

WHANGANUI DISTRICT PLAN PLAN CHANGE 46

SECTION 32AA EVALUATION REPORT DRAFT FOR WHANGANUI DISTRICT COUNCIL

This s.32AA Evaluation Report addresses the further amendments to PC46 that were recommended by the Hearing Panel in response to matters raised in submissions and evidence to the Hearing. These recommendations endorsed some of the amendments suggested by the Council's advisers in:

PC46 (R1) the amendments proposed in the section 42A report to the Hearing; and

PC46 (R2) the amendments proposed by Council advisers to assist further post-Hearing discussions between submitters and Council advisers; and

PC46 (R3) the further amendments proposed by Council advisers following further engagement with submitters during the Hearing adjournment.

CONTENTS

1. Introduction	3
1.1 Plan Change Process	
1.2 Purpose of a S.32AA Report	
1.3 Statutory and Legislative Framework	
2. The Proposed Plan Change	7
2.1 Description of the Publicly Notified Proposed Plan Change (PC46)	
2.2 Consultation Prior to Public Notification	
2.3 Public Notification and Submissions	
2.4 Further Engagement Following the Close of Submissions	
2.5 Issues Raised in Submissions, Evidence and Feedback During the Adjournment	
2.6 Amendments Recommended to the Publicly Notified PC46	
3. Section 32 Evaluation	14
3.1 Requirement to Make an Evaluation	
3.2 Section 32 (1) (a) Evaluation of the Proposed New Objectives	
3.3 Section 32 (1) (b) Evaluation of the Amended Policies and Rules	
3.4 Information Sources Informing the Further Amendments to PC46	
4. Conclusion	18
Appendix 1 – Marked up text (Revisions PC46(R3)) refer Appendix 4 S42A report	
Appendix 2 – Proposed District Plan Maps (Revisions PC46(R3))	
Appendix 3 – Otamatea West Structure Plan 2017	
Appendix 4 – National Policy Statement on Urban Development Capacity	
Appendix 5 – Otamatea Development Overlay memo 2017	
Appendix 6 – PC46 – Scoping of Options Report, August 2016	
Appendix 7 – Hearing Panel Memorandum 1 dated 15 December 2017	
Appendix 8 – Record of Engagement Meetings held 15 February 2018 and 12 April 2018	
Appendix 9 – Integrated Transport Assessment	
Appendix 10 – Cultural Values Reports	
Appendix 11 – Council Responses to the Cultural Values Report, 21 June 2018	
Appendix 12 – Responses of Whanganui me Ngaa Rauru Kiiitahi to Appendix 11, June 2018	

1. INTRODUCTION

1.1 Plan Change Process

Section 73 of the Resource Management Act 1991 (the RMA) provides for councils to initiate plan changes as necessary and appropriate. The process for initiating changes to a district plan is set out in the First Schedule to the RMA.

In December 2016, a Scoping Report was presented to Whanganui District Council identifying options to provide additional land for residential activities at Otamatea. Council resolved at that meeting, to commence a change to the District Plan and to complete a structuring planning exercise to inform and facilitate a change to provide additional land for residential activities at Otamatea West.

The RMA specifies that consideration of the efficiency and effectiveness of existing provisions is the first step. Section 32 of the RMA requires Council to carry out an evaluation of options before notifying a proposed plan change. The Council published the report of its section 32 evaluation at the same time that PC46 was publicly notified.

1.2 Purpose of a S. 32AA Evaluation Report

Section 32AA of the RMA requires the Council to undertake a further evaluation of the matters specified in sections 32 (1) to (4), where it makes changes to a Plan change following publication of the original section 32 report. The further evaluation is required only for any *changes* that have been made (or are proposed to be made) to the publicly notified version of the Plan change. The evaluation is required to be at a level of detail that corresponds to the scale and significance of the changes made. The further evaluation may be published in a report or referred to in the decision-making report. This report summarises the findings of the further evaluation of changes made to PC46 since public notification.

The changes recommended by the Hearing Panel to the Whanganui District Council have arisen from an iterative process and includes the combination of:

- (a) the amendments proposed in the section 42A report to the Hearing (PC46 (R1)); and
- (b) the amendments proposed by Council advisers to assist further post-Hearing discussions between submitters and Council advisers PC46 (R2); and
- (c) the further amendments proposed by Council advisers following further engagement with submitters during the Hearing adjournment PC46 (R3); and
- (d) the further amendments recommended by the Hearing Panel in response to matters raised in submissions and evidence to the Hearing (PC46 (R4), which includes amendments to the (R1), (R2) and (R3) versions of PC46).

1.3 Statutory and Legislative Framework

1.3.1 Resource Management Act 1991

Section 74 of the RMA requires that any change to the District Plan must be in accordance with the Council's functions under Section 31, the provisions of Part 2 and any relevant national policy statement, any national planning standards and with the obligation to prepare a section 32 evaluation report.

Territorial authorities have the following functions under the RMA:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
 - aa. *the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:*

...
 - f. *any other functions specified in this Act.*
2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined in section 5 of the Act as:

'...managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- a. *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In addition to defining the sustainable management purpose of the Act, Part 2 sets out the matters that must be recognised and provided for, or given particular regard, or taken into account. Of those, the following are applicable to PC46:

Section 6: *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

.....

- (e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*

Section 7: *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to:*

(a) *kaitiakitanga:*

(aa) *the ethic of stewardship:*

(b) *the efficient use and development of natural and physical resources”*

(c) *the maintenance and enhancement of amenity values*

(d) *.....*

(f) *maintenance and enhancement of the quality of the environment.*

Section 8: *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

1.3.2 National Planning Standards

As a result of the 2017 RMA amendments, the Ministry for the Environment are currently preparing the National Planning Standards. Part of the standards include standardizing the zoning and overlays of District Plans.

The Plan Change has been prepared in accordance with this discussion paper on standardising District Plans in order to reduce the need for additional Plan Changes. This has occurred by using a “Structure Plan Area” notation on the planning maps, rather than an overlay to advise the public when to consider the specific structure plan provisions. A set of draft National Planning Standards was published in June 2018 but there are no finalised standards to apply at the time of writing this s. 32AA evaluation report.

1.3.3 National Policy Statements and National Environmental Statements

The RMA requires that district plans give effect to any relevant national policy statements or national environmental standards (NPS and NES). A NPS sets a national direction and a NES sets specific minimum standards to be enforced by each Council.

The National Policy Statement on Urban Development Capacity 2016 (NPSUDC) provides direction to Council on planning for urban environments to:

- enable urban environments to grow and change in response to the changing needs of the communities, and future generations; and
- provide enough space for their populations to happily live and work. This can be both through allowing development to go “up” by intensifying existing urban areas, and “out” by releasing land in greenfield areas.

It requires Whanganui District Council to provide within the District Plan enough development capacity to ensure that demand can be met for the next thirty years.

This development capacity must be commercially feasible to develop and plentiful enough to recognise that not all feasible development opportunities will be taken up.

The purpose of this Plan change is to achieve the requirements of the NPSUDC in regards to Otamatea which has a high demand for residential lots.

The requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) were incorporated into the Plan via Plan Change 27, and will be applicable to any land rezoned as part of PC46.

1.3.4 Regional Policy Statement

In addition, the RMA requires District Plan provisions give effect to the Regional Policy Statement (section 75(3)). The Regional Policy Statement (RPS) is the main vehicle for interpreting and applying the sustainable management requirements of the RMA in a local context, and in this regard, guides the development of lower tier plans, including the District Plan.

The Manawatu-Wanganui Regional Council (Horizons) combined the Regional Policy Statement and six regional plans into one document called the One Plan. The One Plan became operative on 19 December 2014.

Regional One Plan		Proposed Plan Change 46	
Issue	Objective	Policy	Evaluation
3-3 The strategic integration of infrastructure with land use – urban development that is not strategically planned can result in the piecemeal and inefficient provision of associated infrastructure.	3-3 The strategic integration of infrastructure with land use – Urban development occurs in a strategically planned manner which allows for the adequate and timely supply of land and associated infrastructure.	3-4 The strategic integration of infrastructure with land use – Territorial Authorities must proactively develop and implement appropriate land use strategies to manage urban growth, and they should align their asset management planning with those strategies, to ensure the efficient and effective provision of associated infrastructure.	PC46 is consistent with the One Plan issue, objective and policy in that by creating further residential areas on land, identified as generally appropriate for that purpose and where specific impediments are proposed to be addressed (predominately through the Structure Plan) it allows for planned development, and infrastructure rather than the pressures for piecemeal development with ad hoc residential scale subdivision proposals in the Rural Lifestyle zone.
2-2 Land use and management (l): The removal, destruction or alteration of wāhi tapu and wāhi tūpuna by inappropriate activities continues to have	2-1 Resource Management (b) Kaitiakitanga must be given particular regard and the relationship of hapū and iwi with their ancestral lands, water, sites, wāhi tapu and other taonga (including	2-2 Wāhi tapu, wāhi tūpuna and other sites of significance: Identified wāhi tapu, wāhi tūpuna and other sites of significance to Māori must be protected from inappropriate subdivision, use or	Chapter 2 of the One Plan was referred to in the evidence on behalf of the Collective Iwi at the PC46 Hearing. The relevant provisions are reproduced at left. The proposed amendments to PC46 seek to more explicitly recognise and provide for the relationship of hapū and iwi with their ancestral lands, water, sites, wāhi tapu and other taonga

a detrimental effect on those sits and upon hapū and iwi.	wāhi tūpuna*) must be recognised and provided for through resource management processes.	development that would cause adverse effects on the qualities and features which contribute to the values of these sites.	(including wāhi tūpuna*) through the District Plan resource management framework and better give effect to the RPS intention.
---	--	---	---

2. THE PROPOSED PLAN CHANGE

2.1 Description of the Publicly Notified Proposed Plan Change (PC46)

The purpose of PC46 is to re-zone some of the land zoned *Rural Lifestyle* in Otamatea West to *Residential* to provide for a higher density of development and provide for the additional residential demand in Otamatea. Development will be managed through the application of the ‘Otamatea West Structure Plan’ to provide quality urban design outcomes including integrated, cost effective and efficient infrastructure servicing and a well-connected road network. At the same time, the Plan Change will remove the Otamatea Development Overlay (inserted as part of Plan Change 26) to allow development at a higher residential density than the current 1,000m² per dwelling limit within the Otamatea Development Overlay.

Otamatea West was selected as the area to contain this additional residential development as there is already development pressure in this area and Otamatea East has larger stormwater constraints. Investigations to model the costs of serving residential development in this area are continuing. The extent of the Structure Plan area within Otamatea West was restricted by the amount of land required to service the expected demand.

2.2 Consultation Prior to Public Notification

The concept of providing additional residential capacity at Otamatea has long been discussed by Council. During the first round of consultation the following occurred:

- 16 September 2015 to 28 September 2015 – phone calls to landowners directly affected by PC46, advising of the upcoming Plan change process. Issues raised related to the impact on the value of the properties, whether there would be any change in the rates, and what plans Council had for any further stormwater work in the area.
- 28 September 2015 - Council sent a letter to all landowners whose land was proposed to change zone and stakeholders with properties in close proximity giving them an opportunity to provide comments to Council by 30 October 2015.
- 28 September 2015 – A brief summary of PC46 and a copy of the map of the areas to be rezoned was placed on the Council’s website (Shaping Wanganui – Phase 6 – Proposed Plan Change 46 Residential Zones Expansion) asking for feedback by 30 October 2015.

The Plan Change was placed on hold, awaiting further infrastructure modelling, which would confirm the development feasibility. As a result of this, a new Structure Plan

was developed, with changes to the area of re-zoning proposed. This revised area for re-zoning was consulted on in the following manner:

- 19 May 2017 – Letter to landowners advising them of the revised Structure Plan and Plan Change.
- 26 July 2017 – Presentation to Rotary group on upcoming Plan Changes. Included Otamatea West and what was sought by the Plan Change.
- 8 August 2017 – Letter to landowners and stakeholders advising them of the completed Structure Plan and the opportunity to attend an Open Forum on 17th August. Stakeholders were also advised to ring, email or come to 101 Guyton Street if they wished to discuss the Plan Change. This was taken up by a number of stakeholders.
- 9 August 2017 – A copy of the Structure Plan and proposed District Plan text was placed online.
- 17 August 2017 – Open Forum at the Dog Park Clubrooms between 4.00pm and 6.30pm.
- 18 August 2017 - Presentation to valuers group on upcoming Plan Changes. Included Otamatea West and what was sought by the Plan Change.
- 19-20 August 2017 – Council's stand at the Home Show contained information on the Otamatea Plan Change and Structure Plan.

Section 32(4A) of the RMA requires the section 32 (not the section 32AA) evaluation report to summarise all advice concerning the Plan change received from Iwi authorities and Council's response. The relevant details are set out on pages 8 and 9 of the August 2017 Section 32 report.

The outcome of the pre-notification consultation with tangata whenua is was that a scoping report of the cultural values of the area was commissioned by the Council and prepared by Te Kaahui o Rauru (the *Interim Cultural Values Report* dated 6 October 2017). It is referenced in submission S14 on behalf of the Whanganui Land Settlement Negotiation Trust. The public was able to view and comment on this report it as part of the further submission process and it was referred to in evidence presented to the hearing by representatives of Whanganui me Ngaa Rauru Kaitahi.

2.3 Public Notification and Submissions

Plan Change 46 was publicly notified on 9 September 2017. Sixteen submissions were received. A summary of submissions was publicly notified on 21 October 2017 which attracted two further submissions from the following people and organisations:

<i>First Round Submissions:</i>		<i>Did Other Submitters Support or Oppose This Submission:</i>	<i>Represented at the Hearing:</i>
S01	<i>Barry Hodson</i>	<i>Opposed by FS2</i>	<i>No (did not ask to be heard)</i>
S02	<i>Sharyn and Geoff Underwood</i>	<i>Opposed by FS2</i>	<i>No (tabled a written statement)</i>
S03	<i>Graham and Jane Lillington</i>	<i>Opposed by FS2</i>	<i>Yes (Graham Lillington)</i>
S04	<i>Geoffrey H Thompson</i>	<i>Supported by FS2</i>	<i>No</i>
S05	<i>Powerco Limited</i>		<i>Yes (Graham Lillington) and tabled a written statement</i>

<i>First Round Submissions:</i>		<i>Did Other Submitters Support or Oppose This Submission:</i>	<i>Represented at the Hearing:</i>
S06	<i>Robert B Chamberlain</i>	<i>Opposed by FS1 and FS2</i>	<i>No (did not wish to be heard)</i>
S07	<i>Keryn Amon</i>		<i>Yes (Keryn Amon)</i>
S08	<i>Bennett Family Trust (DWA Bennett)</i>	<i>Opposed by FS1 and FS2</i>	<i>Yes (Graeme Young)</i>
S09	<i>Stephen Turner</i>	<i>Opposed by FS2</i>	<i>No</i>
S10	<i>Graeme W Young</i>	<i>Opposed by FS1 and FS2</i>	<i>Yes (Graeme Young)</i>
S11	<i>Te Rūnanga o Tūpoho</i>		<i>Yes (John Maihi)</i>
S12	<i>Michael R O'Sullivan</i>	<i>Supported by FS2</i>	<i>No (did not wish to be heard)</i>
S13	<i>Te Kaahui o Rauru</i>		<i>Yes (Raukura Waitai & Nicola Patrick)</i>
S14	<i>The Whanganui Land Settlement Negotiation Trust</i>		<i>Yes (Tracey Waitokia)</i>
S15	<i>NZ Transport Agency</i>	<i>Supported by FS2</i>	<i>Yes (Leticia Jarrett & Caron Greenhough)</i>
S16	<i>(late submission) Steven Archer and Bernard Reuters</i>		<i>No</i>

2.4 Further Engagement Following the Close of Submissions

Following the close of submissions discussions were held with most submitters, to clarify and understand each submission. This included:

- 9 November Meeting with Iwi submitters
- 9 November Phone call with Mr Hodson
- 9 – 19 November Email updates with Mr Lillington and Mr Underwood.
- 9 – 20 November Emails and a phone call meeting with NZTA
- 20 November Phone call and meeting on site at 193 Great North Road with Mr Thompson.

At the Hearing on 11 December 2017, John Maihi on behalf of Te Rūnanga o Tūpoho withdrew support for Plan Change 46. Submission 11 is considered to still be live, as the submission also sought to 'be involved in refining [PC46] further'.

The Hearing Panel instructed parties (in a Memorandum dated 15.12.17) to provide further information by way of answers to ten. The parties were instructed to engage further to reach common ground where possible. A copy of the Panel's 15.12.17 memorandum is contained in Appendix 7.

Two engagement meetings were held at Cooks Gardens on 15th February and facilitated by Reginald Proffit, an Independent Hearing Commissioner. A record of the meetings is attached as Appendix 8 to this report.

At that meeting the collective iwi submitters recorded a preference to be referred to as 'Whanganui me Ngaa Rauru' for the purposes of this Plan change process.

At the post Hearing Engagement meeting, representatives of mana whenua indicated that they would prefer to be referred to as 'Whanganui me Ngaa Rauru Kīitahi' for the purposes of this Plan change process. Council advisers' advice was that to ensure future developers are aware of this group and their desire to work collectively, Council

will need to prepare, in collaboration with Whanganui me Ngaa Rauru Kiitahi, a revised contacts list and some protocols for future engagement.

Further work to expand and complete an assessment of cultural values was commissioned by Council. *Te Whanaungatanga o Whanganui me Ngaa Rauru Kiitahi - Otamatea Plan Change Cultural Values Report* prepared by Whanganui me Ngaa Rauru Kiitahi was presented to Council on 12 April 2018. This second report was supported by the initial IVCR. The February meeting record, further engagement discussions and the second report itself (Refer to Appendices 8 and 10 respectively) have further informed this evaluation.

2.5 Issues Raised in Submissions, Evidence and Feedback During the Adjournment

Te Kaahui o Rauru and the Whanganui Land Settlement Negotiation Trust requested in their submissions that the cultural values as outlined in the *Interim Cultural Values Report: Otamatea Structure Plan (17 October 2017)* prepared by Raukura Waitai and Te Kaahui o Rauru, be recognised and protected. Their requests are confirmed in *Te Whanaungatanga o Whanganui me Ngaa Rauru Kiitahi - Otamatea Plan Change Cultural Values Report (12 April 2018)* prepared by Whanganui me Ngaa Rauru Kiitahi. Namely that ancestral heritage be preserved and protected, along with the wellbeing of the land and its people, and the desire and right of tangata whenua to reconnect with ancestral lands. These submitters requested that the existing Rural Lifestyle zoning be retained within over the proposed Structure Plan area, as a means of protecting the values of this area of ancestral land and of protecting wāhi tapu and wāhi tūpuna sites likely to be located within the area from disturbance and destruction that could occur if residential-scale development occurred.

The evidence on behalf of the Council to the hearing was that, given the extent of existing and projected demand for residential development, and the history of ad hoc development in the Otamatea area, it is unlikely that a 'do-nothing' option, will sustainably address either the key urban design or historic heritage issues this area faces. The evidence to the hearing clarified that the operative District Plan zone rules would permit widespread development within the PC46 area, as a permitted activity or as a restricted discretionary activity. The operative restricted discretionary activity subdivision and development rules do not include explicit protections for cultural values, other than identifying the location of some known archaeological sites (in Appendix K of the District Plan).

Whanganui me Ngaa Rauru Kiitahi representatives made it very clear in evidence to the hearing that the proposed provisions of PC46 as publicly notified and PC46 (R2) as amended in the section 42A report do not sufficiently recognise and provide for the relationship of Whanganui me Ngaa Rauru Kiitahi with their ancestral lands, water, sites, wāhi tapu and other taonga within the PC46 area.

Other options were explored, in discussions between Council's advisers and submitters, including Te Rūnanga o Tūpoho who submitted in 'support in theory' of this Plan Change but subsequently withdrew their support. Options considered sought to protect historic heritage values including cultural values to avoid damage, destruction or modification of recorded wāhi tūpuna sites and provide for the discovery of wāhi tapu within the structure plan area as far as practicable, whilst also providing

opportunities for high quality and well integrated residential development where appropriate.

The New Zealand Transport Agency requested in its submissions that specific consideration be given to the implications of PC46 on the State Highway network in the vicinity. An Integrated Transport Assessment was completed, which concludes that:¹

1. An assessment of the worst performing proposed intersection, would perform at a LOS A overall or at a LOS B for the right-turn into the site at PM peak.
2. The sight distances to and from the proposed intersections appear appropriate;
3. Proximity of existing roads (Mannington Rd and Eaton Crescent) are in conflict with the safety and operation of the proposed roads and this is a concern, although site distances do not appear to be an issue. The left-turn and egress capacity are below standard.
4. Safety record is currently good within the urban zone.
5. For Road 1 a channelised left-turn layout is recommended, but would require careful design.
6. For Roads 1 – 3 a channelised right turn layout is recommended as a minimum.
7. For Road 4, given the lower speed environment and lower volume of turning traffic, could remain a priority T-intersection.
8. Lack of internal connectivity leads to potentially superfluous connections to the State Highway and appear contrary to urban design principles.

The report notes also that proximity to schools and playgrounds necessitates vehicle movements. It is intended that an open space area be provided within the Structure Plan area, although its location is not yet defined. Enquires with the Ministry of Education, as recorded in the Opus report, identify that no new schools are planned for the period to 2065 based on current projections. Generally, thresholds are higher in provincial centres, for sustainable commercial, education and recreation areas within residential environments due to a typically lower density, proximity to town centres and an absence of appropriate public transport services.

The ITA report recommendations state that as a minimum to achieve good safety outcomes, all road linkages be restricted to the 70km/hr zone. This would mean that Road 1 would not be acceptable in its proposed location, which Council's advisers did not consider would be a reasonable outcome, given that proposed Road 1 also provides for future access to land to the north of the PC46 area.

Submissions by some owners of land affected by the proposed road layout shown on the PC46 Structure Plan requested the deletion or re-alignment of proposed Roads 3 and 4.

2.6 Amendments Recommended to the Publicly Notified PC46

Council's advisers proposed additional text for the introduction to Chapter 9 to better record and acknowledge the cultural heritage of Whanganui, of Māori cultural values generally and at Otamatea West specifically. The operative Plan is silent on this topic.

Two objectives specific to cultural heritage at Otamatea West only, ~~are introduced~~ were proposed (9.2.9 and 9.2.10) to more explicitly address the requirements of section 6 (e)

¹Page 20 Beca Report

of the Act (to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga) and section 7 (a) (to have particular regard to kaitiakitanga). The additional text also seeks to protect historic heritage, including cultural heritage, from inappropriate subdivision, use and development, as required by section 6 (f) of the Act).

In addition, the existing objectives and policies in Chapters 9 (Historic Heritage) and Chapter 13 (Subdivision and Infrastructure) of the Plan, will continue to set the general framework for protection of historic heritage including cultural and archaeological values. The introduction of new definitions of land disturbance, wāhi tūpuna, wāhi tūpuna sites and refinement of the definition of wāhi tapu will assist future Plan interpretation. Council's advisers proposed six new policies in Chapter 9 to guide consideration of development proposals at Otamatea West (Policies 9.3.21 to 9.3.25 and 9.3.27). They will facilitate recognition and provision for the relationship of mana whenua with their ancestral land, water, sites, wāhi tapu and other taonga, including wāhi tūpuna. In addition, the Hearing Panel recommended a seventh policy (9.3.26) requiring detailed assessment to identify any as-yet-unrecorded wāhi tapu and wāhi tūpuna sites ahead of more intensive urban development so as to protect the cultural values of sites identified through this assessment. The Hearing Panel's decision clarifies that the assessment it intends, through Policy 9.3.26, is not a 'cultural impact assessment' in the sense that expression is usually applied. The assessment is to be a focused assessment seeking to identify the presence of identifiable cultural sites and to identify ways that future subdivision design, including road alignment, should be adjusted to preserve those sites or to otherwise mitigate potential adverse effects on them.

New Policy 9.3.22 requires the implementation of the accidental archaeological discovery protocol that is already included in the District Plan to ensure that cultural heritage is not destroyed. The policies also require consideration of ways to facilitate reconnection for mana whenua with this ancestral land. Subdivision and land disturbance activities will require consent, unless it can be demonstrated that the proposal will not adversely affect any wāhi tapu or wāhi tūpuna. The new policies and rules will require individual assessment of restricted discretionary activity applications for consent (for subdivision and land disturbance), to identify the presence of any identifiable wāhi tapu and wāhi tūpuna, unless a comprehensive assessment of the wider Structure Plan area has already been undertaken which identifies the location of identifiable wāhi tapu and wāhi tūpuna sites *and* the proposal is in accordance with the recommendations of that earlier assessment in relation to the mitigation measures to be adopted to protect the values of the identified sites. The assessment required by the rules can be undertaken by either a person suitably qualified in mana whenua cultural history or archaeology. This responds to the evidence to the Hearing that certain kaumatua and others who are practised in tikanga Māori and ancestral history have expertise that is different from but complementary to the expertise of an archaeologist. Where an application is not accompanied by the assessment described here, consent will be required as a discretionary activity.

The framework proposed intentionally encourages a focussed assessment of the whole Structure Plan area (ideally), or of large areas within it, rather than piecemeal assessment of individual small sites. This will assist Council to assess and better manage the potential implications for cultural values. Consideration will also be given to any alternative locations or methods available for the activity. This creates opportunities to exclude land

disturbance in specific areas within a development site where the historic heritage values are significant and adverse effects cannot be avoided, remedies or mitigated.

The list of discretionary matters for restricted discretionary activity subdivision applications is expanded (in Rule 13.4.2) to include consideration of the effects of proposed development on any identifiable wāhi tapu or wāhi tūpuna sites and consideration of mitigation measures to recognise and protect cultural heritage.

In response to the issues raised in the 2017 Interim Cultural Values Report and in the evidence on behalf of Whanganui me Ngaa Rauru Kīitahi to the hearing, the Hearing Panel has changed the name of the PC46 Structure Plan from 'Otamatea West' to 'North West Structure Plan'. The evidence was clear that place-naming is central to cultural identity and to the relationship of Māori with ancestral land. A neutral overall name for the plan change area allows the adoption of other locally appropriate names for areas within the Structure Plan, rather than encouraging the use of a name that has no ancestral relevance.

The evidence did not support the deletion of proposed Road 1. The evidence presented to the Hearing on behalf of NZTA and the Council agreed that design solutions are possible that would ensure the Road 1 intersection with SH3 can meet usual safety requirements. These would be considered in detail as part of a subdivision consent application process. According to the evidence presented to the hearing, NZTA is expected to be deemed an affected party to any application that involves an intersection with SH3 and, as the agency responsible for SH3, also has complete discretion whether to authorise new intersections with SH3 in any event.

Amendments were proposed by Council advisers that address the concerns of some submitters about the location and impact of proposed roads. They proposed the deletion of the Road 3 connection to SH3 and the realignment of Road 4 to follow a strip of land that has been nominated for road access (and which landowner submitters understood was going to be used for future road access). The amended Structure Plan proposed by Council advisers also deletes the two short cul-de-sacs from the southernmost access road that were shown crossing number 175 Great North Road to provide access to number 173 Great North Road. Having considered the evidence of submitters opposing these cul-de-sacs, Council advisers were satisfied that shared driveway access from the southernmost access road (re-named Road 3) would provide adequate access for development of these two properties in future. The Hearing Panel acknowledges that the current owners of these two properties have no intention of developing. However, future owners may develop the land. The Hearing Panel is satisfied that replacement of the cul-de-sacs with shared driveway access for future development will provide safe access and will allow a more efficient use of land, if and when that land is developed.

3. SECTION 32AA EVALUATION

3.1 Requirement to Make an Evaluation

The section 32AA evaluation required by the Act must be in accordance with sections 32 (1) to 32 (4) which require:

Section 32(1) requires an examination of:

- a. *the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act (to promote the sustainable management of natural and physical resources), and*
- b. *examine whether, the provisions [the policies and rules] are the most appropriate way to achieve the objectives by-*
 - i. *identifying other reasonably practicable options for achieving the objectives; and*
 - ii. *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - iii. *summarising the reasons for deciding on the provisions; and*
- c. *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of the proposal.*

Section 32(2) requires that the assessment must:

- a. *Identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the [amended] provisions including the opportunities for –*
 - i. *economic growth that are anticipated to be provided or reduced; and*
 - ii. *employment that are anticipated to be provided or reduced; and*
- b. *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- c. *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

Subsections (32 (3) and (4) are not directly relevant to PC46 and are not considered further. The following sections examine the matters relevant to sections 32 (1) and (2).

3.2 Section 32 (1) (a) Evaluation of the Proposed New Objectives

The Hearing Panel proposes two new objectives for Chapter 9 of the District Plan (Historic Heritage):

- 9.2.9 *Recognise and provide for the relationship of mana whenua with their ancestral lands within the North West Structure Plan Area, including by:*
- a. *preserving and protecting ancestral heritage, including recorded and discovered wāhi tapu and wāhi tūpuna sites, and the associated cultural, spiritual and historical values of these sites; and*
 - b. *providing opportunities for improved connection of mana whenua with their ancestral lands, water, sites, wāhi tapu and other taonga, including through the provision, location and purpose of public reserves and the naming of streets and public open spaces created within the Structure Plan Area,*
- 9.2.10 *Protect recorded and discovered wāhi tapu and wāhi tūpuna sites within the North West Structure Plan Area from activities (including earthworks, road*

building and the construction of buildings) that have the potential to adversely affect the cultural, spiritual and historic heritage values of those wāhi tapu and wāhi tūpuna.

Objectives 9.2.9 and 9.2.10 respond directly to the request, made in submissions and in evidence to the hearing, that PC46 should explicitly recognise and provide for the relationship of Whanganui me Ngaa Rauru Kīitahi with their ancestral lands, water, sites, wāhi tapu and other taonga and should better protect cultural heritage. These matters are identified in section 6 (e) and 6 (f) of the Act as matters of national importance. By comparison with PC46 as publicly notified and PC46 (R3) as suggested by Council advisers, the Hearing Panel considers the above proposed wording is a more appropriate way of explicitly recognising and providing for these matters of national importance.

3.3 Section 32 (1) (b) Evaluation of the Amended Proposed Policies and Rules

The amendments proposed by the Hearing Panel to the PC46 policies and rules are in relation to:

- (a) Improved recognition and provision for cultural values:
- i. An expanded definition of 'wāhi tapu';
 - ii. New definitions of 'wāhi tūpuna' and 'wāhi tūpuna site';
 - iii. New Policy 9.3.21 encouraging developers to incorporate local culture and traditions into the urban landscape through use of design, landscape treatment, place naming and other methods;
 - iv. New Policy 9.3.22 requiring an accidental archaeological discovery protocol wherever wāhi tapu or wāhi tūpuna are discovered;
 - v. New Policy 9.3.23 requiring the protection of discovered remains from the adverse effects of development, including potential adverse effects on the relationship of mana whenua with the site;
 - vi. New Policy 9.3.24 recognising and providing for the relationship of mana whenua with wāhi tapu and wāhi tūpuna sites identified within the PC46 area;
 - vii. New Policy 9.3.25 specific considerations for land disturbance and subdivision affecting identified wāhi tapu and wāhi tūpuna sites;
 - viii. New Policy 9.3.26 requiring focussed assessment to identify wāhi tapu and wāhi tūpuna sites within the Structure Plan area, ideally of the entire Structure Plan area, or where wider assessment is not undertaken, of individual sites;
 - ix. New Policy 9.3.27 stating that, where an assessment, as required by Policy 9.3.26, confirms that proposed subdivision or development will not cause significant adverse effects on any wāhi tapu or wāhi tūpuna site, the Council will deem the activity to have a less than minor effect on cultural values;
 - x. New restricted discretionary activity rules for land disturbance (9.10.2.1 and 9.10.2.2) and performance standard for these (9.10.3.1 requiring the assessment described in Policy 9.3.26) and restricted discretionary matters (explicitly considering effects on cultural values);

- xi. Default discretionary activity rule 9.10.4.1 for land disturbance proposals that are not accompanied by the required assessment (or a statement confirming the proposal will not adversely affect any identifiable wāhi tapu and wāhi tūpuna site);
- xii. New restricted discretionary rule for subdivision (13.4.2) requiring the assessment described in Policy 9.3.26 and restricted discretionary matters (explicitly considering effects on cultural values);
- xiii. Default discretionary activity rule 13.4.3 (b) for subdivision proposals that do not meet the requirements of 13.4.2 (e.g. by not providing the focussed assessment of discretionary matters (explicitly considering effects on cultural values or a written statement confirming that the proposal will not adversely affect any identifiable wāhi tapu or wāhi tūpuna site));
- xiv. Replacement of the name 'Otamatea West Structure Plan' with 'North West Structure Plan' throughout; and

(b) Amendments to the proposed road layout and transport policies:

- i. Moving the link road at the end of Tirimoana Place slightly to the north;
- ii. Deleting proposed Road 3;
- iii. Shifting proposed Road 4 to an alignment between numbers 175 and 177 Great North Road (and renaming Road 4 'Road 3');
- iv. Realigning the cul-de-sac serving numbers 193a to 193d Great North Road further from the dwellings on those properties;
- v. Not including two short cul-de-sacs from the southernmost road (renamed 'Road 3') across number 175 Great North Road; and
- vi. Amendments to Policies 4.3.9 and 4.3.10 to emphasise the importance of a safe and resilient transport network and connectivity.

The other reasonably practicable options for achieving the objectives are represented by the alternative suggestions contained in the iterative versions of PC46 (R1, R2 and R3).

3.3.1 The amendments that improve recognition and provision for cultural values:

The PC46 area contains a number of recorded archaeological sites. The unrefuted evidence to the hearing clarified that it is also highly likely that there will also be as-yet undiscovered archaeological sites, including wāhi tapu sites. According to the evidence, the entire PC46 area is ancestral land, considered to be wāhi tūpuna, and of cultural significance to Whanganui me Ngaa Rauru Kīitahi.

The Hearing Panel is satisfied that the proposed amendments detailed in PC46 (R4) will be more effective than the available alternatives in giving effect to the proposed new objectives of PC46 because they articulate much more explicitly how the section 6 (e) and 6 (f) matters are to be recognised and provided for. The proposed new policies and rules will be more efficient than the available alternatives in achieving the PC46 objectives because they require a focused assessment, at an early stage of development within the PC46 area, which will enable subdivision design and development to proceed efficiently.

By contrast, the policies and rules proposed in PC46 (R3) would have reserved to the Council a discretion whether to require cultural impact assessment of individual subdivision and land disturbance proposals. This creates uncertainty for land

developers and for tangata whenua and the Council, risks not being as effective in protecting important cultural sites and values and would be potentially less efficient and more costly than the approach recommended by the Hearing Panel.

The additional policies and rules proposed will mean that land developers incur additional costs associated with the focussed assessment of wāhi tapu and wāhi tūpuna sites but this is considered to be warranted given the national importance of the cultural heritage values and ancestral relationship at stake. Costs are expected to be minimised by undertaking the focused assessment required at an early stage and across the entire Structure Plan or large areas of it, ahead of subdivision design and development. Economic growth will be facilitated by the entirety of PC46, including the amendments recommended by the Hearing Panel.

The Hearing Panel is satisfied that, without the amendments proposed, there is a risk that important cultural sites will be unnecessarily disturbed, damaged or destroyed and that this risk warrants the approach proposed.

3.3.2 The amendments to road layout and transport policies:

The Panel is satisfied that the proposed amendments to road layout are more appropriate than the layout proposed in PC46 as publicly notified and as proposed in PC46 (R1). The proposed amendments to road layout will be more efficient, in terms of connectivity, than the alternatives discussed because they will involve less extent of road whilst allowing appropriate (effective) connection between the parts of the PC46 Structure Plan and the wider Whanganui road network.

The proposed amendments will not impose additional costs, but will potentially be cost neutral or result in savings associated with reduced road construction costs. The Hearing Panel does not consider there are any significant risks associated with the road network layout proposed by PC46. For example, the agreed evidence of the witnesses for the Council and NZTA at the hearing was that it will be possible to construct intersections with SH3 that meet all usual safety requirements. The Panel is satisfied that the amendments are reasonably necessary to address the potential adverse effects described by submitters to the hearing.

3.4 Information Sources Informing the Further Amendments to PC46

The further amendments proposed by the Hearing Panel are informed by the evidence presented to the Hearing and:

- *Otamatea West Structure Plan – Integrated Transport Assessment*, Beca Ltd, October 2017;
- *Interim Cultural Values Report: Otamatea Structure Plan Change*, Raukura Waitai and Te Kaahui o Rauru, October 2017 (*the 2017 ICVR*);
- *Te Whanaungatanga o Whanganui me Ngaa Rauru Kiitahi – Otamatea Plan Change Cultural Values Report*, 12 April 2018 (*the 2018 CVR*);

- The preliminary response of Council advisers to the questions in the Hearing Panel's 15.12.17 memorandum;
- Amended PC46 documentation (PC46 (R3)) prepared by the Council's advisers after considering the 2018 CVR;
- A table prepared by the Council's advisers that summarises how they consider PC46 (R3) responds to the 2018 CVR;
- A version of the above table extended to include the response of Whanganui me Ngaa Rauru Kiitahi to the above document, emailed to the Council under cover of a letter dated 7 June 2018; and
- A version of this Whanganui me Ngaa Rauru Kiitahi response annotated with further comments from Jill Sheehy on behalf of Te Rūnanga o Tūpoho, which was forwarded in an email to the Council dated 17 June 2018.

4. Conclusion

This re-evaluation has been undertaken in accordance with section 32AA of the Act, following careful consideration of matters raised by submissions, evidence at the Hearing. The re-evaluation was also informed by the material generated during the adjournment as a result of further engagement between Council advisers and submitters. The re-evaluation concludes that the amendments proposed by the Hearing Panel are the most appropriate way to achieve the sustainable management purpose of the Act, compared with the reasonably available alternatives. It identifies the necessity, benefits and costs of the amendments proposed by the Hearing Panel to respond to matters raised in submissions.

The amendments proposed by the Hearing Panel do not alter the original purpose of providing for residential growth at Otamatea. The appropriateness of the current and proposed objectives, policies and methods, having regard to their effectiveness and efficiency, have also been reviewed relative to other means in achieving the purpose of the Act.

This re-evaluation concludes that the plan change is, in broad terms, reasonably necessary to give effect to the requirements of the NPSUDC and is an appropriate way to give effect to the sustainable management purpose of the Act. The amendments proposed to the publicly notified version of PC46 are the most efficient and effective means available to Council to provide for residential development capacity while preserving and enhancing amenity values in Otamatea.

The proposed additional objectives 9.2.9 and 9.2.10 are reasonably necessary to give effect to sections 6 (e) and (f) of the Act and are assessed as being the most appropriate way to achieve the purpose of the Act, by comparison with the alternative of not including those objectives, or the wording of objectives proposed by Council advisers. The re-evaluation finds that the proposed amendments to the PC46 provisions (policies and rules) are a more appropriate way to achieve the purpose of PC46 and the new objectives of PC46 than the available alternatives.

PC46, amended as proposed by the Hearing Panel, will enable residential development to proceed at Otamatea West in a way that meets community needs, whilst recognising and providing for the relationship of Whanganui me Ngaa Rauru Kiiitahi with their ancestral lands, sites, water, wāhi tapu and other taonga as intended by the Act. It will also protect important cultural heritage values. As proposed, PC46 will enable the establishment of efficient and effective infrastructure services and a safe and resilient transport network, facilitating sustainable management of the subdivision, use and development of land to meet future residential demand.
