

**SUBMISSION ON PROPOSED PLAN CHANGE UNDER CLAUSE 6 OF THE FIRST
SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

TO: Tauranga City Council

SUBMISSION ON: Plan Change 27 (Flooding from intense rainfall) to the Tauranga City Plan

SUBMITTER: URBAN TASKFORCE FOR TAURANGA (“UTF”)

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Attention: Aaron Collier

Scope of submission

1. The provisions to which this submission relates is Plan Change 27 in its entirety.

Nature of submission

2. The nature of our submission is that we oppose the Plan Change.

Reasons for submission

3. The Urban Task Force (“UTF”) has been incorporated as a society with its purpose being to represent its members who are property professionals and funders, developers, Iwi and Hapu, and owners and managers of properties in Tauranga City. The UTF seeks to provide strong and informed leadership to Local Authorities, promote and foster productive local networks around property and related issues, and to advocate for our industry by making submissions to both Central and Local Government.
4. Tauranga is a growing city. Our community is facing unprecedented challenges because leaders have seen growth as a problem rather than an opportunity. The intent of UTF is to focus on the opportunities presented by growth and to unlock these opportunities by working collaboratively and innovatively across Government, Local Government and private sectors.
5. UTF considers that Tauranga has a severe shortage of zoned and serviced land to provide new homes for residents, and spaces for business to invest in. This has caused severe housing affordability issues. Tauranga City has an urgent need for more affordable housing. Poor growth management has led to a failing City Centre, a lack of essential community infrastructure and facilities, and a lack of investment in infrastructure necessary to support growth. UTF advocates for connected thinking, connected planning, connected governments and strong leadership.
6. UTF consider that changes to the Tauranga City Plan (“**City Plan**”) should be based on sound planning policy whilst also avoiding unnecessary and inefficient processes

and costs. UTF's view is that incorporating clear, certain and efficient City Plan provisions is a fundamental part of the sustainable and efficient growth of the City.

7. UTF opposes changes to Chapter 4, definitions, Chapter 8, Chapter 12, and Chapter 14 of the Tauranga City Plan proposed under Plan Change 27. These changes relate to flooding from intense rainfall.
8. As set out below in this submission, UTF consider that there are a number of changes to the City Plan which are unclear, unnecessary and/or uncertain. A number of the proposed changes will add to the complexity and cost of resource consent processes. This is significant given that Tauranga City is identified as a Tier 1 City under the National Policy Statement on Urban development ("NPSUD") with a Government mandate for TCC to resolve the City's significant housing and land supply shortage. It is critically important that RMA planning documents and unnecessary processes do not add to or worsen the housing supply and affordability crisis Tauranga City currently faces.
9. UTF provides reasons for declining Plan Change 27 in its current form are as follows:
 - (i) Plan Change 27 is inconsistent with the purpose of sustainable management under Section 5 and Part 2 of the RMA. Plan Change 27 and its policies will unnecessarily restrict what activities can take place over extensive areas of the City, affecting approximately 50% of properties.
 - (ii) The policy framework that supports Plan Change 27 essentially calls for a "no risk" approach to flooding hazards. A "no risk" approach will not enable people in communities to provide for their social, economic and cultural wellbeing and for their health and safety. This outcome is not consistent with the purpose of sustainable management as set out in Section 5 of the RMA.
 - (iii) Plan Change 27 is inconsistent with the NPSUD. The NPSUD seeks that urban environments are "resilient" to the current and future effects of climate change (Objective 8) and this objective is supported by policies 1 and 6 of the NPSUD. Objective 6 requires that decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions, strategic over the medium and long-term, and are responsive. Plan Change 27 does not propose an integrated approach.
 - (iv) Plan Change 27 has been notified in tandem with Plan Change 26, which promotes significant intensification of the existing Tauranga urban area. The intention of Plan Change 26 is to provide greater capacity of housing, given that Tauranga is identified as a Tier 1 Council (with significant housing affordability and supply issues) under the NPSUD. The material supporting Plan Change 27 has considered the issue of flood hazard risk from intense rainfall in isolation of Plan Change 26, and without regard to any planned and/or funded infrastructure upgrades.
 - (v) Plan Change 27 imposes significant costs on the community which have not been properly considered and assessed. The TCC economic assessment focuses only on the average cost of construction to comply with minimum free board requirements, compared against the inflation adjusted costs for remediation in the event of a flood event annually out to 2070. Costs such as resource consent processes imposed by Plan Change 27 and associated professional fees/technical reports have been excluded from this analysis.

- (vi) Plan Change 27 is inconsistent with the planning framework for the City established through the Regional Policy Statement (“RPS”) and the City Plan in 2012. The RPS contains natural hazard objectives which include the need to avoid or mitigate flooding from intense rainfall by managing risk for people’s safety and the protection of property, and lifeline opportunities. Instead of managing risk as required by the RPS, Plan Change 27 focuses on avoiding any risk altogether (no matter how insignificant). For example, the matters of discretion that apply to earthworks include *“the extent to which the proposal avoids any increase in flood risk on neighbouring properties or properties further upstream or downstream”*. Plan Change 27 does not require quantification of the increase or the underlying risk (which in some instances may be very low). Other policies refer to “restricting” activities in floodplains, overland flow paths and flood prone areas, rather than “managing” those risks as promoted under the RPS. Analysis of Plan Change 27 against the RPS includes a statement that “the rules basically exclude overland flow paths and flood plains from new developments”, which confirms this approach and intention.
- (vii) Section 32 of the RMA requires Council to adopt provisions which are the most appropriate way to achieve the plan’s objectives. Plan Change 27 does not represent the most appropriate means of achieving the objectives in the City Plan, or the purpose of the RMA itself.
- (viii) As part of its preparation of Plan Change 27, TCC has failed to take an “all of catchment” approach, which includes the consideration of existing stormwater network discharge consents in place for the City. Instead, the Council has assessed the cost and benefits (and risks) for potential flooding in isolation of the discharge consents for which it is responsible. The absence of this information in Plan Change 27 means that the provisions are heavily lopsided, imposing significant burdens on private land and owners. This occurs without consideration of the obligations imposed on TCC by its comprehensive catchment consents and potential infrastructure upgrades. Under the Local Government Act, TCC have an obligation to provide for new and upgraded infrastructure in the mitigation of flood hazards, and a significant role to play in mitigating the risk of flooding from intense rainfall. An “all of catchment” approach should be adopted which takes into consideration existing catchment consents, and planned and proposed upgrades of the TCC stormwater network.
- (ix) Plan Change 27 ignores the role that private developers play in providing District or area wide stormwater solutions for greenfield development, either through or in combination with existing development contributions levied under TCC’s existing developments contribution policies. Instead, the burden is placed on existing property owners to “prove” their situation, often downstream of those greenfield developments (in circumstances where any risk to those properties may have already been correctly addressed by solutions achieved further upstream).
- (x) TCC appear to be concerned that without Plan Change 27 the enabling aspects of Plan Change 26 (residential intensification) would not have been able to be progressed. Plan Change 27 has therefore been introduced ahead of other natural hazard provisions required to give effect to the RPS. As a result, the process has been rushed and has not given the Council or residents sufficient opportunity to consider and respond appropriately, with

TCC seeking to notify Plan Change 27 in the lead up to the busy Christmas period.

- (xi) The suggestion that Plan Change 27 is consistent with Plan Changes undertaken by other Council's is incorrect. Plan Change 27 is broader, more wide sweeping, and provides a greater degree of regulation and uncertainty than similar plan change processes undertaken by other Council's. Plan Change 27 will result in more costs and greater inconsistencies with the Building Act and is inconsistent with guidance and decisions made on other recent District Plans.
- (xii) TCC are using non-statutory mapping tools to guide the application of the provisions introduced by Plan Change 27. These tools are controlled and managed exclusively by TCC. There is no clear process for the use of these tools being managed and controlled, nor is this updating process contestable. The correct process is to utilise planning maps, based on a proper and complete information base, to identify the hazard areas as provided for under the RMA. Exclusion of the public from further updates of the non-statutory mapping tools is expressly contrary to the participatory focus of the Schedule 1 provisions in the RMA.
- (xiii) Plan Change 27 and its supporting mapping and modelling contains significant inaccuracies and errors, including the GIS mapping of floodable and overland flow path areas using the non statutory planning tools noted above. Overland flow paths and flood prone areas are shown throughout the City as being located through established buildings, and flood prone areas are shown on land that is not flood prone as the land is higher than adjoining land according to contour data. The flooding analysis is too broad brush and high level as a planning tool to be efficient and effective which means individual landowners will have to bear the costs involved with detailed modelling of their sites at any time a resource consent is sought. The low-level resolution in the modelling shows flood water in squares ignores topography and the fundamentals sitting behind rainfall. Up to date and accurate information, including landform and overland flow path data available to TCC (provided by subdividers and developers) has not been incorporated in the flood modelling that supports Plan Change 27. Outdated survey and Lidar data has been used as the basis for "rushed" modelling. As a result, existing site improvements through subdivision, consented stormwater improvements and ground level changes approved and authorised by Council have not been taken into account.
- (xiv) TCC's own analysis of the free board requirements proposed by Plan Change 27 acknowledges that the option ultimately adopted, (the 1% AEP exceedance with an additional 500mm of free board across the city's floodable areas) is inconsistent with the requirements of the RPS which calls for a risk based approach, which is tailored to particular circumstances of a given area. This approach appears to have been disregarded through the Section 32 analysis on the basis that it would be difficult to administer. Detailed analysis of what these difficulties might be has not been provided. Technical analysis identifies that a different threshold (mainly the 2% AEP exceedance with additional 500mm free board) would cover equivalent 1% AEP rainfall events, but due to "model uncertainty" the 1% threshold has been adopted. This lack of certainty through modelling effectively imposes an additional burden on property owners for the reason that the evidence base sitting behind the model is not sufficiently certain for TCC to rely upon. Based on the modelling undertaken

there is uncertain or insufficient information to warrant a change to the existing City Plan provisions.

- (xv) Impervious surface controls are proposed which are an inefficient planning method. Section 32 analysis does not justify the use of impervious surface controls, nor the cost of monitoring and consenting requirements associated with such a significant change to the City Plan. Such wide sweeping changes should instead be undertaken as part of the wider City Plan review.
- (xvi) The Plan Change fails to consider the impacts on land value and insurance costs.
- (xvii) The Plan change proposes to impose restrictions on private landowners to vest overland flow paths in TCC without any consideration of the economic cost and/or compensation, nor the wider benefits provided to others in the catchment.
- (xviii) A proposed full review of the Tauranga City Plan is to be conducted in 3 years' time. The risk of acting now on the basis of insufficient and incorrect information strongly outweighs the risk of not acting, especially when TCC is proposing to review the measures that it seeks to impose as part of this full review process. It is considered that the appropriate time to consider flooding from rainfall matters, rather than in isolation, is together with all other natural hazard matters. TCC in the interim can continue to assess the risks posed by natural hazards on a case by case basis, relying upon the existing planning and building consent framework, without imposing significant costs and uncertainty on the community at large.

Decision sought

- 10. The decision UTF seeks from the Council is that the Plan Change be either withdrawn, or approved with:
 - (a) amendments to address UTFs concerns set out above.
 - (b) such further other relief or other consequential amendments as considered appropriate and necessary to address the concerns set out above.
- 11. UTF wish to be heard in support of our submission.
- 12. UTF would not gain an advantage in trade competition through this submission.
- 13. If others make a similar submission, UTF are prepared to consider presenting a joint case with them at any hearing.

SCOTT ADAMS
CHAIRMAN

Date:25 January 2021

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