01-15-016
RDC-1293780

Kaupapataka
Agenda

NOTICE OF AN ORDINARY MEETING
OF
COUNCIL

Date: **Thursday 4 August 2022**

Time: **1 pm**

Venue: **Council Chamber**

MEMBERSHIP

Chair	Mayor Chadwick
Deputy Chair	Cr Donaldson
Members	Cr Kai Fong
	Cr Kumar
	Cr Macpherson
	Cr Maxwell
	Cr Raukawa-Tait
	Cr Tapsell
	Cr Wang
	Cr Yates
Quorum	5

Back to index

NGĀ TUKUNGA HAEPAPA A TE KAUNIHERA
COUNCIL DELEGATIONS

Type of Committee	Council
Subordinate to	
Subordinate Committees	Strategy, Policy and Finance committee Operations and Monitoring committee District Licencing committee CEO performance committee RMA Policy Committee Audit and Risk Committee
Legislative Basis	Schedule 7 S30 (1) (A), Local Government Act 2002 Committee delegated powers by the Council as per Schedule 7, S32, Local Government Act 2002
Purpose	The purpose of the Council is to make decisions on all matters that cannot be delegated, that it has not delegated or that it has had referred to it by staff or a committee.
Reference	01-15-016-01
Membership	Mayor Steve Chadwick (Chair) Deputy Mayor Councillor Dave Donaldson (Deputy Chair) Councillors' Kai Fong, Kumar, Macpherson, Maxwell, Raukawa-Tait, Tapsell, Wang, Yates
Quorum	5
Meeting frequency	Monthly
Delegations	• the power to make a rate • the power to make a bylaw • the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan • the power to adopt a long-term plan, annual plan, or annual report • the power to appoint a chief executive • the power to adopt policies required to be adopted ad consulted on under the LGA 2002 in association with the long-term plan, or developed for the purpose of the local governance statement; and • the power to adopt a remuneration and employment policy • the power to set and support strategies in measures related to emergency matters. • all the powers, duties and discretions under the Civil Defence Act for the proper operation and administration of the approved Civil Defence Plan; such delegation to be executed solely within the defined policy guidelines as determined from time to time by the Council and subject to the Financial limits imposed by the approved Council estimates.
Relevant Statutes	All the duties and responsibilities listed above must be carried out in accordance with the relevant legislation.
Limits to Delegations	Powers that cannot be delegated to committees a per the Local Government Act 2002 Schedule 7 S32

Back to index

Order of Business

1. Opening Karakia - Karakia Whakapuaki 4

2. Apologies - Ngā Whakapāha 4

3. Declarations of interest - Whakapuakitanga Whaipānga 4

4. Urgent Items not on the Agenda - Ngā Take Whawhati tata kāore i te Rārangi Take . 5

5. Staff Reports – Pūrongo Kaimahi 6

5.1 Permanent Alcohol Ban for Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2, 3, 4, 5 DPS 65170 – Commence Consultation 6

5.2 Housing for everyone (Plan Change 9), Approval for Notification 13

6. Resolution to go into Public Excluded - Ka Matatapu te Whakataunga i te Tūmatanga (to consider and adopt confidential items) 32

Back to index

1. Opening Karakia - Karakia Whakapuaki

HE KARAKIA MŌ TE KAUNIHERA O NGĀ ROTO O ROTORUA

E te Atua kaha rawa, ko koe te tohu Rangatira, te tohu mātauranga.
Manaakitia mai mātau, wāu pononga i tēnei wā, e mahi nei i a mātau mahi, mō te painga o ngā tāngata, o Te Kaunihera o ngā Roto o Rotorua.
Takua mai kia tau te rangimārie ki runga i a mātau i ngā wā katoa.
Ko Ihu Karaiti hoki tō mātau Ariki
Āmine

COUNCIL PRAYER

Almighty God, who alone is the leader of all mankind and the fountain of all knowledge.
Send thy blessing upon us your servants this day as we strive to do all things good for the betterment of the people of the Rotorua district.
May we be tolerant in ourselves at all times.

Through Jesus Christ our Lord
Amen

TŪTAWA MAI

Tūtawa mai i runga
Tūtawa mai i raro
Tūtawa mai i roto
Tūtawa mai i waho
Kia tau ai te mauri tū
Te mauri ora, ki te katoa
Hāumi e. Hui e. Tāiki e!

TŪTAWA MAI

I summon from above
I summon from below
I summon from within
I summon the surrounding environment
The universal vitality and energy to infuse and enrich all present
Enriched, unified and blessed

2. Apologies - Ngā Whakapāha

The Chair invites notice from members of:

1. Leave of absence for future meetings of the Rotorua Lakes Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

3. Declarations of interest - Whakapuakitanga Whaipānga

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

Back to index

4. Urgent Items not on the Agenda - Ngā Take Whawhati tata kāore i te Rārangi Take

Items of business not on the agenda which cannot be delayed

The Chair will give notice of items not on the agenda as follows:

Matters Requiring Urgent Attention as Determined by Resolution of Rotorua Lakes Council

The Chair shall state to the meeting.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Rotorua Lakes Council.

s.46A (7), LGOIMA

Discussion of minor matters not on the agenda.

Minor Matters relating to the General Business of the Rotorua Lakes Council.

The Chair shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Rotorua Lakes Council for further discussion

s.46A (7), LGOIMA

Back to index

5. Staff Reports – Pūrongo Kaimahi

01-15-016
RDC-1293244

ROTORUA LAKES COUNCIL

Mayor
Members
COUNCIL

5.1 Permanent Alcohol Ban for Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2, 3, 4, 5 DPS 65170 – Commence Consultation

Report prepared by: Melissa Hollier, Corporate Planner
Report reviewed by: Greg Kieck, Corporate Planning and Strategy Manager,
Oonagh Hopkins, Deputy Chief Executive, District Leadership and Democracy
Report approved by: Geoff Williams, Chief Executive

1. TE PŪTAKE
PURPOSE

The purpose of the report is to recommend to Council to commence public consultation on making the Temporary Alcohol Ban (Ban) for Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2, 3, 4, 5 DPS 65170 that sit adjacent to these Reserves, permanent.

2. HE TŪTOHUNGA
RECOMMENDATION

1. **That the report 'Permanent Alcohol Ban for Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2,3,4, 5 DPS 65170 – commence consultation' be received.**

2. **That Council resolves to commence public consultation on making the Temporary Alcohol Ban (Ban) for Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2, 3, 4, 5 DPS 65170 that sit adjacent to these Reserves, permanent.**

3. TE TĀHUHU
BACKGROUND

In February 2021, Council instated temporary alcohol ban areas in Rotorua Community Youth Centre Reserve, Marist St Michaels Sports Park Reserve, Shambles Theatre Reserve and Lots 2, 3, 4, 5 DPS 65170 that sit adjacent to these Reserves for the period of 12 months. This was to "trial" the alcohol ban to best inform a way forward. This trial period was extended by another 12 months through the reinstatement of the temporary ban that will lapse on 27 February 2023.

Back to index

Alcohol is an accepted contributing factor in violence, family harm and disorder offending. By understanding the level of alcohol related harm in the community and public areas, Police and Council can make informed decisions regarding Liquor Free Zones with a view to reducing harm.

Tenants

Rotorua Community Youth Centre Reserve

Rotorua Community Youth Centre first contacted Council re alcohol related behaviours occurring on the Reserve surrounding the Centre in March 2020. Behaviours included drinking on site, defecation, urination, intimidation and antisocial behaviour, fighting, and rubbish being strewn including broken bottles and torn aluminium cans. The regularity of this behaviour, and having adults under the influence of alcohol, in the vicinity of young people is a major health and safety risk.

Marist St Michael's Sports Park Reserve

Marist St Michael's Rugby and Sports Club repeatedly raised concerns regarding adults hanging out and drinking in their Reserve, defecation, damage to the buildings, theft, intimidating and antisocial behaviour and significant amounts of rubbish (cans, bottles and hypodermic needles). Children (as young as four years old) and young people are an integral part of the Marist St Michael's Club and are exposed to these health and safety risks.

Shambles Theatre Reserve

Rotorua Shambles Theatre lodged ongoing reports of adults drinking and sleeping and lighting fires on the decks of the buildings and in their Reserve, intimidating and antisocial behaviour, defecation and rubbish. There were safety concerns for Theatre staff and children attending drama classes during the day.

Council Owned Land

Council owns **Lots 2 DPS 65170, Lot 3 DPS 65170, Lot 4 DPS 65170 and Lot 5 DPS 65170.** The Council Property Team dealt with issues of defecation, urination and vandalism. Currently Te Whānau Tokotokorangi Trust are the tenants of the building at 14 Te Ngae Road and provide services for people with intellectual and physical disabilities, including to youth and young adults who are vulnerable.

Rotorua Police

Police data on 'alcohol related' incidents and offending, before the temporary ban was in place, confirmed they were called to the Reserves in question at least four to five times per week in response to disorder, antisocial behaviour and violence offences, all usually alcohol related.

Tools Already Utilised to Deal with the Alcohol-Related Crime and Disorder

The Table below identifies the tools previously utilised by Council and Police to manage the alcohol-related crime and disorder occurring in the three Reserves and Council Lots. None of these tools provide a mechanism for dealing with persistent alcohol-related crime and disorder over multiple reserves in an effective and timely manner.

Tool	Effectiveness
Increased Safe City Guardian patrols	Provide a nuisance value for offenders, however Safe City Guardians are unable to move people on. Police resourcing is required.

Back to index

Locating the mobile CCTV camera on site	Has had no definitive effect, those under the influence of alcohol are not typically concerned about camera presence.
Police moving on those displaying antisocial behaviours	Offenders are still able to return to the site to continue with these behaviours when consuming alcohol on the Reserves is allowed.
Recent use of trespass notices	Can only be served on individuals on individual properties not allowing for a blanket and timely response.

4. TE MATAPAKI ME NGĀ KŌWHIRINGA
DISCUSSION AND OPTIONS

Areas to be covered by a Permanent Alcohol Ban

The location and scope of the each of the Reserves and the Council Lots is outlined in Attachment 1. The Rotorua Community Centre Reserve is shaded in orange, the Shambles Theatre Reserve is shaded in blue, the Marist St Michaels Sports Park Reserve is shaded in yellow and the Council Lots are shaded in green.

5. TE TINO AROMATAWAI
ASSESSMENT OF SIGNIFICANCE

The decisions in this report concern a bylaw, and are considered significant in accordance with the Local Government Act 2002, and the Council's Policy on Significance. As a significant decision, Council must apply greater diligence to the decision – making requirements of the Local Government Act 2002. This includes, but is not limited to, the degree to which different options are identified and assessed and the extent to which community views are considered.

6. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA
COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

Clause 5 (2) of the Alcohol Ban Bylaw 2018 states that "Council may add to, remove or alter any part of the Schedule to this Bylaw in accordance with the Special Consultative Procedure, in accordance with sections 83 and 156 of the Act." Therefore, a special consultative procedure will be conducted in order to amend the schedule of permanent areas.

The consultation is set from 12 September to 17 October 2022. Hearings will be held in November 2022 with deliberations and a council decision expected in December. This will provide enough time to revoke the temporary ban and instate the new permanent areas before 27 February 2023.

7. HE WHAIWHAKAARO
CONSIDERATIONS

Back to index

7.1 Mahere Pūtea
Financial/budget considerations

A special consultative procedure requires the consultation to be notified which will incur advertising and printing costs. This cost is budgeted for within the Corporate Planning and Strategy operational budget for 2022/23.

7.2 Kaupapa Here me ngā Hiraunga Whakariterite
Policy and planning implications

The recommendations within this report align with Vison 2030 (Outstanding Places to Play, Vibrant City Heart), Homes and Thriving Community Strategic Framework (Thriving Communities, Community Safety Planning) and the intent of the Rotorua District Alcohol Ban Bylaw 2018 to reduce alcohol-related harm, damage, disorder and crime and to improve community safety by putting alcohol restrictions in some public places.

7.3 Tūraru
Risks

- The Temporary Ban on the above areas will lapse on 27 February 2023. The risk exists that by delaying the consultation (with added complexity of elections and a new council schedule), the temporary ban areas will lapse which will require additional work and cost to reinstate.
- A lapse in Temporary Ban areas, could pose a risk to the community by removing the search and seizure (alcohol related) ability of the police in these areas.

7.4 Te Whaimana
Authority

The Council has the authority to make the resolutions included with this report.

8. NGĀ ĀPITIHANGA
ATTACHMENTS

Attachment 1: Map of Proposed Permanent Alcohol Ban Areas
Attachment 2: Photo evidence of alcohol related behaviours
Attachment 3: Statement of Proposal and proposed amended Rotorua District Alcohol Ban Bylaw 2018 (RDC- 1293632 - distributed separately)

Back to index

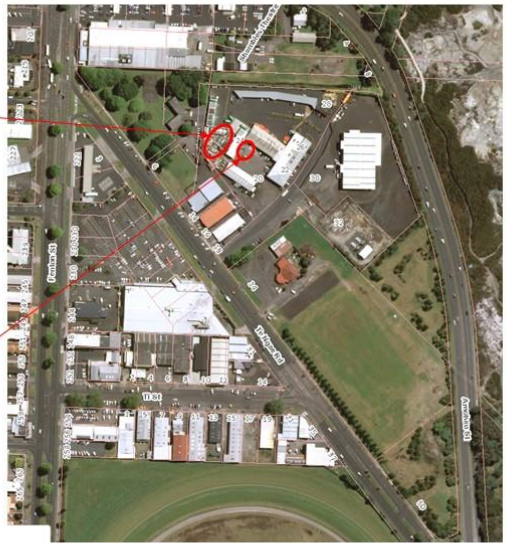
Attachment 1 - Map of Proposed Permanent Alcohol Ban Areas

Back to index

Attachment 2 - Photo evidence of alcohol related behaviours

COUNCIL LOTS

Cartons are a combination of beer and spirit mixes, there was also a lot of empty spirit bottles which are often found in this area.



MARIST ST MICHAELS SPORTS PARK RESERVE

Back to index

MARIST ST MICHAELS SPORTS PARK RESERVE

Sofa was part of this campsite which was surrounded with human faeces, used to deter people for entering the campsite.

Human faeces left as a response to Council's "we are going to clean up" notice

Camp site location

Empty boxes of alcohol, all at the same site, however at a different times

CAMPING SITES INVOLVING ALCOHOL IN AREA OF CONCERN

Summary of sites in this area Council has cleared since mid 2019. All these sites contained evidence of alcohol consumption in the form of empty bottles, cardboard boxes bottle tops etc. The latest report of drinking in this area (at the time of writing the report) was 4 Feb 2021 (highlighted in yellow).

Back to index

01-15-016
RDC-1293414

ROTORUA LAKES COUNCIL

Mayor
Members
COUNCIL

5.2 Housing for everyone (Plan Change 9), Approval for Notification

Report prepared by: Damon Mathfield, Principal Strategic Advisor – Urban Development and
Simon Thurston, Senior Policy Planner, Planning & Development Solutions
Report reviewed by: Jean-Paul Gaston, Deputy Chief Executive, District Development
Report approved by: Geoff Williams, Chief Executive

---

1. TE PŪTAKE
PURPOSE

In accordance with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ("The Amendment Act"), the Rotorua Lakes Council ("RLC or Council") is required to notify a plan change that will give effect to the Amendment Act and also the National Policy Statement on Urban Development 2020 (NPS-UD).

The Amendment Act states that as a "Specified Territorial Authority", RLC must notify their plan change no later than 20 August 2022. For RLC this is referred to as the Housing for Everyone Plan Change or Plan Change 9 ("PC 9 or the Plan Change"), which will enable greater housing supply and choice in the Rotorua District, by amending the current Rotorua District Plan ("District Plan") Rules. These changes are necessary for RLC to address the housing shortage and meet the increasing demand for smaller more affordable houses that are ideally built in areas that have good access to jobs, public transport, amenities and other community facilities.

The report below provides information on the proposed PC9 and details the key changes and amendments to the District Plan that will ensure Council will meet its obligation as detailed above. The report further outlines to elected members processes and engagement undertaken to prepare the Plan Change and seeks approval from members to publicly notify PC 9 on 20 August 2022.

2. HE TŪTOHUNGA
RECOMMENDATION

1. **That the Proposed Housing for Everyone Plan Change (PC 9) Provisions, Section 32 Report and the Draft Design Guide for Residential Intensification, be received.**

2. **That Council resolves to proceed with the Proposed Housing for Everyone Plan Change (PC 9) Provisions and the Section 32 Report; and approves notification of the Housing for Everyone Plan Change (PC9) by no later than 20 August 2022.**

3. **That Council notes the Draft Design Guide for Residential Intensification.**

Back to index

4. **That Council resolves to delegate to the Chief Executive to approve any final minor edits and/ or amendments to the Housing for Everyone Plan Change (PC 9) provisions and Section 32 report, prior to notification.**

5. **That Council approves the application to the Environment Court seeking an order that the Financial Contributions rules in the Housing for Everyone Plan Change (PC9) have immediate legal effect.**

3. TE TĀHUHU, TE MATAPAKI ME NGĀ KŌWHIRINGA BACKGROUND, DISCUSSION AND OPTIONS

3.1 Context

The National Policy Statement Urban Development 2020 ("NPS-UD") that came into effect on 20 August 2020 promotes the concept of "well-functioning urban environments." These urban environments 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 support a reduction in greenhouse gas emissions, amongst other matters. The NPS-UD classifies urban areas into different tiers relating to population size and projected growth rates, with Rotorua being classified as a Tier 2 urban environment[1].

On 20 December 2021 the Amendment Act was passed into law in order to 'unlock' more housing in New Zealand's growing cities and address capacity in cities with acute housing needs. This Amendment Act amends the Resource Management Act 1991 ("RMA") by bringing forward and strengthening the NPS-UD, which will help to increase housing supply in cities where it is needed the most, as in the case of Rotorua.

On 14 March 2022 an Order in Council ("OIC") was made to incorporate RLC in the requirements of the Amendment Act, after RLC requested to be included, based on its acute housing need. Rotorua's inclusion means that it is now a "specified territorial authority" under the Amendment Act, which requires Council to amend the District Plan to:

- Give effect to Policy 5[2] of the NPS-UD; and
- Ensure every relevant residential zone incorporates the Medium Density Residential Zone Standards ("MDRS") unless a qualifying matter exists.

As a "specified territorial authority" RLC is required to make this change to the District Plan on or before 20 August 2022.

[1] Urban Environment is defined in the NPS-UD as *'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, part of a housing and labour market of at least 10,000 people'*

[2] *Policy 5 requires district plans applying to tier 2 Councils to 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.

Back to index

3.2 Enabling Medium Density Residential Development

The Amendment Act further requires that RLC introduce MDRS so that most of our residential areas are zoned for medium density housing. The MDRS[3] essentially introduces a package of mandatory provisions that will enable landowners to build up to three houses of up to three storeys on their site as of right (i.e. no resource consent under the RMA- with these houses proceed straight to applying for building consents under the Building Act), on most sites, unless resource consent is required for another reason. In Rotorua the MDRS will apply to the current Residential 1 and Residential 2 zones[4], which covers most of the urban area (*Refer to Figure 1*).

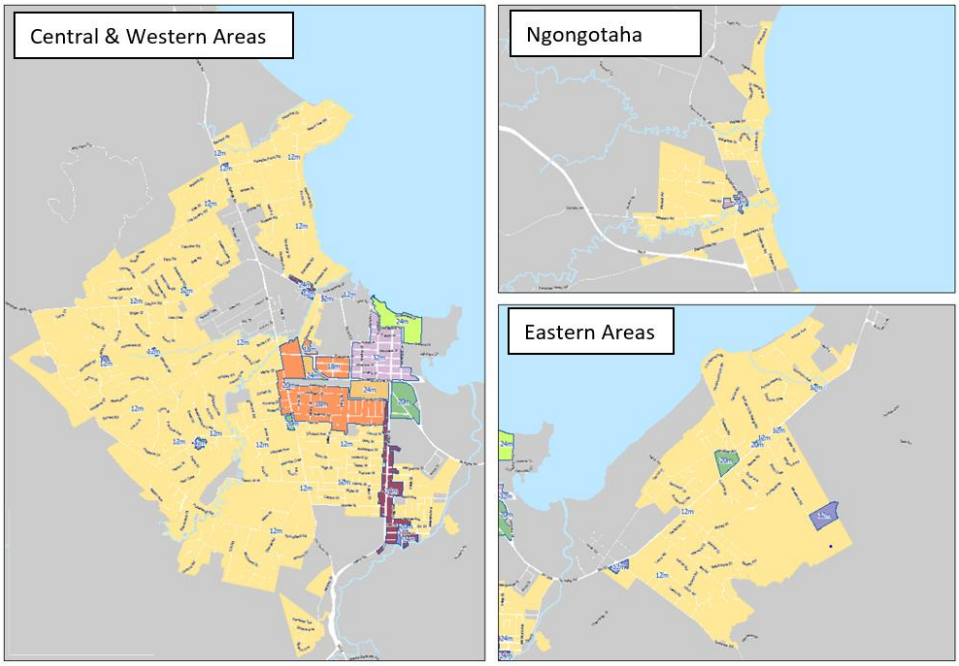


Figure 1: Showing the extensive Residential 1 zone in yellow across the Urban Area

The MDRS will enable more flexible or permissive development standards compared to the current District Plan residential zone standards (*Refer to Figure 2*).

[3]Mfe MDRS Guide- Medium Density Residential Standards: A guide for territorial authorities | Ministry for the Environment

[4] It applies to the Residential 2 zone, until the proposed high density zone, outlined in the next section of the report, is made operative

Back to index

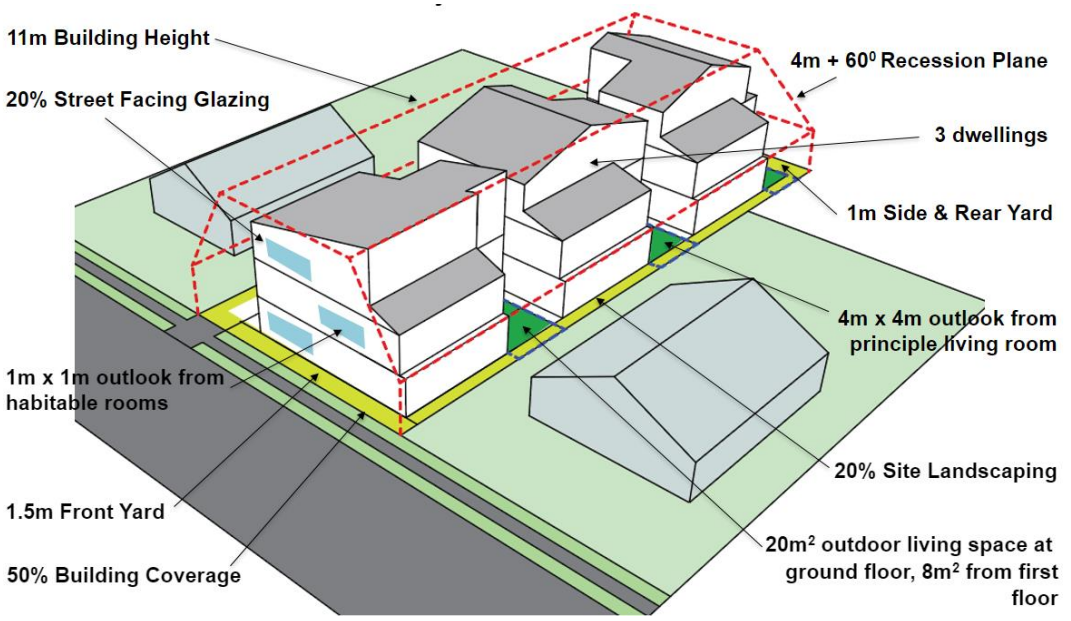


Figure 2: Showing the building envelope enabled by the MDRS

The application of the MDRS will enable medium density housing to be built across much more of the urban area resulting in residential development in a variety of sizes and forms, including detached dwellings, terrace housing and low-rise apartments. This will enable greater development capacity to cater for population growth within the existing urban footprint, supporting the delivery of a compact and sustainable urban form.

The MDRS will have legal effect from the time Council notifies the Plan Change on 20 August 2022. This means that from this date, these standards will be deemed operative in the District Plan – i.e. people will be able to start using these rules from 20 August 2022. The MDRS, however, will not have immediate legal effect where a qualifying matter applies (see section 3.6 below for further explanation on qualifying matters). Put differently, the new rules proposed in PC9 will only have immediate legal effect if they permit a residential unit in a relevant residential zone in accordance with the MDRS, and no qualifying matter applies to the site.

The MDRS, i.e. those standards that the Amendment Act specifies will have immediate legal effect, relate to the following controls:

- Number of residential units per site
- Building height
- Height in relation to boundary
- Setbacks
- Building coverage
- Outdoor living space
- Outdoor space (per unit)
- Windows to street
- Landscaped areas

Other provisions that are proposed in the Plan Change that are not part of the MDRS include:

- Rules that regulate minimum dwelling size, maximum building length, maximum impervious area and fences;
- Assessment criteria for four or more dwellings to achieve quality-built outcomes; and
- Rules associated with qualifying matters.

Back to index

As noted above, these provisions will not have immediate legal effect from notification of PC9 but will instead have legal effect when Council makes a decision on submissions, this is detailed further below in section 3.6.

3.3 Enabling High Density Residential Development

The Amendment Act and the NPS-UD also direct that the District Plan enable higher density housing with more building height around the city centre and suburban centres across the city, and close to public transport. It is therefore proposed within the Plan Change to primarily retain the spatial extent[5] of the current medium density Residential 2 zone but enable high density residential development within this zone. Being close to the City Centre, the proposed Residential 2 High Density Zone is aligned to the most accessible[6] areas within Rotorua, enabling more people to live in areas which can access amenities and employment through active and public transport modes (*Refer to Figure 3*). It is proposed to apply a 19.5m height limit within the Residential 2 High Density zone. This will enable six storeys in this zone as opposed to the three storeys permitted through the MDRS.

The Plan Change has further considered how to enable residential development in the Commercial and City Centre Zones, due to their accessible location relative to amenity (*Refer to Attachment 2*). The primary method of doing so is by enabling a greater building height through more permissive height standards in these locations, to accommodate for a wider range of activities that are supported by a greater density- (i.e. more people living in the area).

The proposed amendments to height limits within the City Centre and Commercial zones include (*Refer to Figure 2*):

- Amending the City Centre 1 zone (Mid City) height limit from 20m to 32m.
- Amending the City Centre 3 zone (Northern Edge/ Lake Front area) - height limit from 20m to 24m.
- Introducing[7] a 24m height limit for the City Centre 2 zone (Central Mall).
- Amending the Commercial 1 and 2 zone (Suburban Centres e.g. Ngongotaha and Owhata) - height limit from 12m to 20m.
- Amending the Commercial 4 zone (City Entranceway/ Fenton Street and Lake Road) - height limit from 12m to 24m.
- Amending the Commercial 6 zone (Southern Edge/ Trade Central) - height limit from 20m to 24m.

[5] See Annexure 1 the spatial extents of the current and proposed Residential 2 zones differ slightly

[6] Barker & Associates undertook an accessibility analysis to assist RLC in meeting its requirements as a Tier 2 local authority under Policy 5 of the NPS-UD. The analysis determined the 'level of accessibility' for any given area across the entire Rotorua urban area. Accessibility is simply defined as 'your ability to go places so that you can do things.' This is reflected in the Accessibility heat map in Attachment 3.

[7] In the current operative District Plan there is no maximum height

Back to index

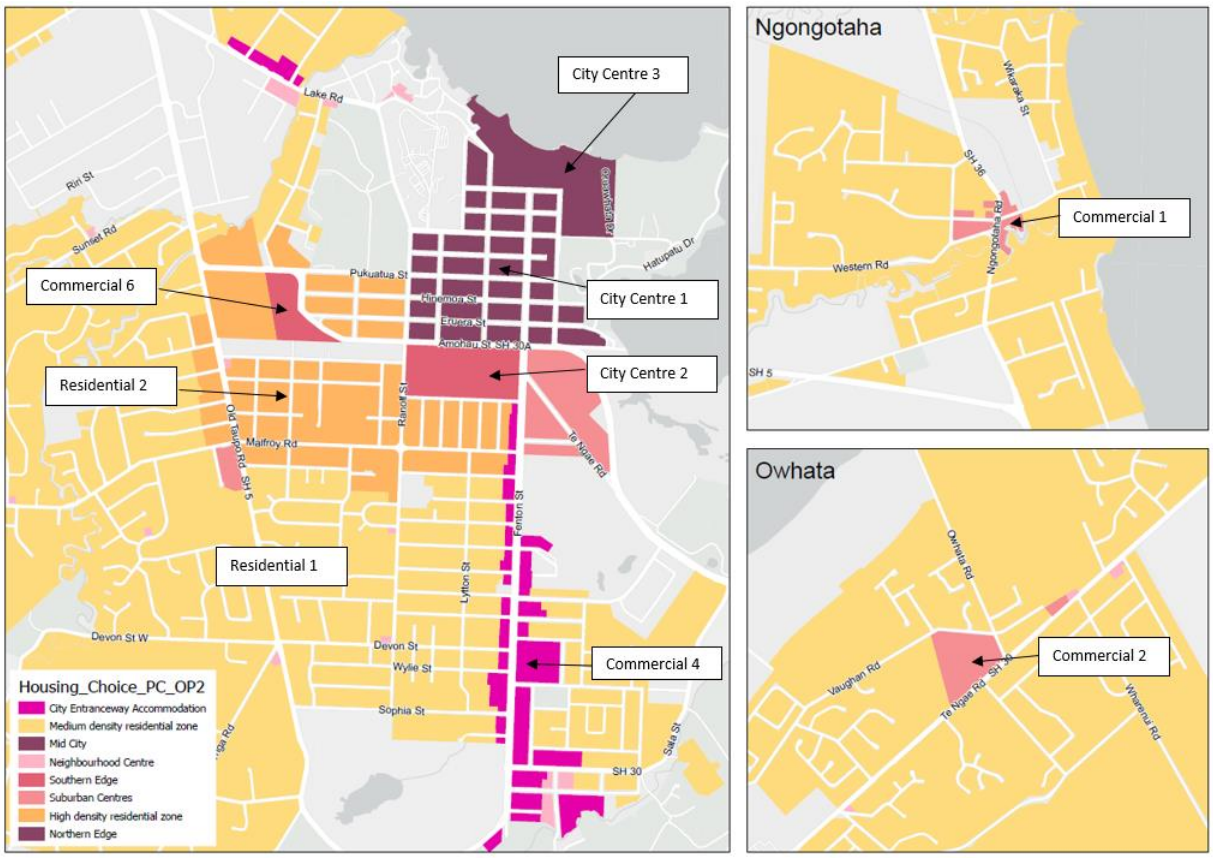


Figure 3: Map Showing the Proposed PC9 Zoning

Given the City Centre 2 and the Commercial 6 zones are centrally located and highly accessible it has been proposed to enable residential use within these zones. Amendments have therefore been made to the provisions of the City Centre 2 and Commercial 6 zones to permit residential units, which enables mixed-used[8] development.

Attachment 3 of this report provides a high-level overview of all the key changes to the Residential 1 and 2, Commercial and City Centre Zones.

3.4 Papakāinga Housing

This Plan Change also includes proposed amendments to the rules for papakāinga to make developments of this nature more enabling. The proposed amendments are in accordance with section 80E of the RMA, which enables the Plan Change to amend provisions to enable papakāinga housing in the district in both urban and rural areas.

The proposed amendments to the District Plan include:

- Removing the requirement that papakāinga needs to be located on land that adjoins, or is adjacent to a Marae;
- Amending the provisions to ensure that the framework for papakāinga in residential zones is in keeping with the MDRS and policy intent of the NPS-UD;
- Introducing additional provisions to enable a greater density of papakāinga development in rural zones; and
- Introducing additional performance standards for non-residential papakāinga development, recognising that papakāinga are not limited to housing.

[8] In this case we are enabling residential development above the existing commercial use

Back to index

3.5 Guiding Residential Intensification Outcomes

In addition to the Plan Change, a Draft Design Guide for Residential Intensification ("the Guidelines") has been produced to provide more guidance on delivering quality intensification (*Refer to Attachment 6*). The Guidelines, although non-statutory, are intended to build on the Ministry for the Environment's National Medium Density Design Guide[9], which provides guidance on permitted levels of development under the MDRS (i.e. development of up to three residential units on a site). The focus of the Guidelines which have been developed is on more intensive development (i.e. more than four dwellings), which are proposed to be assessed through a resource consent process.

The Guidelines have been developed as an educational tool for the community, applicants (and their consultants) and Council officers, around design principles and techniques which can be implemented to address common issues. These are issues which are likely to arise in the design of more intensive residential developments (e.g. on-site privacy or building bulk). Matters covered within the Guidelines are aligned with planning provisions within the Plan Change.

Council officers will work with local consultants, developers and iwi over the next few months to ensure the Guidelines appropriately represent our communities and provide a useful tool to guide more intensive residential development in Rotorua.

3.6 Qualifying Matters

The Amendment Act enables height and density to be restricted where there are "qualifying matters[10]", also known as development constraints. Through the Plan Change, we must justify why qualifying matters should be given a greater level of protection than other matters in the District. These reasons or 'qualifying matters', can't be used to prohibit intensification altogether, but they can be used to moderate the level of building height and density in places.

Existing qualifying matters within the District Plan include:

- National Grid;
- Natural Hazards;
- Historic and Cultural Values;
- Significant Natural Areas;
- Outstanding Natural Character;
- Outstanding Natural Features and Landscapes;
- Public Access; and
- Designations.

It is proposed to retain the current District Plan rules pertaining to these qualifying matters.

New qualifying matters are proposed in areas which are incompatible with the level of development permitted by the MDRS. These new qualifying matters are as follows:

[9] https://environment.govt.nz/assets/publications/national-medium-density-design-guide-31May2022.pdf

[10] Qualifying matters are characteristics of some properties or within some areas where it is appropriate to modify or reduce building height or density sought by the MDRS changes. This includes sites of cultural, historical, or ecological significance or to avoid development in areas with natural hazards.

Back to index

Flooding

Changes are proposed through the Plan Change to clarify and strengthen the District Plan to manage flooding with respect to building and subdivision, as development potential is increased through the Plan Change. Amendments are therefore proposed to better manage flood risk specifically, and to improve the efficiency of the current provisions.

The proposed amendments to the district-wide flood management provisions will apply across the district within areas subject to flooding and are only considered a new qualifying matter where they are proposed to apply within the Residential 1 and 2 Zone. This will be to properties where maximum flood depths on a building site are greater than 300mm[11].

Residential 3 Zone

This Plan Change includes retaining the current Residential 3 Zone (Ōhinemutu, Whakarewarewa, and Ngāpuna) provisions, as a new qualifying matter. The current zoning framework recognises the villages of Ōhinemutu, Whakarewarewa and Ngāpuna as exceptional and unique places within the district. The outcome of this new qualifying matter is that there will be no changes to the objectives, policies and rules in this zone due to the values and characteristics of these villages being considered to be a matter of national importance[12].

Historic Heritage Structures

Amendments are proposed to the provisions which manage historic heritage, to respond to the greater building height and bulk enabled through the Plan Change, which may give rise to adverse effects on the heritage values of cultural heritage features. It is anticipated that by including a 'new building rule' to sites which contain historic heritage structures[13], the Plan Change will manage the protection of historic heritage from inappropriate subdivision, use and development in the Residential 1 and 2 zones and the Commercial 4 zone.

3.7 Additional Supporting Changes

There are also further supporting changes that are proposed through this Plan Change, which are summarised below:

Financial Contributions for Reserves

The proposed amendments include extending the charging of reserve contributions to permitted residential units in order to capture the greater potential for residential units to be constructed without a subdivision or land use consent. To support future intensification, it is proposed that RLC's ability to use financial contributions extends to the upgrade of existing reserves. To further ensure Financial Contributions are 'fit for purpose' it is proposed that they are reduced:

- In most urban zones from 5% to 3.5%, to encourage efficient land use.
- In the Rural Zone to 2.5%, recognising the residents in these areas have less demand for the reserve network; and
- For minor residential units to 1%, to encourage an increase in 'smaller' housing types to meet demand, and to address the fact that there are less household occupants and lower demand on reserves by the individual household.

[11] in the design flood of a 1% AEP event with an allowance for climate change

[12] In terms of *"The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga."* (RMA Section 6(e))

[13] as listed in the Historic Structures Schedule in the District Plan

Back to index

If an activity requiring a financial contribution is proposed to be included in a specified territorial authority's district plan using the Intensification Planning Instrument, the rule does not have immediate legal effect under section 86B at the time the Intensification Planning Instrument is publicly notified (section 77E(3)).

Should Elected Members approve the above resolution (2.2.5), Council can make an application to the Environment Court to request an order that Financial Contributions have immediate legal effect from 20 August 2022. This would enable Council to receive a financial contribution for the establishment of new dwellings in accordance with the MDRS that would otherwise be a permitted activity –not requiring a resource consent (i.e up to three dwellings).

Transport Provisions

The Plan Change has the potential to impact and further exacerbate effects on the transport network in Rotorua if these effects are not managed. Amendments have therefore been proposed to the transport provisions to ensure that the anticipated effects of the increase in residential development enabled through this Plan Change are well managed. In this regard, the proposed amendments include new planning provisions to manage the increased number of households accessed from one shared access way and requiring a simple transport assessment for more than 20 residential units.

3.8 The Planning Process and Next Steps

A new planning process has been introduced to support Councils to implement the intensification policies of the NPS-UD and the MDRS. This process is called the Intensification Streamlined Planning Process ("ISPP")[14]. This process is intended to enable RLC to implement the intensification required by the NPS-UD at least a year earlier than under the standard process timeframes in the First Schedule of the RMA. The ISPP is based on the streamlined planning process in the RMA, with opportunities for Māori and iwi and public participation and no appeal rights. The process is outlined as follows (*Refer to Figure 4*):

[14] The ISPP is based on the existing streamlined planning process under the RMA, but is intended to be faster, easier, and less costly for Councils

Back to index

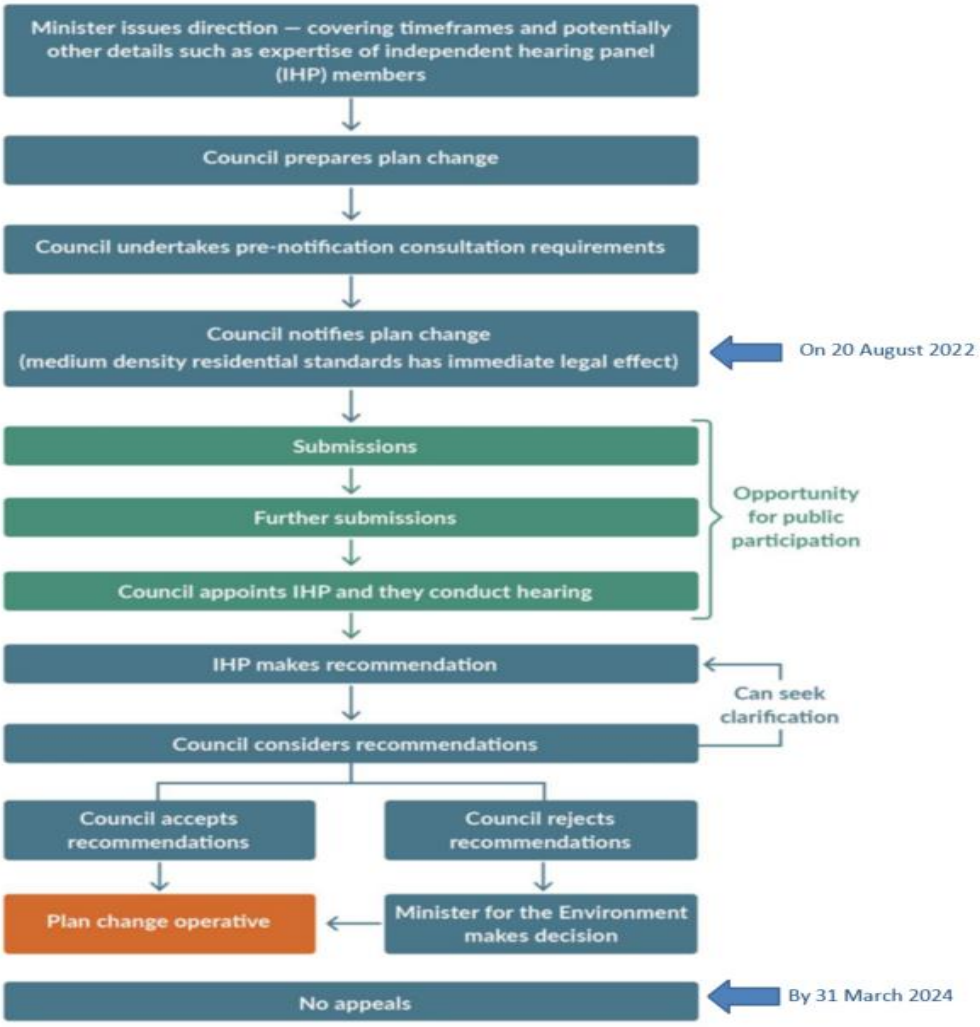


Figure 4: Steps in the ISPP
(Note: IHP above refers to Independent Hearings Panel)

Following the notification of the Plan Change on 20 August 2022, only the MDRS will have immediate[15] legal effect unless a qualifying matter applies.

RLC has the ability and has proposed more permissive height standards above what is prescribed within the Amendment Act (as outlined in section 3.3). In these cases, and the case of the qualifying matters- (section 3.6), proposed amendments to the District Plan rules for papakāinga (section 3.4) and additional supporting changes- (section 3.7,) will only have legal effect once the Pan Change decisions have been made and notified by Council. The proposed Plan Change objectives and policies can be considered from the notification date and weighted accordingly when Council considers relevant resource consent applications. Through previous Council workshops, the scope for the Plan Change was limited so as not to include greenfield development. This will be considered further as part of the Future Development Strategy (FDS).

As previously outlined in this report, on 14 May 2022, in accordance with section 80L of the RMA the Minister for the Environment issued an OIC directing RLC to notify its final decision on Plan Change 9 by 31 March 2024.

It is noted that the ISPP differs from the RMA First Schedule process in two ways: first, if Council does not accept the Hearings Panel recommendation on Plan Change 9, then the Minister makes the final decision. Second, submitters have no rights of appeal to the Environment Court; the only legal

[15] As outlined in Section 3.2 rules will only have immediate legal effect if they permit a residential unit in a relevant residential zone in accordance with the density standards, and no qualifying matter applies to the site

Back to index

challenge a submitter could bring is to apply to the High Court for judicial review of the Council (or the Minister's) process. Council does not have discretion on whether to use the ISPP process, this is a requirement of the Amendment Act.

The key steps that will be followed by RLC to achieve the above, are outlined below:

Description of Step	Timeframes
Notification of Plan Change	20 August 2022
Public submissions[16]	22 August to 14 October 22
Summary of Submissions	25 October 22*
Further submissions	25 October to 22 November 22*
Summary of submissions and further submissions	6 December 22*
Preparation and circulation of hearing material (Process and timeframes to be set by Hearings Panel)	January – July 23*
Hearings[17]	14 -25 August 23*
Hearings Panel Recommendations	25 August – 25 October 23* *(Two Months)*
Council Decision on Recommendations	6 December 2023*
Referral of rejected recommendations to the Minister[18]	15 January – 15 March 24* *(Two Months)*
Plan Change is made Operative	By 31 March 24 (deadline)

*dates are indicative

3.9 Options

The Council considerations are:

Pursuant to the Order in Council, RLC is **required** to notify an intensification plan change by 20 August 2022. The steps to achieve this are:

a. Resolve to proceed with the Proposed Housing for Everyone Plan Change (PC 9) Provisions and Section 32 Report; and approve notification of the Plan Change (PC 9) by no later than 20 August 2022.
b. Note the Draft Design Guidelines for Residential Intensification.
c. Delegate to the Chief Executive to approve any final minor edits and amendments to the Plan Change (PC 9) provisions and Section 32 report, prior to notification.
d. Approve an application to the Environment Court for an order that Financial Contributions have immediate legal effect.

Given the statutory obligations directed in the Amendment Act, the only residual options that the Council has are:

e. Not approve the changes to Residential 2, commercial and city centre zones, changes to the papakāinga provisions and other additional supporting changes.
f. Not delegate to the Chief Executive to approve any final minor edits and/ or amendments to the Plan Change (PC 9) provisions and Section 32 report, prior to notification.
g. Not approve an application to the Environment Court for an order that Financial Contributions have immediate legal effect.

The risk of selecting option e. is that RLC will only be enabling medium density through this Plan Change and not give full effect to the NPS-UD by enabling higher density in the more accessible locations of

[16] We have doubled of the statutory timeframes to allow for more time for submissions
[17] Hearing timeframes will be confirmed on appointment of commissioners
[18] We have allowed two months for decisions which are external to Council (Commissioners and Minister)

Back to index

the urban area. This reduces the opportunity for RLC to comprehensively address the housing shortage and meet the increasing demand for smaller more affordable houses that are built in in areas that have good access to jobs, public transport, amenities and other community facilities. By selecting this option, we are also unable to further enable papakāinga development and address the housing needs of mana whenua.

The risk in selecting option f. is that RLC staff would be prevented from making any final minor amendments to the Plan Change documentation and Section 32 report following the Council meeting in the two weeks prior to notification on 20 August 2022.

The risk of selecting option g. is that Financial Contributions will not have immediate legal effect from 20 August 2022 and not be enabled to receive a financial contributions for the establishment of new dwellings in accordance with the MDRS from this date.

4. TE TINO AROMATAWAI
ASSESSMENT OF SIGNIFICANCE

The decisions in this report are considered significant in accordance with Council's Significance and Engagement Policy. The policy states that when a high degree of significance is indicated by two or more criteria, the issue is likely to be significant. When assessed against the criteria the matter scores high in significance in relation to the following criteria:

- Importance to Rotorua District;
- Importance to Te Arawa;
- Community interest;
- Consistency with existing policy and strategy;
- Reversibility of the decision (the more difficult to be undone generally the higher the significance); and
- Degree of impact on affected individuals and groups (assessing the consequences of the decision).

5. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA
COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

A broad programme of engagement has been undertaken to prepare the Plan Change including:

- Early consultation and engagement with Tauranga City Council and Bay of Plenty Regional Council to ensure a broad level of consistency across the region;
- Ongoing engagement with Council's resource consent department and local practitioners, including consent testing of proposed provisions;
- Ongoing engagement with a Technical Advisory Group made up of government departments, agencies and the Bay of Plenty Regional Council;
- A wider programme of community and stakeholder engagement over a series of meetings and workshops with developers, consultants, schools and community groups; and
- Ongoing engagement with Iwi Authorities.

Back to index

RLC have sought to engage with iwi and hapū on the development of the Plan Change through a series of hui. In particular, the following iwi authorities have been engaged:

Te Maru o Ngāti Rangiwewehi and Te Tāhūhū o Tawakeheimoa Trust	Ngāti Tahu-Ngāti Whāoa Rūnunga Trust
Ngāti Pikiao Iwi Trust	Raukawa Settlement Trust
Ngāti Rangiteaorere Koromatua Council	Te Mana o Ngāti Rangitihi
Ngāti Ūenukukopako Iwi Trust	Ngāti Mākino Iwi Authority
Ngāti Roro o Te Rangi Hapū Trust	Ngāti Rongomai Iwi Trust
Tūhourangi Tribal Authority	Ngāti Tarawhai Iwi Trust
Pukeroa Ōruawhata Trust	Ngāti Whakaue Environmental Group
Te Komiti Nui o Ngāti Whakaue	Te Tatau o Te Arawa
Ngāti Tura Ngāti Te Ngakau Hapū Trust	Te Arawa Lakes Trust
Ngāti Ngāraranui Iwi Trust	Te Arawa River Iwi Trust
Te Rūnunga o Ngāti Kea-Ngāti Tuara	Te Pūmautanga o Te Arawa Trust

In addition, to ensure broad mana whenua involvement Council also engaged with:

Tiki Te Kohu Ruamano Ahu Whenua Trust	Te Papaiouru Marae (Ōhinemutu)
Part Owhatiura South 5 Incorporated	Tunohopu Marae (Ōhinemutu)
Ōwhatiura 1B2C Ahu Whenua Trust	Te Kuirau Marae (Ōhinemutu)
Owhata 2b Ahu Whenua Trust	Hinemihi Marae (Ngāpuna)
Ōwhata 7 Ahu Whenua Trust	Hurungaterangi Marae (Ngāpuna)
Ngāti Whakaue Tribal Lands Incorporation	Tumahaurangi Marae (Te Koutu)
Tauhara North No 2 Trust	Ōwhata Marae (Hinemoa Point)
Rotomā Incorporation	Tumahaurangi Marae
Rotoiti 15 Trust	Waikuta Marae (Fairy Springs)
Te Manatōpū Hau Kāinga o Ōhinemutu	Residents of Ngāpuna village
Residents of Ōhinemutu village	Residents of Whakarewarewa village

Council has also sought to formally engage with Te Arawa River Iwi Trust ("TARIT") and Raukawa, in accordance with the Joint Management Agreement.

A summary report detailing all engagement undertaken during the development of this plan change is included as an appendix to the Section 32 report (*Refer to Attachment* 5).

6. HE WHAIWHAKAARO CONSIDERATIONS

6.1 Mahere Pūtea Financial/budget considerations

Costs associated with the recommendations of this report will be limited to a public notice and updating of the relevant sections of the District Plan and will come from existing budgets.

6.2 Kaupapa Here me ngā Hiraunga Whakariterite Policy and planning implications

The decisions requested in this report are in-line with the requirements of the NPS-UD and the Amendment Act, which Council is required to comply with.

Back to index

6.3 Tūraru
Risks

The Amendment Act states that as a "Specified Territorial Authority", RLC must notify this Plan Change no later than 20 August 2022. As this date is declared within legislation, in order for RLC to meet its legal obligations Plan Change 9 must be notified on or before this date.

6.4 Te Whaimana
Authority

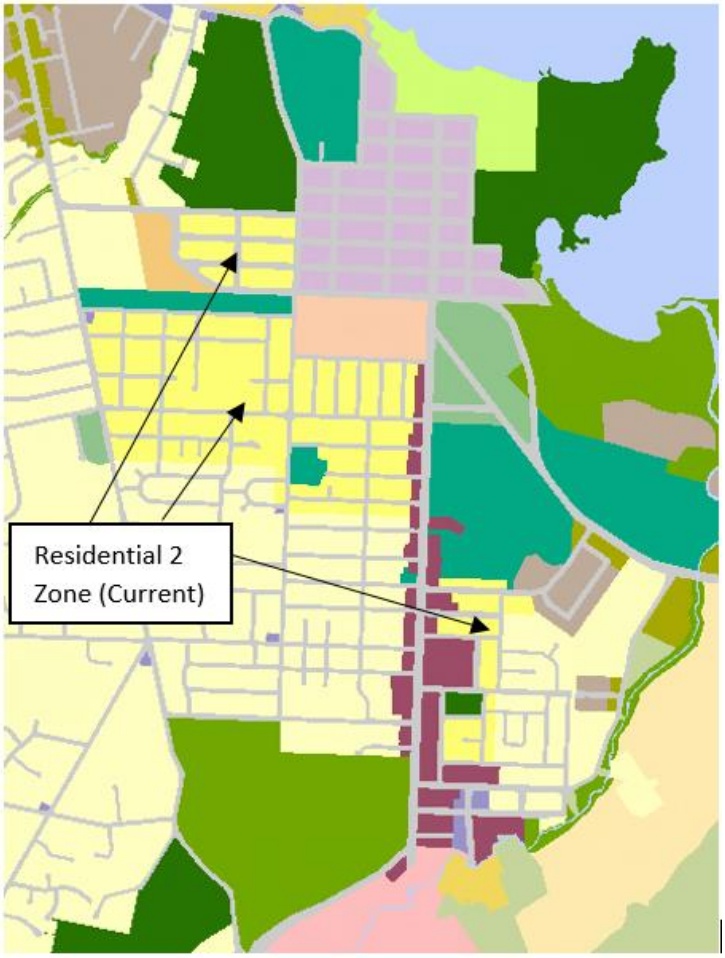
Council has the authority to make the decisions outlined in this paper.

7. NGĀ ĀPITIHANGA
ATTACHMENTS

Attachment 1: Spatial Extent of the Current and Proposed Residential 2 Zones – part of this report
Attachment 2: Accessibility Heat Map – part of this report
Attachment 3: High-level Summary of the Proposed Changes to the Plan – part of this report
Attachment 4: District Plan Chapters with Proposed Changes – circulated separately
Attachment 5: Plan Change 9 Section 32 Report – circulated separately
Attachment 6: Draft Rotorua Intensification Design Guide – circulated separately

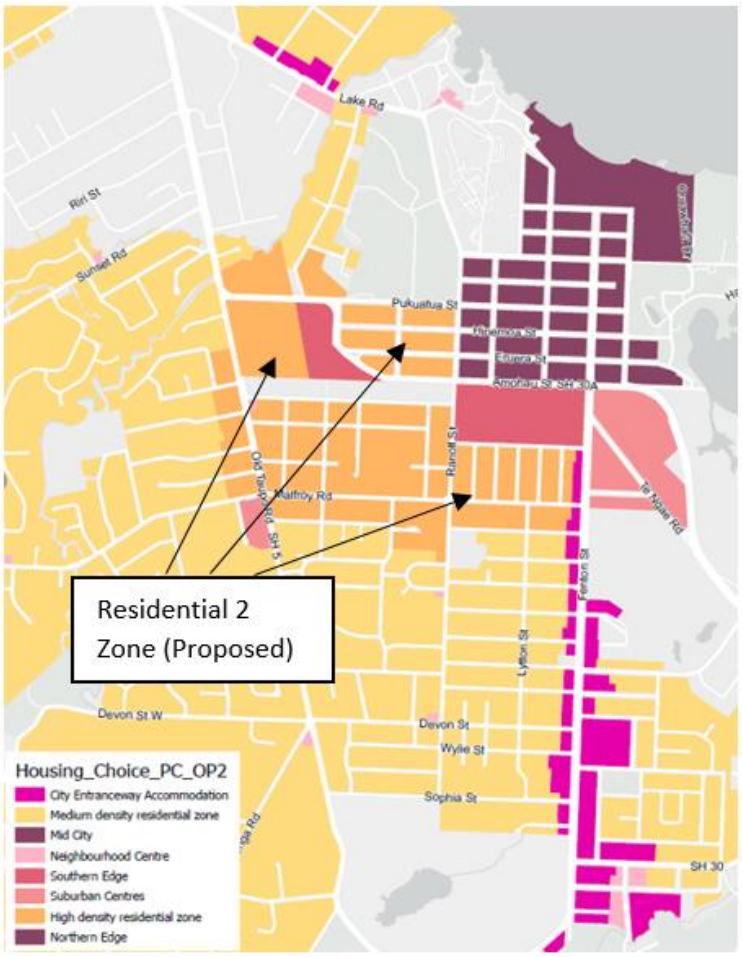
Back to index

Attachment 1: Spatial Extent of the Current and Proposed Residential 2 Zones



Current Residential 2 (Medium Density) Zone in the Operative District Plan (*shown in the dark yellow*)

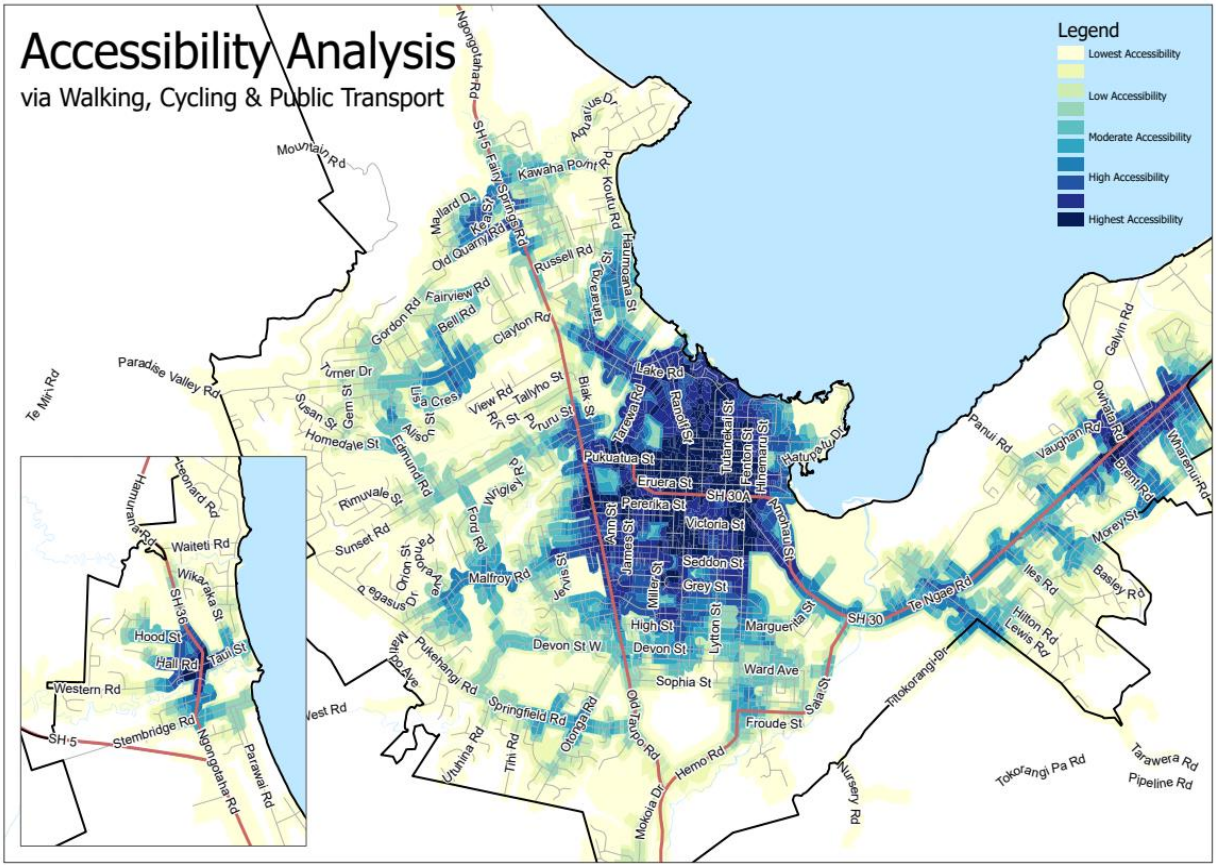
Back to index



Proposed Residential 2 (High Density) Zone, proposed in PC 9 (*shown in the dark orange*)

Back to index

Attachment 2: Accessibility Heat Map



Most accessible areas are shown in dark blue

Back to index

Attachment 3: High-level Overview of Key Changes to the Residential 1 and 2, Commercial and City Centre Zones

Proposed Residential 1 and 2 Zone Provisions

Performance Standards	Residential 1 Zone – Medium Density Residential Zone	Residential 2 Zone – High Density Residential Zone
Maximum Building Height	11m with an allowance for the peak of the roof to extend an additional 1m.	19.5m
Density	3 houses per site - permitted 4 or more dwellings – restricted discretionary	
Minimum distance from house to front yard Minimum distance from house to side and Rear	1.5m 1m	
Height envelope	4m + 60 degrees	12m + 60 degrees – within 23.5m from the road frontage. 4m + 60 degrees – along all other boundaries.
Maximum amount of site that can be covered by buildings	50%	
Outdoor living space	Where at ground floor – minimum 20m^2, with no dimension less than 3m Where above ground floor – minimum 8m^2, with no dimension less than 1.8m	Where at ground floor – minimum 20m^2, with no dimension less than 3m Where above ground floor – minimum 6m^2, with no dimension less than 1.8m
Outlook space	From principal living room – minimum 4m by 4m; and From all other habitable rooms – minimum 1m by 1m	
Glazing	Minimum 20% of the street facing façade in glazing	
Landscaping	Minimum 20% of a development site	

In addition to the required rules, Council is also seeking to introduce rules that regulate minimum dwelling size, maximum building length, maximum impervious area, fences and assessment criteria for 4 or more dwellings to achieve quality-built outcomes.

Proposed Residential Commercial Zone Provisions

Performance Standards	Commercial 1 Zone -	Commercial 2 Zone	Commercial 4 Zone	Commercial 5 Zone	Commercial 6 Zone
Maximum Building Height	20m	20m	24m	20m	24m
Density	No density controls				
Minimum distance from building to yard	No changes in distances, unless the site adjoins a Residential 1 or 2 Zone where the yard shall be 3m.	No changes in distances, unless the site adjoins a Residential 1 or 2 Zone where the yard shall be 3m.	No changes in distances, unless the site adjoins a Residential 1 or 2 Zone where the yard shall be 3m.	No changes in distances.	No changes in distances, unless the site adjoins a Residential 1 or 2 Zone where the yard shall be 3m.
Height envelope	Where sites are adjacent to Residential Zones – they must comply with the height envelope standards of the adjoining zone.				

Back to index

Outdoor living space for residential units	Minimum $6m^2$, with no dimension less than 1.5m - with exceptions.	Minimum $6m^2$, with no dimension less than 1.5m - with exceptions.	Where at ground floor – minimum $20m^2$, with no dimension less than 3m Where above ground floor – minimum $6m^2$, with no dimension less than 1.8m.	Minimum $6m^2$, with no dimension less than 1.5m - with exceptions.	Minimum $6m^2$, with no dimension less than 1.5m - with exceptions.
Outlook space for residential units	From principal living room – minimum 4m by 4m; and From all other habitable rooms – minimum 1m by 1m				
Landscaping for residential units	No landscaping requirements	No landscaping requirements	Minimum 20% of a development site	No landscaping requirements	No landscaping requirements

Proposed City Centre Zone Provisions

Performance Standards	City Centre 1 Zone	City Centre 2 Zone	City Centre 3 Zone
Maximum Building Height	32m	24m	24m
Density	No density requirements		
Minimum size of residential units	The minimum net floor area of a studio unit shall be $35m^2$ The minimum net floor area of a 1 bedroom unit shall be $45m^2$		
Outdoor living space for residential units	Minimum area $6m^2$ Minimum dimension of 1.5m May be grouped cumulatively in 1 communally accessible location or located directly adjacent to the unit. Exceptions		
Outlook space for residential units	From principal living room – minimum 4m by 4m; and From all other habitable rooms – minimum 1m by 1m		

Back to index

6. Resolution to go into Public Excluded - Ka Matatapu te Whakataunga i te Tūmatanga

(to consider and adopt confidential items)

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987, for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing of this resolution
REQUEST TO APPROVE HEARING COMMISSIONERS AND DELEGATE AUTHORITY TO APPOINT HEARING COMMISSIONERS FOR PLAN CHANGE 9: HOUSING FOR EVERYONE	Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) Section 7(2)(a)

This resolution is made in reliance on Section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Sections 6 or 7 of the Act or Sections 6, 7 or 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above (in brackets) with respect to each item.

Back to index