of urban development on the health and well-being of water bodies and freshwater ecosystems is a significant step backwards from these broader requirements.
305. That might be justifiable, if supported by the kind of structured analysis of the competing directions of the NPSUD and the NPSFM the Supreme Court identified was required in *Port of Otago Limited v Environmental Defence Society Inc*<sup>88</sup>. Ms Shirley did not present such an analysis. We interpret her reasoning as looking for a ‘holding position’ until the Oranga Wai process is completed.
306. No other party addressed this issue in evidence or submissions at the level of detail we require to make a finding on it. We are therefore not in a position to undertake the exercise ourselves, and we accept that what is needed is a holding position that provides for the potential outcomes of the Oranga Wai process.
307. In that context, it seems to us that Ms Shirley’s recommended wording risks underselling the level of direction required. As above, it appears to be significantly less directive than either the existing One Plan water quality provisions, or the high-level direction of the NPSFM. We have considered provisions that offer greater consistency with those documents – for example directing that urban development occur in ways that maintain or enhance water quality, and/or which prioritise the health and well-being of water bodies and freshwater ecosystems. However, that risks pushing the pendulum too far in the opposite direction, and giving insufficient weight to the development imperatives of the NPSUD.
308. We find that the best balance of competing considerations is to leave open at this point what priority is given to the health and well-being of water bodies and freshwater ecosystems, so that it might ultimately be determined in the Oranga Wai

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<sup>88</sup> [2023] NZSC 112

process, and is confronted in territorial authority plan and consent decision-making in the interim.

309. For these reasons, we consider that the following wording of UFD-P4(1)(g) is the most effective and efficient way to give effect to the NPSUD and NPSFM:

*“it promotes positive effects and gives appropriate priority to the health and well-being of water bodies<sup>^</sup>, freshwater<sup>^</sup> ecosystems, and other receiving environments\* where they are potentially adversely affected by urban development, while at a minimum avoiding, remedying or mitigating those effects (including cumulative effects).”*

## **8.2 Maintenance and enhancement of Indigenous Biodiversity**

310. The same logic as is discussed above, prompted us to ask Ms Shirley if the provisions of Plan Change 3 similarly needed to be amended to give effect to the NPSIB insofar as urban development might adversely affect it.
311. Ms Shirley provided us with a detailed response in her Reply<sup>89</sup>. Her view was that UFD-P(1)(e) provides appropriate protection based on the current approach of the One Plan and that, in any event, the sole relevant submission<sup>90</sup> was too narrowly expressed to provide scope to give effect to the NPSIB.
312. The last point is decisive. Accordingly, we agree with Ms Shirley’s recommendation that Plan Change 3 not be amended in this regard. Giving effect to the NPSIB is accordingly a matter for Council to address in a future Plan Change.

## **9. OTHER MATTERS**

313. Two further matters arose from Panel questions of Ms Shirley regarding UFD-P7. The first was whether the Anticipated Environmental Results (**AERs**) should be amended to provide a link to this policy. Ms Shirley responded in her Reply that this was an oversight in the drafting phase of Plan Change 3 and that there should indeed be a link within the AERs to UFD-P7 and amended UFD-AER1 and UFD-AER3 with scope provided by the submission of Rangitikei District Council<sup>91</sup>. We agree with her recommendations in that regard.

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<sup>89</sup> Reply Statement Ms Leana Shirley 8 March 2024, paras10-17

<sup>90</sup> S8 (Dr Sharon Stevens)

<sup>91</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 86. Submission S12 point S12.20 – consequential amendments to AERs following amendments to provisions.

314. Secondly, we suggested correctly renumbering of the two last clauses of the policy as a clause 16 amendment.
315. We also asked Ms Shirley to consider whether greater clarity was required in UFD-O3 as to what sort of adverse effects were being referenced. She indicated<sup>92</sup> a preference, at the objective level, to keeping the focus broad, but recommended that UFD-O3(1)(e) be amended so that it would read:

*“effectively manage adverse environmental effects\* on the environment”*

316. We do not think the addition of the word ‘effectively’ adds anything in this context. No one could seriously suggest that Plan Change 3 contemplates ineffective management of adverse effects on the environment. We have no difficulty with the second amendment. We agree with Ms Shirley that this is a minor change.
317. Lastly, as shown in Appendix 1, we recommend a minor grammatical change to UFD-P5(4).

## **10. CONCLUSIONS**

318. We have sought to address all material issues of the parties who have appeared before us put in contention.
319. To the extent that we have not discussed submissions, we agree with and adopt the reasoning of the Section 42A Report, as amended in Ms Shirley’s subsequent evidence.
320. Appendix 1 sets out the amendments we recommend be made to Plan Change 3 as a result.
321. To the extent that the Section 42A reporting officer recommended amendments to Plan Change 3 requiring evaluation in terms of Section 32AA, we adopt her evaluation for this purpose.
322. Where we have discussed amendments, in particular where we have identified that further amendments should be made, our reasons for our recommendations in terms of Section 32AA of the Act are set out in the body of our Report.

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<sup>92</sup> Reply Statement Ms Leana Shirley 8 March 2024, para 51

323. We draw the Council's attention to the overlap between the issues addressed by Plan Change 3 and the NPSHPL, NPSFM and NPSIB. We were able to recommend amendments that give partial effect to the NPSHPL and NPSFM, but not the NPSIB. All of these national instruments will need to be given full effect in future plan changes.

For the Hearing Panel:

A handwritten signature in blue ink, appearing to read 'TR', with a large vertical stroke extending downwards from the middle of the signature.

**Trevor Robinson**

Chair

**Dated: 11 April 2024**



# Urban Development Plan Change

Showing Hearing Panel Recommended Amendments from Plan Change 3 as  
Notified

# RPS – UFD – Urban form and development

## Te tāone me te whakawhanaketanga

### Scope and Background

This chapter provides guidance on managing urban growth and development in a manner that ensures there is *sufficient development capacity*\* and supply of *land*\* in relation to housing and *business land*\* to meet the expected demands of the Region, supported by integrated planning of *land*\* use, *infrastructure*<sup>^</sup> and development. Objectives, policies and methods set out in other chapters of this Regional Policy Statement also provide guidance on achieving a built form that integrates with its surrounding environment, when having regard to matters including, but not limited to, energy, *infrastructure*<sup>^</sup>, transport; hazards and risks; ecosystems and indigenous biodiversity; historic and cultural values; and resource management issues of significance to *hapū*\* and *iwi*\*.

### Urban development and the National Policy Statement on Urban Development 2020

The National Policy Statement on Urban Development 2020 (NPS UD) sets out objectives and policies for the provision of *sufficient development capacity*\* to meet the expected demand for housing and *business land*\* and to contribute to *well-functioning urban environments*\*. Feilding, Palmerston North, Levin and Whanganui are the *urban environments*\* in the Horizons Region. The NPS UD also requires local authorities to take into account the principles of the *Treaty of Waitangi (Te Tiriti o Waitangi)*<sup>^</sup> in planning decisions relating to *urban environments*\*.

In addition to the urban environments listed above, the Horizons Region is characterised by a number of smaller settlements that are not considered ‘urban environments’ in the context of the NPS UD and as defined by this Plan. Development of these settlements should occur in the spirit of the NPS UD and the provisions of this chapter but are not subject to the direction applying to urban environments\*.

### Urban growth and rural residential *subdivision*\* on highly productive land\* ~~versatile soils~~

Allowing urban expansion, and the development of rural residential “lifestyle blocks”, onto highly productive land\* ~~the more versatile soils~~ almost always ~~may result in a reduction of~~ reduces options for their future productive use. Such reduction in options ~~This may~~ adversely affects the ability of future generations to meet their reasonably foreseeable needs.

### Issues

#### UFD-I1: Strategic planning and *land*\* use

Poorly planned urban development can result in the piecemeal, uncoordinated and inefficient provision of development, *development infrastructure*\* and *additional infrastructure*\*. It can also have the potential to create reverse sensitivity effects\*. This does not contribute to a *well-*



*functioning urban environment*<sup>\*</sup>, can create adverse environmental *effects*<sup>\*</sup> and will make it more difficult for urban development to meet the needs of current and future communities.

**UFD-I2: Adverse *effects*<sup>\*</sup> from urban growth and rural residential *subdivision*<sup>\*</sup> on versatile soils-*highly productive land*<sup>\*</sup>**

Urban growth and rural residential *subdivision*<sup>\*</sup> (“lifestyle blocks”), on *highly productive land*<sup>\*</sup> ~~versatile soils may almost always results in a reduction of the productive capacity of that land these soils no longer being available for use as production land.~~ These development pressures often occur on the fringes of some of the Region's urban areas.

**UFD-I3: Demand for housing, *business land*<sup>\*</sup>, *infrastructure*<sup>^</sup> and *community services*<sup>\*</sup>**

~~A growing population increases demand for housing, *business land*<sup>\*</sup>, *infrastructure*<sup>^</sup> and *community services*<sup>\*</sup>. Growth needs to be provided for in a way that contributes to *well-functioning urban environments*<sup>\*</sup>, is integrated with *infrastructure*<sup>^</sup> planning and funding decisions, manages *effects*<sup>\*</sup> on the urban and natural environment and improves resilience to the *effects*<sup>\*</sup> of *climate change*<sup>^</sup>.~~

Growth in *urban environments*<sup>\*</sup> that is not well planned and integrated with *infrastructure*<sup>^</sup> and other required services may result in *urban environments*<sup>\*</sup> that do not function well. This can lead to *effects*<sup>\*</sup> on the urban and natural environment including for example, freshwater<sup>^</sup>, *effects*<sup>\*</sup> on existing *infrastructure*<sup>^</sup>, and lack of resilience to the *effects*<sup>\*</sup> of *climate change*<sup>^</sup>.

These issues can also apply to smaller towns and settlements whose *functioning* is influenced by the way in which growth and development occurs.

## **Objectives**

**UFD-O1: Strategic planning and urban development**

Strategic planning for urban development ensures that:

- (1) *sufficient development capacity*<sup>\*</sup> and land supply for housing and business uses is provided to support growth,
- (2) new development, *development infrastructure*<sup>\*</sup> and *additional infrastructure*<sup>\*</sup> are provided in a coordinated, integrated and efficient manner,
- (3) the diverse and changing needs of people, communities, and future generations are provided for through quality, sustainable urban form, and
- (4) competitive land and development markets are supported in ways which improve housing affordability.

**UFD-O1: He mahere rautaki me te whanake ā-tāone**

Mā te mahere rautaki me te whakawhanake tāone:

- (1) ka whakawātea he whenua me te āhei kia whakawhanakehia\* mō te noho tangata me te pakihi hei tautoko whakatipu,
- (2) ka whakaratohia he whakawhanake hou, tūāhanga whakawhanake me te tāpiri tūāhanga kia pai te ruruku, me te kōmitimiti,
- (3) ka aro atu ki ngā hiahia kanorau o te tangata, o ngā hāpori me ngā whakatipuranga e heke mai nei mā te kōunga me te whakapūmau o teāhua o te tāone, ā
- (4) ka tautoko i te makete hoko whenua, whakawhanake hoki kia taea te hoko whare.

**UFD-O2: Urban growth and rural residential *subdivision*\* on versatile soils highly productive land\***

To ensure that *Territorial Authorities*\* consider the benefits of retaining highly productive land\* ~~Class I and II versatile soils~~ for use as *production land*\* when providing for urban growth and rural residential *subdivision*\*.

**UFD-O2: Te tupu o ngā tāone me te whakaahu whenua hei nohoanga taiwhenua, i runga oneone tino tōnui**

Kia hua ai ka whakaaroarotia e ngā Kaunihera ā-Rohe ngā painga o te pupuri tonu i ngā oneone tino tōnui hei whenua tōnui e whakarato ana mō te tupu tāone me te tūtanga taiwhenua.

**UFD-O3: Urban form and function**

The intensification and expansion of *urban environments*\*:

- (1) contributes to *well-functioning urban environments*\* that
  - (a) enable all people, communities and future generations to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future,
  - (b) increase the capacity and choice available within housing and business land ~~capacity and housing choice~~,
  - (c) achieve a quality, sustainable and compact urban form ~~that relates well to its surrounding environment~~,
  - (d) ~~are, or planned to be,~~ well connected by a choice of transport modes including *public transport*\*, ~~and~~
  - (e) manage adverse ~~environmental effects~~ effects\* on the environment, and
  - (f) manage reverse sensitivity effects\* on the operation, maintenance and upgrade of *nationally significant infrastructure*\*, including

infrastructure<sup>^</sup> and facilities and assets of regional or national importance.

(2) enable more people to live in, and more businesses and *community services*<sup>\*</sup> to be located in, areas of an *urban environment*<sup>\*</sup> where:

(a) it is in or near a *centre zone*<sup>\*</sup> or other area with many employment opportunities, or

(b) it is able to be, or is, well-serviced by existing or planned *public transport*<sup>\*</sup> and active transport<sup>\*</sup>, or

(c) there is a high demand for housing or *business land*<sup>\*</sup>, relative to other areas within that *urban environment*<sup>\*</sup>.

### **UFD-O3: Te āhua me te heinga o te tāone**

Te kaha kē ake me te tipu haere o *ngā taiao tāone*:

(1) tautoko ana *ngā tāiao tāone e pai haere ana kia*

(a) whai wāhi ai *ngā tāngata katoa, hāpori mai, whakatipuranga mai* kia pai tō rātou oranga ā-ōhanga, ā-ahurea, tō rātou hauora me te haumarū i āianeī, ā, haere ake nei,

(b) kia whakanui atu ai i *ngā momo whare me te whirwhiri whare* i runga whenua hei whare, *whenua hoki hei pakihī*

(c) kia kounga ai, kia whakapūmau ai, kia raungaiti ai hoki te āhua o te tāone e hāngai ana ki tōna taiao ake,

(d) kia *pai ai te hononga* mā te whiriwhiri momo waka tae atu ki *ngā waka tūmatanui*,

(e) kia whakahaere i *ngā pānga tūkino ki te taiao, ā,*

(f) *kia whakahaere i ngā pānga rauangio te mahi, te tikai me te whakahou o te tino hanganga ā-motu, tae atu ki te hanganga me ngā rawa mātuatua ā-rohe, ā-motu.*

(2) e taea ai e te tangata te noho, *ngā pakihī me ngā ratonga hāpori* te tū ki *ngā wāhi o te taiao tāone* ki reira:

(a) ka tūtata ki *tētahi wāhi pū*, tētahi atu wāhi rānei he nui *ngā mahi mā* te tangata,

(b) ka *nui ngā ratonga*, ka tino whakaratoa rānei e te *waka tūmatanui* me te waka mātātoa

(c) ka tino nui te tono whenua hei whare noho, te whenua rānei *hei pakihī* e hāngai ana ki ētahi atu wāhi o roto o taua taiao tāone.

### **UFD-O4: Urban development and the Treaty of Waitangi (Te Tiriti o Waitangi)<sup>^</sup>**

*Planning decisions*<sup>\*</sup> regarding relating to *urban environments*<sup>\*</sup> take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)<sup>^</sup> principles.

**UFD-O4: Te Whakawhanaketanga tāone me Te Tiriti o Waitangi**

Ko ngā whakataua māherehere e hāngai ana ki ngā taiao tāone ka whakaarohia ngā mātāpono o te Te Tiriti o Waitangi.

**UFD-O5: Urban development and climate change<sup>^</sup>**

*Urban environments*<sup>\*</sup> are resilient to the *effects*<sup>\*</sup> of *climate change*<sup>^</sup> and support reductions in *greenhouse gas*<sup>^</sup> emissions.

**UFD-O5: Whanake Tāone me te āhuarangi hurihuri**

E manawaroa ana ngā taiao tāone ki ngā pānga o te āhuarangi hurihuri me te tautoko kia iti haere i ngā whakahā haurehu kati mahana.

**Policies**

**UFD-P1: Integration of *infrastructure*<sup>^</sup> with *land*<sup>^</sup> use**

*Territorial Authorities*<sup>\*</sup> must proactively develop and implement appropriate *land*<sup>^</sup> use strategies to manage urban growth that:

(1) for *urban environments*<sup>\*</sup>, demonstrate how *sufficient development capacity*<sup>\*</sup> for housing and *business land*<sup>\*</sup> will be provided in the *short term*<sup>\*</sup>, *medium term*<sup>\*</sup> and *long term*<sup>\*</sup> in a well-planned and integrated manner, and

(2) for all settlements, ensure there is co-ordination between the location, form and timing of urban ~~growth~~ development and the planning, funding, delivery and implementation of *development infrastructure*<sup>\*</sup>.

**UFD-P2: Providing *sufficient development capacity*<sup>\*</sup>**

*Sufficient development capacity*<sup>\*</sup> and *land*<sup>\*</sup> supply is provided for in the *short term*<sup>\*</sup>, *medium term*<sup>\*</sup> and *long term*<sup>\*</sup> to accommodate demand for housing and *business land*<sup>\*</sup> in *urban environments*<sup>\*</sup> by:

(1) providing for urban intensification and urban expansion within *district plans*<sup>^</sup> in accordance with UFD-P1, UFD-P4, and UFD-P5,

(2) *local authorities*<sup>^</sup> being responsive to unanticipated or out of sequence plan changes that would add significantly to *development capacity*<sup>\*</sup> and contribute to *well-functioning urban environments*<sup>\*</sup> in accordance with UFD-P6, and

(3) ensuring the urban intensification and expansion necessary to meet the *housing bottom lines\** specified in Table X1<sup>1</sup> is provided for in the Palmerston North District Plan.

Table X1 *Housing bottom lines\** for Palmerston North, 2021-2051

<b><i>Housing bottom lines*</i> (number of dwellings)</b>	
<b>Short- to medium-term July 2021 – June 2031 Includes an additional margin of 20%</b>	<b>Long-term July 2031 – June 2051 Includes an additional margin of 15%</b>
5,046 <del>5</del>	7,925

**UFD-P3: Urban growth and rural residential *subdivision\** on highly productive land\* ~~versatile soils~~**

In providing for urban growth (~~including implementing Policy 3-4~~), and controlling rural residential *subdivision\** (“lifestyle blocks”), *Territorial Authorities\** must pay particular attention to the benefits of the retention of highly productive land\* ~~Class I and II versatile soils~~ for use as *production land*<sup>^</sup> in their assessment of how best to achieve sustainable management.

**UFD-P4: Urban intensification and expansion**

- (1) Intensification and expansion of *urban environments\** is provided for and enabled in *district plans*<sup>^</sup> where:
- (a) it contributes to a *well-functioning urban environment\**,
  - (b) it ~~provides for~~ contributes to a range of residential and business areas that enable different housing and/or business types, *site\** size and densities ~~that relate well to the surrounding environment~~,
  - (c) higher density development is in close proximity to *centre zones\**, *public transport\**, *community services\**, employment opportunities, and open space,
  - (d) development is well serviced by existing or planned *development infrastructure\** and enables provision of public transport\*, and *additional infrastructure\** required to service the *development capacity\** is likely to be achieved, ~~and~~
  - (e) it protects natural and physical resources that have been scheduled within the One Plan in relation to their significance or special character, ~~and~~
  - (f) to the extent reasonably possible, the operation, maintenance and upgrade of nationally significant infrastructure\* is not compromised, ~~and~~
  - (g) it promotes positive effects\*, and gives appropriate priority to the health and well-being of water bodies<sup>^</sup>, freshwater<sup>^</sup> ecosystems, and other receiving environments\* where they are potentially adversely affected by urban development, while at a minimum avoiding,

<sup>1</sup> UFD-P2(3) inserted ~~xx Month 2022~~ as directed by clause 3.6 of the National Policy Statement on Urban Development 2020. This table was last updated in ~~<insert date of PC3 decision>~~ based on *Housing bottom lines\** established in the Palmerston North Housing Capacity Assessment Report - June 2021, adopted by Palmerston North City Council on 30 June 2021. *Housing bottom lines\** will be updated every three years.

remedying or mitigating those effects\* (including cumulative effects\*).

- (2) In addition to meeting the criteria in (1) above, the expansion of *urban environments\** must only occur where it:
- (a) is adjacent to existing or planned urban areas,
  - (b) will not result in inefficient or sporadic patterns of settlement and residential growth and is an efficient use of the finite land resource,
  - (c) is, or can be, well-connected along by a variety of transport modes and transport corridors,
  - (c) is well-connected along transport corridors and is designed to enable a variety of transport modes,:
    - i. by a variety of transport modes, with demonstration of how provision of public transport will be enabled, and
    - ii. along transport corridors.
  - (d) manages adverse reverse sensitivity *effects\** on land with existing incompatible activities, including adjacent to the *urban environment\** boundary, and
  - (e) to the extent reasonably possible, does not compromise the operation, maintenance and upgrade of nationally significant infrastructure\*.
- (3) *District plans*<sup>^</sup> applying to *urban environments\** must enable heights and density of urban form which are ~~equal to~~ commensurate with the greater of:
- (a) ~~demonstrated~~ relative demand for housing and/or business use in that location, or
  - (b) the level of accessibility provided by existing or *planned\** *active transport\** or *public transport\** to areas with *community services\** and employment opportunities.
- (4) Local authority transport plans and strategies must establish ways to contribute to *well-functioning urban environments\** through the provision of *public transport\** services and by enabling *active transport\**, including its associated infrastructure<sup>^</sup>.

#### **UFD-P5: Built forms**

*Territorial Authorities\** must ensure the ~~The~~ form and design of subdivision, use and development in *urban environments\** is managed so that overall it:

- (1) contributes to a *well-functioning urban environment\**,
- (2) provides for a range of housing types and densities and employment choices in a manner that integrates with existing and planned *development infrastructure\**,
- (3) recognises the importance of marae and papakāinga and enables their development, ongoing use and protection from incompatible development and reverse sensitivity adverse *effects\**, where existing or

planned *development infrastructure*\* of sufficient capacity is, or can be, provided, and

- (4) where appropriate, enables development across multiple or amalgamated *properties*\* to achieve all of the above.

**UFD-P6: Significant ~~development capacity~~\* Criteria for evaluating unanticipated or out of sequence development**

- (1) Unanticipated or out of sequence development will add significantly to *development capacity*\* where:
- (a) the location, design and layout of the development will contribute to a *well-functioning urban environment*\*
  - (b) the development is well-connected ~~along~~ by a variety of transport modes and, transport corridors, and to *community services*\*, and open space,
  - (c) the development will significantly contribute to meeting demand for additional urban land identified in a *Housing and Business Development Capacity Assessment*\*, or a shortfall identified by undertaking the monitoring requirements outlined in the National Policy Statement on Urban Development 2020, including meeting *housing bottom lines*\*, or specific housing and price needs in the market,
  - (d) the development will be realised in the *short term*\* and before anticipated planned urban development,
  - (e) there is adequate existing or planned upgrades to upgraded *development infrastructure*\* to support development of the *land*\* without adverse *effects*\* on the provision or capacity of other planned *development infrastructure*\* including planned *infrastructure*\* expenditure, and
  - (f) the development avoids adverse *effects*\* on *infrastructure*^ and other physical resources of regional or national importance ~~as far as reasonably practicable~~.
- (2) If the above criteria are met, the Regional Council and *Territorial Authorities*\* must have particular regard to the contribution the development will have towards achieving UFD-P2.

**UFD-P7: Hapū~~Hapū~~\* and iwi~~iwi~~\* involvement in urban development**

- (1) Local authorities, in taking account of the principles of *Te Tiriti o Waitangi* (*Treaty of Waitangi*)^ in relation to *urban environments*\*, must Ensure ~~planning decisions~~\* involving *urban environments*\* provide for *Treaty of Waitangi* (*Te Tiriti o Waitangi*)^ principles by ~~enabling~~ hapū~~hapū~~\* and iwi~~iwi~~\* involvement in urban development planning processes, including in decision making where appropriate, and to ensure provision is made for their needs, aspirations, and values, to ensure *urban environments*\* enable Māori to express their cultural traditions and norms.

- (2) As part of making provision for *iwi*\* and *hapū*\* needs, aspirations, and values ~~land~~\* use strategies must be proactively developed and implemented to manage urban development in a manner which:
- (a) has regard to resource management issues of concern to *hapū*\* and *iwi*\*, including those identified in any relevant *iwi management plan*\* ,
  - (b) enables papakāinga housing and marae ~~on Māori-owned land~~,
  - (c) enables early and ongoing engagement with ~~iwi~~*iwi*\* and ~~hapū~~ *hapū*\* over urban intensification and expansion,
  - (~~ed~~) ensures *urban environments*\* enable Māori to express their cultural traditions and norms, and
  - (~~de~~) identifies and protects culturally significant areas.

### **UFD-P8: Urban development and *climate change*<sup>^</sup>**

- (1) *Urban environments*\* are developed in ways that support reductions in reduce greenhouse gas<sup>^</sup> emissions and improve resilience to the effects\* of climate change<sup>^</sup> by:
- (a) use of urban design, building form and *infrastructure*<sup>^</sup> to minimise as far as practicable the contribution to *climate change*<sup>^</sup> of the development and its future use, including (but not limited to) *energy efficiency*\* (including methods to ensure whole-of-life *energy efficiency*\*), *water*\* efficiency, *waste*\* minimisation, transportation modes (including use of *public transport*\* and *active transport*\*) water-sensitive design and nature-based solutions,
  - (b) urban development being compact, well designed and sustainable, and
  - (c) requiring ~~best practice~~ a risk based approach to their resilience to, the impacts of *climate change*<sup>^</sup>, including *sea level rise*\* and any increases in the scale and frequency of *natural hazard*\* events.
- (2) *Territorial Authority*\* decisions and controls:
- (a) on *subdivision*\* and *land*\* use must ensure that sustainable transport options such as *public transport*\*, walking and cycling are ~~can be~~ integrated into *land*\* use development, and
  - (b) on *subdivision*\* and housing, including the layout of the *site*\* and layout of lots in relation to other houses/*subdivisions*\*, must encourage energy-efficient house design and access to solar energy.

## **Methods**

Many of the policies in this chapter will be implemented by the Regional Council and *Territorial Authorities*\* in plan changes, *district plans*<sup>^</sup> and in decisions on *resource consents*<sup>^</sup> and designations. Non-regulatory approaches are also required to achieve urban form and development policies; these are outlined below in Method 4. The policies in this chapter will also be implemented by methods in other chapters in this Plan.

<b>Method 1</b>	<b>Monitoring and reporting</b>
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Description	<p>The aim of this method is to collect information on development and <i>infrastructure</i><sup>^</sup> trends, needs and pressures in the Region, so that these trends and pressures can be responded to appropriately and in a timely manner, through management of the built environment.</p> <p>The Regional Council, together with <i>Territorial Authorities</i><sup>*</sup>, must meet the evidence-based decision-making requirements of Subpart 3 of the NPS UD, in relation to <i>urban environments</i><sup>*</sup>. This includes a requirement for the Regional Council, <del>and</del> Palmerston North City Council and Horowhenua District Council (with the Wellington Regional Leadership Committee while Horowhenua District Council are part of the Wellington Regional Leadership Committee) to jointly prepare and publish <i>Housing and Business Development Capacity Assessments</i><sup>*</sup> and <i>Future Development Strategies</i><sup>*</sup>.</p>
Who	Regional Council and <i>Territorial Authorities</i> <sup>*</sup>
Links to Policy	This method implements UFD-P1, UFD-P2, UFD-P4, UFD-P5, UFD-P7 and UFD-P8.
Target	<ul style="list-style-type: none"> <li>• Information collected on development and <i>infrastructure</i><sup>^</sup> trends and pressures in the Region.</li> <li>• Monitoring and reporting undertaken that meets the requirements of the NPS UD.</li> </ul>

<b>Method 2</b>	<b>Strategic planning</b>
Description	<p>The aim of this method is to undertake strategic planning to meet the objectives and policies of this Chapter.</p> <p>The Regional Council, together with Palmerston North City Council and Horowhenua District Council (through the Wellington Regional Leadership Committee while Horowhenua District Council are part of the Wellington Regional Leadership Committee), will determine housing <i>development capacity</i><sup>*</sup> that is <i>feasible</i><sup>*</sup> and likely to be taken up in <i>short term</i><sup>*</sup>, <i>medium term</i><sup>*</sup>, and <i>long term</i><sup>*</sup> through <i>Housing and Business Development Capacity Assessments</i><sup>*</sup>. In addition, the Regional Council, <del>and</del> Palmerston North City Council and Horowhenua District Council (through the Wellington Regional Leadership Committee while Horowhenua District Council are part of the Wellington Regional Leadership Committee) will jointly prepare <i>Future Development Strategies</i><sup>*</sup>.</p> <p>Other <i>Territorial Authorities</i><sup>*</sup>, together with the Regional Council, will undertake strategic planning to meet the objectives and policies of this Chapter through similar, but appropriately scaled approaches. This includes the use of structure plans for greenfield residential developments.</p> <p>These strategies will enable decision-making to be based on sufficient information to:</p> <p>(a) coordinate the intensification of <i>urban environments</i><sup>*</sup> and the development of extensions to <i>urban environments</i><sup>*</sup> with <u>Regional Council and Territorial Authority</u><sup>*</sup> <i>infrastructure</i><sup>^</sup> planning,</p> <p>(b) provide the required <i>development infrastructure</i><sup>*</sup> in an integrated, timely, efficient and effective way,</p> <p>(c) identify and manage impacts on key values and resources identified by this RPS, and</p> <p>(d) ensure greenfield development is supported by sound evidence (e.g. due to lack of infill capacity, <del>climate change</del> <i>climate change</i><sup>^</sup> adaption).</p>

	<p>The above may involve the preparation of spatial plans as a method for applying an integrated strategic planning approach.</p> <p><u>Councils will generally plan and fund future urban development through their Infrastructure Strategies and Long-term Plans (LTPs). In most cases, facilitating urban development is best done by planning and funding lead infrastructure^ through the LTP processes, however where necessary or appropriate Councils may seek alternative funding sources outside the LTP. Ultimately, if Councils do not plan for residential growth the result can be in unplanned or constrained residential growth.</u></p> <p>Methods to achieve <i>active transport*</i> and <i>public transport*</i> strategic outcomes will include providing <i>public transport*</i> services, increasing accessibility via <i>active transport*</i> and micro-mobility devices such as e-bikes and e-scooters, and by implementing the Regional Public Transport Plan.</p> <p>Methods to achieve <i>climate change^</i> strategic outcomes will include having regard to targets set in the New Zealand Emissions Reduction Plan in decision-making.</p> <p>The Regional Council and <i>Territorial Authorities*</i> will engage with <i>hapū/hapū*</i> and <i>iwi/iwi*</i> when undertaking strategic planning to meet the objectives and policies of this Chapter, including to ensure <i>urban environments*</i> enable Māori to express their cultural traditions and norms.</p>
Who	Regional Council and <i>Territorial Authorities*</i>
Links to Policy	This method implements UFD-P1 to UFD-P8.
Target	<ul style="list-style-type: none"> <li>• Urban development strategic planning documents prepared.</li> <li>• Requirements of the NPS UD met.</li> </ul>

<b>Method 3</b>	<b><i>District plans^</i></b>
Description	<p>The Regional Council will formally seek changes to <i>district plans^</i>, if necessary, to ensure <i>district plans^</i>, as soon as reasonably practicable, identify and provide for urban intensification and expansion in a manner consistent with the objectives and policies in this chapter.</p> <p><i>District plans^</i> must include policies, rules and/or methods to enable a variety of housing types (such as minor dwellings and the development of one and two bedroom homes) and lot sizes to provide for housing densities that meet housing demand and mixed-use development (including affordable housing) in <i>urban environments*</i>.</p> <p><i>Territorial Authorities*</i> may use methods such as Development Contributions Policies and Stormwater Management Plans to ensure the coordinated and efficient provision of new development, <i>development infrastructure*</i> and <i>additional infrastructure*</i>.</p>
Who	Regional Council and <i>Territorial Authorities*</i>
Links to Policy	This method implements UFD-P1 to UFD-P8.
Target	<ul style="list-style-type: none"> <li>• <i>District plan^</i> changes, if necessary.</li> <li>• Regional Council submissions to <i>Territorial Authorities*</i> on proposed <i>district plan^</i> changes.</li> </ul>

Method 4	Advocacy
Description	<p>Easily accessible information will be developed and made available to:</p> <p>(a) raise awareness and understanding of natural hazards, <i>greenhouse gas</i><sup>^</sup> reductions, and <i>climate change</i><sup>^</sup>, and</p> <p>(b) advocate infill and intensification as a more sustainable urban development option than greenfield development and urban expansion.</p> <p>Work plans to reduce emissions and adapt to <i>climate change</i><sup>^</sup> will be developed and made available, to raise awareness and understanding.</p> <p>Other methods will include:</p> <p>(a) providing guidance on integrating <i>land</i><sup>*</sup> use with <i>development infrastructure</i><sup>*</sup> and <i>additional infrastructure</i><sup>*</sup>, and for delivering high quality urban design, and</p> <p>(b) preparing and disseminating information to raise awareness and understanding of ways to achieve <i>well-functioning urban environments</i><sup>*</sup>.</p> <p>Where appropriate, the Regional Council will <u>promote and</u> advocate the objectives and policies in this chapter to external agencies that contribute to shaping urban form and development, such as Kāinga Ora.</p>
Who	Regional Council and <i>Territorial Authorities</i> <sup>*</sup>
Links to Policy	This method implements UFD-P4, UFD-P5, UFD-P7 and UFD-P8.
Target	<ul style="list-style-type: none"> <li>• Submissions to reforms and strategies from central government agencies, including Kāinga Ora.</li> <li>• Ongoing advice and advocacy to interested parties.</li> </ul>

## Principal Reasons

### UFD-PR1: Strategic urban development

Objective UFD-O1 and Policy UFD-P1 set up an overarching framework for ensuring urban development occurs in a strategically planned manner. Proactively developing and implementing appropriate *land*<sup>^</sup> use strategies to enable urban growth and manage its *effects*<sup>\*</sup> will ensure the efficient and effective provision of *development infrastructure*<sup>\*</sup> and *additional infrastructure*<sup>\*</sup>, and contribute to the objectives of the National Policy Statement on Urban Development 2020.

### UFD-PR2: Urban growth and rural residential *subdivision*<sup>\*</sup> on highly productive land<sup>\*</sup> ~~versatile soils~~

The RMA requires those with functions under it to have regard to resource costs and benefits of development. For example, directing urban growth and rural residential *subdivision*<sup>\*</sup> away from highly productive land<sup>\*</sup> ~~onto less versatile soils~~ may increase travel distances, costs of service provision or other economic or environmental costs of *land*<sup>\*</sup> development. However, allowing urban expansion onto highly productive land<sup>\*</sup> ~~versatile soils~~ adjacent to urban areas will result in a reduction of options for their future productive use, which is a cost to future generations. There are a range of factors required to enable *land*<sup>\*</sup> to be used for productive use. *Territorial Authorities*<sup>\*</sup> need to weigh all relevant matters when making *land*<sup>\*</sup> use decisions.

### UFD-PR3: Urban form, function and development

Objectives UFD-O1, UFD-O3 to UFD-O5, along with Policies UFD-P1 to UFD-P2 and UFD-P4 to UFD-P8, give effect to the requirements of the National Policy Statement on Urban Development 2020 and are intended to achieve its objectives. The intended results include the provision of *well-functioning urban environments\** and improvements to the responsiveness and competitiveness of *land\** and development markets. Provisions in this chapter also seek to ensure urban development positively impacts the quality of *urban environments\**, the quality of life for residents and the quality of the natural environment.

## Anticipated Environmental Results

Anticipated Environmental Result	Link to Policy	Indicator	Data Source
<b>UFD-AER1:</b> Urban growth occurs in a strategically planned manner.	UFD-P1, <u>UFD-P7</u>	<ul style="list-style-type: none"> <li>Urban growth</li> <li><u>Land*</u> use strategies</li> <li><u>Iwi*</u> and <u>hapū*</u> involvement in development planning processes</li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> </ul>
<b>UFD-AER2:</b> <i>Highly productive land*</i> is Class I and II versatile soils are retained, where appropriate for productive use.	UFD-P3	<ul style="list-style-type: none"> <li>Urban growth and rural residential <i>subdivision*</i></li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> </ul>
<b>UFD-AER3:</b> Urban intensification is achieved.	UFD-P1, UFD-P2, UFD-P4, UFD-P5, UFD-P6, <u>UFD-P7</u>	<ul style="list-style-type: none"> <li>Urban intensification</li> <li><i>Housing bottom lines*</i> achieved</li> <li><u>Land*</u> use strategies</li> <li><u>Iwi*</u> and <u>* involvement in development planning processes</u></li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> <li>NPS UD monitoring requirements</li> </ul>
<b>UFD-AER4:</b> <i>Development infrastructure*</i> is in place in time to facilitate urban intensification or expansion	UFD-P1, UFD-P2, UFD-P4, UFD-P5, UFD-P6	<ul style="list-style-type: none"> <li>Urban intensification and growth</li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> </ul>
<b>UFD-AER5:</b> New developments maximise energy and transport efficiency.	UFD-P4, UFD-P8	<ul style="list-style-type: none"> <li>Solar energy provisions in <i>district plans</i><sup>^</sup></li> <li>Increases in <i>active transport*</i> and <i>public transport*</i></li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> <li>Regional Land Transport Plan indicator monitoring</li> <li>Census: main means of travel</li> </ul>
<b>UFD-AER6:</b> Risks due to the impacts of <i>climate change</i> <sup>^</sup> are minimal to new developments.	UFD-P4, UFD-P8	<ul style="list-style-type: none"> <li>Urban intensification and growth</li> </ul>	<ul style="list-style-type: none"> <li><i>District plan</i><sup>^</sup> variations and changes</li> </ul>



## Definitions to be added to One Plan

<b>Active transport</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means forms of transport that involve physical exercise, such as walking or cycling, and includes transport that may use a mobility aid such as a wheelchair.</p>
<b>Additional infrastructure</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means:</p> <ul style="list-style-type: none"> <li>(a) public open space</li> <li>(b) community infrastructure as defined in section 197 of the Local Government Act 2002</li> <li>(c) land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities</li> <li>(d) social infrastructure, such as schools and healthcare facilities</li> <li>(e) a network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001)</li> <li>(f) a network operated for the purpose of transmitting or distributing electricity or gas</li> </ul>
<b>Business Land</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means land that is zoned, or identified in an FDS or similar strategy or plan, for business uses in urban environments, including but not limited to land in the following:</p> <ul style="list-style-type: none"> <li>(a) any industrial zone</li> <li>(b) the commercial zone</li> <li>(c) the large format retail zone</li> <li>(d) any centre zone, to the extent it allows business uses</li> <li>(e) the mixed use zone, to the extent it allows business uses</li> <li>(f) any special purpose zone, to the extent it allows business uses.</li> </ul>
<b>Centre Zone</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means any of the following zones:</p> <ul style="list-style-type: none"> <li>(a) city centre zone</li> <li>(b) metropolitan centre zone</li> <li>(c) town centre zone</li> <li>(d) local centre zone</li> <li>(e) neighbourhood centre zone</li> </ul>
<b>Community services</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means the following:</p> <ul style="list-style-type: none"> <li>(a) community facilities</li> <li>(b) educational facilities</li> <li>(c) those commercial activities that serve the needs of the community.</li> </ul>

<b>Development capacity</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means the capacity of land to be developed for housing or for business use, based on:</p> <p>(a) the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and</p> <p>(b) the provision of adequate development infrastructure to support the development of land for housing or business use.</p>
<b>Development infrastructure</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means the following, to the extent that they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002):</p> <p>(a) network infrastructure for <i>water</i>* supply, wastewater, or stormwater</p> <p>(b) land transport (as defined in section 5 of the Land Transport Management Act 2003).</p>
<b>Feasible</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means:</p> <p>(a) for the short term or medium term, commercially viable to a developer based on the current relationship between costs and revenue</p> <p>(b) for the long term, commercially viable to a developer based on the current relationship between costs and revenue, or on any reasonable adjustment to that relationship.</p>
<b>Future Development Strategy</b>	<p>has the same meaning as in the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means the Future Development Strategy required by subpart 4 of Part 3.</p>
<b>Highly Productive Land</b>	<p><u>has the same meaning as in the National Policy Statement for Highly Productive Land 2022 (as set out below)</u></p> <p><u>means land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land)</u></p>

<b>Housing and Business Development Capacity Assessment</b>	<p>has the same meaning as in the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means the Housing and Business Development Capacity Assessment required by subpart 5 of Part 3.</p>
<b>Housing bottom lines</b>	<p>Housing bottom lines means the amount of development capacity that is sufficient to meet expected housing demand plus the appropriate competitiveness margin, as required by clause 3.6(1) of the National Policy Statement on Urban Development <u>2020</u>.</p>
<b>Infrastructure-ready</b>	<p>has the same meaning as in clause 3.4(3) of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>Development capacity is infrastructure-ready if:</p> <p>(a) in relation to the short term, there is adequate existing development infrastructure to support the development of the land,</p> <p>(b) in relation to the medium term, either paragraph (a) applies, or funding for adequate infrastructure to support development of the land is identified in a long-term plan,</p> <p>(c) in relation to the long term, either paragraph (b) applies, or the development infrastructure to support the development capacity is identified in the local authority's infrastructure strategy (as required as part of its long-term plan).</p>
<b>Long Term</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means between 10 and 30 years.</p>
<b>Medium Term</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means between 3 and 10 years.</p>
<b><u>Nationally significant infrastructure</u></b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p><u>means all of the following:</u></p> <ul style="list-style-type: none"> <li>(a) <u>State highways</u></li> <li>(b) <u>The national grid electricity transmission network</u></li> <li>(c) <u>Renewable electricity generation facilities that connect with the national grid</u></li> <li>(d) <u>The high-pressure gas transmission pipeline network operating in the North Island</u></li> <li>(e) <u>The refinery pipeline between Marsden Point and Wiri</u></li> <li>(f) <u>The New Zealand rail network (including light rail)</u></li> <li>(g) <u>Rapid transit services (as defined in this clause)</u></li> <li>(h) <u>Any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers</u></li> </ul>



	<p>(i) <u>The port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002</u></p>
<b>Plan-enabled</b>	<p>has the same meaning as in clause 3.4(1) of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>Development capacity is plan-enabled for housing or for business land if:</p> <p>(a) in relation to the short term, it is on land that is zoned for housing or for business use (as applicable) in an operative district plan</p> <p>(b) in relation to the medium term, either paragraph (a) applies, or it is on land that is zoned for housing or for business use (as applicable) in a proposed district plan</p> <p>(c) in relation to the long term, either paragraph (b) applies, or it is on land identified by the local authority for future urban use or urban intensification in an FDS or, if the local authority is not required to have an FDS, any other relevant plan or strategy.</p> <p>For the purpose of this definition, land is zoned for housing or for business use (as applicable) only if the housing or business use is a permitted, controlled, or restricted discretionary activity on that land.</p>
<b>Planned</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>in relation to forms or features of transport, means planned in a regional land transport plan prepared and approved under the Land Transport Management Act 2003.</p>
<b>Planning decision</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means a decision on any of the following:</p> <p>(a) a regional policy statement or proposed regional policy statement</p> <p>(b) a regional plan or proposed regional plan</p> <p>(c) a district plan or proposed district plan</p> <p>(d) a resource consent</p> <p>(e) a designation</p> <p>(f) a heritage order</p> <p>(g) a water conservation order</p>
<b>Public transport</b>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means any existing or planned service for the carriage of passengers (other than an aeroplane) that is available to the public generally by means of:</p> <p>(a) a vehicle designed or adapted to carry more than 12 persons (including the driver), or</p> <p>(b) a rail vehicle, or</p> <p>(c) a ferry.</p>

<p><b>Receiving environment</b></p>	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out below):</p> <p><u>includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including estuaries)</u></p>
<p><b>Short term</b></p>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means within the next 3 years.</p>
<p><b>Sufficient development capacity</b></p>	<p>has the same meaning as in clauses 3.2(2) and 3.3(2) of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means development capacity that must be the following in order to meet expected demand for housing and business land:</p> <ul style="list-style-type: none"> <li>(a) plan-enabled; and</li> <li>(b) infrastructure-ready; and</li> <li>(c) for housing, feasible and reasonably expected to be realised; and</li> <li>(d) for business land, suitable to meet the demands of different business sectors; and</li> <li>(e) for Palmerston North only, meet the expected demand plus a competitiveness margin of 20% for the short term, 20% for the medium term, and 15% for the long term.</li> </ul>
<p><b>Urban environment</b></p>	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:</p> <ul style="list-style-type: none"> <li>(a) is, or is intended to be, predominantly urban in character; and</li> <li>(b) is, or is intended to be, part of a housing and labour market of at least 10,000 people.</li> </ul>
<p><b>Well-functioning urban environments</b></p>	<p>has the same meaning as in Policy 1 of the National Policy Statement on Urban Development 2020 (as set out below):</p> <p>well-functioning urban environments are urban environments that, as a minimum:</p> <ul style="list-style-type: none"> <li>(a) Have or enable a variety of homes that: <ul style="list-style-type: none"> <li>(i) meet the needs, in terms of type, price, and location, of different households; and</li> <li>(ii) enable Māori to express their cultural traditions and norms; and</li> </ul> </li> <li>(b) have or enable a variety of <i>sites</i>* that are suitable for different business sectors in terms of location and <i>site</i>* size; and</li> <li>(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and</li> <li>(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and</li> </ul>

	(e) support reductions in greenhouse gas emissions; and (f) are resilient to the likely current and future effects-of climate change.
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# "Appendix D"

## Appendix D – Names and addresses of persons served with this Notice

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