

Variation 3 – Other Qualifying Matters

Purpose and Statutory Context

The purpose of this document is to outline Waikato District Council's (WDC) other draft qualifying matters and controls (excluding Havelock Precinct, infrastructure and stormwater, and Tuurangawaewae Marae). The circulation of other qualifying matters was directed by the Independent Hearing Panel (IHP) on 3 March 2023.

Background

In response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, Waikato District Council (WDC) notified Variation 3 to the Proposed District Plan (PDP) to incorporate the Medium Density Residential Standards (MDRS) and give effect to Policy 3 of the National Policy Statement – Urban Development 2020 (NPS-UD).

Variation 3 was notified on 19 September 2022 and included an urban fringe qualifying matter which limited the geographic application of the MDRS to within the walkable catchments of Pookeno, Tuakau, Huntly and Ngaaruawaahia. Submission were received both in support of, and against, the urban fringe qualifying matter. In addition, some submitters also questioned its legality as a qualifying matter under the Resource Management Act 1991 (RMA).

On 3 March 2023, the IHP directed any submitters with an interest in the urban fringe qualifying matter to provide evidence and legal submissions to support their position for the IHP's consideration. On 14 March 2023 the IHP issued interim guidance and concluded that the urban fringe is not a qualifying matter under section 771(j) as it does not appear to satisfy the requirements of section 77L of the RMA¹.

The removal of the urban fringe qualifying matter would extend the application of the MDRS to all land zoned General residential or Medium density residential within Pookeno, Tuakau, Huntly and Ngaaruawaahia (at a minimum).

Other Qualifying Matters and Related Provisions

There are certain attributes and characteristics within the residential areas that were previously included within the Urban Fringe Qualifying Matter that make higher density as provided for by the MDRS inappropriate. Some of these characteristics are proposed to be protected and provided for through qualifying matters, while others (such as historic heritage and notable trees) are protected through existing rules.

The other qualifying matter identified is:

Natural hazards – in relation to the Mine subsidence risk area in Huntly. This qualifying matter falls under section 771(a) of the RMA as a matter of national importance. It is proposed to impose a minimum 450 square metre vacant lot subdivision requirement and limit density to one dwelling per lot within the mapped Mine subsidence risk area in Huntly – both standards are consistent with the GRZ standards.

Related provisions:

¹ The interim guidance is not binding on submitters, Council or on the IHP.

- Environmental Protection Area – in relation to the identified Environmental Protection Areas (EPA) shown on the Planning Maps. Rule GRZ-S23 requires a setback of 3m from an identified EPA and SUB-R25 Subdivision of Land Containing an EPA. With the removal of the urban fringe there are now areas of MRZ2 zoning that contain EPAs. It is considered that these rule do not affect density and therefore a qualifying matter is not proposed. It is proposed to include GRZ-S23 in MRZ2 Zone as another related provision and identify SUB-R25 as applying to the MDRZ2 Zone.
- Munro Block Blue Green Network – There are existing rules in the Subdivision Section of the Plan that apply to the Munro Block which require the setting aside of a blue green network at the time of subdivision. These rules are SUB-R22 and SUB-R23. It is considered that these rules do not affect density and therefore a qualifying matter is not proposed. It is proposed to apply these rules to the MRZ2 zone.

It is noted the Mine subsidence risk area in Huntly was identified and evaluated in the S32A evaluation report that supported Variation 3. It was evaluated on the basis that the General residential zone provisions applied. Based on the advice included in Attachment A prepared by Tonkin + Taylor. Council proposes to apply modified MRZ2 provisions across the land within the mapped Mine subsidence risk area in Huntly as described above.

In addition to the above, Variation 3 already proposed a number of qualifying matters when notified which are relevant to the areas that no longer have the Urban Fringe qualifying matter applied (i.e. the areas shown in the maps in Appendix A). The section 32A report includes details about where the identified qualifying matters apply, why the qualifying matter is incompatible with the level of development permitted by the MDRS and what the impacts of limiting development are (including costs and benefits). Please refer to Volume 2 of the Section 32 Report dated September 2022 for further details: [link](#).

We note that expert conferencing in relation to Tuurangawaewae Marae is scheduled for 1 June and as part of this process the consideration of any qualifying matters that are needed to protect the marae whenua and the views to the Hakarimata and Taupiri may be identified.

Waikato District Council
19 May 2023