

SUBMISSION ON PLAN CHANGE 92 TO THE WESTERN BAY OF PLENTY DISTRICT PLAN

TO: Western Bay of Plenty District Council

SUBMISSION ON: Plan Change 92 to the Western Bay of Plenty District Plan (NPS-Urban Development)

SUBMITTER: URBAN TASKFORCE FOR TAURANGA (“**UTF**”)

C/: Collier Consultants
PO Box 14371
Tauranga Mail Centre
Tauranga 3143
Attention: Aaron Collier

Scope of submission

1. The provisions of Plan Change 92 which this submission relates to, are as set out in the submission table (see attached).

Nature of submission

2. The nature of our submission is that we generally support Plan Change 92 to the District Plan, but with appropriate amendments/deletions and further wording changes to address matters raised in our submission. These amendments/deletions and further changes are necessary to ensure that the plan change is sufficiently enabling so as to give effect to the NPS-UD.

Reasons for submission

3. The Urban Task Force for Tauranga (“**UTF**”) is 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 the Bay of Plenty. The UTF seeks to provide strong and informed leadership to Local Authorities, promote and foster productive local networks around property, and to advocate for the property industry by making submissions to both Central and Local Government.
4. The Western Bay of Plenty subregion has experienced significant growth pressure in recent decades. Our community is facing unprecedented challenges because in the past 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 the private sector.
5. UTF advocates for connected thinking, connected planning, connected governments and strong leadership. UTF’s submission is primarily focused on ensuring that Plan Change 92 is consistent with the Objectives, policies and requirements of the NPS-UD and that Plan Change 92 will be effective in achieving the intended outcomes required by the NPS-UD. UTF consider that changes to the Western Bay of Plenty District Plan to provide for medium density residential development should be based

on sound planning policy which will rectify the currently housing capacity shortage, whilst also avoiding unnecessary and inefficient process and uncertainty. UTF's view is that incorporating clear, certain and efficient Plan provisions is a fundamental part of the sustainable and efficient growth of the District, and in giving effect to the NPS-UD.

6. Plan Change 92 is required to be responsive and to enable development that adds significantly to capacity and contributes to a well-functioning urban environment. UTFs view is that further enabling and certain amendments are required to Plan Change 92 to achieve this. In particular more enabling provisions beyond those for permitted development under the Medium Density Residential Standards (MDRS) are required.
7. Suggested amendments and changes to provisions are required to better provide for housing needs, to avoid uncertainty, unnecessary processes, costs, and delays, as set out in the submission table below. Provisions have been incorporated in PC 92 which are more restrictive than those in the current District Plan, and which may work to restrict housing yield and therefore capacity. These provisions should be removed.
8. UTF provides reasons for its submission and the changes sought to the provisions in the table below.

Decision sought

9. The decision UTF seeks from the Council is that Plan Change 92 be approved with:
 - (a) amendments to address UTFs submission.
 - (b) such further other relief or other consequential amendments as considered appropriate and necessary to address the concerns set out in the attached table.
10. UTF wish to be heard in support of their submission.
11. UTF would not gain an advantage in trade competition through their submission.
12. If others make a similar submission, UTF are prepared to consider presenting a joint case with them at any hearing.

SCOTT ADAMS

CHAIRMAN

Date: 16 September 2022

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The specific provisions of the proposal that the UTF submission relates to are as follows:

Page No	Reference	Support/Oppose	Decision Sought	Reasons
Page 4 (Definitions)	Definition of developable area	Support in part	We support the proposed definition but seek that the following be added to the exceptions: <ul style="list-style-type: none"> • <u>Local purpose stormwater and neighbourhood reserves to be vested</u> • <u>Pedestrian accessways to be vested</u> 	This is consistent with the current practice of excluding all forms of reserves from the calculation of developable area when calculating financial contributions under Section 11.
Page 11 (Definitions)	Impervious surfaces (inclusions)	Support in part	Amend the definition as follows: <i>"Impervious Surfaces" when used in Section 14A (Ōmokoroa and Te Puke Medium Density Residential) means an area with a surface which prevents the infiltration of rainfall into the ground and includes:</i> <ol style="list-style-type: none"> <i>Roofs (whether fixed or retractable);</i> <i>Paved areas including paths, driveways, and sealed/compacted metal parking areas;</i> <i>Patios;</i> <i>Swimming pools; and</i> <i>Soil layers engineered to be impervious such as compacted clay.</i> 	The amendment provides for swimming pools to be included in the area calculation for exclusions as swimming pools provide storage volume. The inclusion of soil layers engineered to be impervious such as compacted clay will be impossible to assess/monitor and are therefore uncertain.
Page 1 (Natural hazards)	Natural hazards explanatory statement (natural hazard maps)	Support in part	Amend the explanatory statement as follows: <i>"In the meantime, all completed maps are publicly available on the non-district plan layers of this ePlan <u>but do not form part of the District Plan.</u>"</i>	The current wording is unclear and uncertain. The amendment confirms that these provisions are "non-statutory" and do not form part of the District Plan.
Page 12 (Subdivision and development)	Rule 12.3.10.1.b.i (information requirements)	Oppose	Delete the reference in b. Engineering documents are to include: <i>"For the Omokoroa and Te Puke medium density residential zones, the proposal must include a detailed contour plan. This must show the existing ground level and proposed new contours to demonstrate compliance with the</i>	The further rule is unnecessary as earthworks requirements are already addressed in the Plan by Rule 12.4.1.i - Site Suitability Requirements (engineering design required for earthworks).

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			earthworks performance standards in Section 14A."	
Page 15 (Subdivision and development)	Rule 12.4.1.j.	Oppose	Delete the controlled activity earthworks requirement for Stage 2 and Stage 3 structure plan areas for Omokoroa and Te Puke medium density residential	The proposed provisions for earthworks greater than 300m2 conflicts with the Regional Plan and will result in unnecessary process requirements, delays, and cost which has not been properly evaluated. The provisions are unnecessary and inefficient.
Page 25 (Subdivision and development)	Rule 12.4.5 (stormwater alternatives)	Support	We consider that alternatives to connecting to the reticulated stormwater system as set out in 12.4.5.1 and 12.4.5.3 should be accepted as notified.	The proposed provisions will provide for sustainable alternatives to stormwater reticulation such as water reuse systems.
Page 26 (Subdivision and development)	Rule 12.4.5.17.a (stormwater attenuation standards)	Oppose in part	Delete Rule_12.4.5.17.a <i>All new subdivisions shall be designed for attenuation of the 50% AEP and 1% AEP flood events to predevelopment levels except where it can be demonstrated that there will be no increased adverse downstream flooding effects on the receiving environment. All work shall be in accordance with the Omokoroa Peninsula Stormwater Management Plan and Te Puke Stormwater Management Plan comprehensive catchments consent and shall incorporate water sensitive urban design practices (such as swales, wetlands, and pervious pavements) as far a practicable to maintain or enhance predevelopment hydrology and quality.</i>	The rule is unclear as it refers to 50% AEP and 1% AEP flood events. The rule is also unnecessary as both Te Puke and Omokoroa are subject to existing comprehensive discharge consents which set out the requirements for attenuation and discharge standards to be achieved. The second part of the rule should be retained to refer to the comprehensive catchment consents which are in place for each catchment.

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Page 27 (Omokoroa and Te Puke Medium Density Residential)	Rule 12.4.5.17.f	Oppose	Amend f. to an advice note as follows: <u>Note:</u> <i>The stormwater reserve areas at Omokoroa are shown on the planning maps and described in more detail in the Omokoroa Peninsula Stormwater Management Plan.</i>	Rule 12.4.5.17.f does not act as a rule and should be included as an advice note.
Page 1 (Omokoroa and Te Puke Medium Density Residential)	Explanatory statement	Oppose in part	Amend the explanatory statement as follows: <i>These can be provided with varying housing development types which could include infill development, comprehensive residential developments, retirement villages, Papakainga, and pocket neighbourhood typologies with a variety of different tenures.</i>	It is unclear what is meant by pocket neighborhood typologies and the deletion of this reference removes uncertainty. Tenure options is not a matter controlled by District Plans.
Page 1 (Omokoroa and Te Puke Medium Density Residential)	Explanatory statement	Oppose in part	Amend the explanatory statement as follows: <i>Structure plans exist for greenfield medium density development areas in Omokoroa (Stage 3 and <u>the Te Puke Structure Plan</u>), McLoughlin Drive South and Sedden Street East to provide further guidance for subdivision and development in these areas. These structure plans ensure appropriate scale infrastructure is provided including roads, walkways, cycleways, Three Waters infrastructure and reserves.</i>	The amendment clarifies the reference to the Te Puke Structure Plan (incorrectly referred to as McLoughlin Drive South and Sedden Street East) and provides for infrastructure regardless of scale.
Page 1 (Omokoroa and Te Puke Medium Density Residential)	Explanatory statement	Oppose	Delete the explanatory statement as follows: <i>In support of the provisions of this section, the medium density residential (Section 14) explanatory statement, issues, objectives and policies, will remain applicable. In addition, this Section 14A also contains more specific objectives for Omokoroa and Te Puke. Where there are any inconsistencies in objectives and policies these specific to Omokoroa and Te Puke in this Section 14A take precedence.</i> And add specific Objectives and policies for the chapter as required by Schedule 3A of the Resource Management (Enabling Housing Supply and Other Matters) Amendment	The existing medium density provisions under Section 14 differ from those provided for under the NPS-UD and the Medium Density Residential Standards and other provisions which have been adopted in Chapter 14A. The chapter should retain its own explanatory statement, issues, objectives and policies with specific reference to the Objectives and Policies of the NPS-UD.

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			Act 2021	
Page 4 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.2.1 Objective 4	Support in part	Amend objective 4 as follows: <i>An urban form providing positive private and public amenity outcomes.</i>	The wording is unnecessary. The objective should promote amenity outcomes regardless of whether these are private or public. It is anticipated that some urban form may not provide positive amenity outcomes as anticipated by Policy 6 of the NPS-UD.
Page 4 (Omokoroa and Te Puke Medium Density Residential)	Objective 14A.2.1.6	Oppose	Delete the objective as follows: <i>Minimisation of the adverse effects of earthworks and retaining walls on the existing natural land form and associated cultural and amenity values as well as on the stability of land and the safety of buildings and structures.</i>	The proposal is contrary to the policy outcomes of the NPS-UD and will result in significant reductions in usable flat sites, and a loss of yield and density which have not been assessed or considered through modelling and analysis. In particular, the proposal will not assist with meeting Policy 2, Policy 4 and Policy 6 of the NPS-UD. The provisions are more restrictive than existing District Plan provisions
Page 5 (Omokoroa and Te Puke Medium Density Residential)	Policy 14A.2.2.7	Support in part	Amend the policy as follows:: <i>Require proposals of four or more residential units on a site to provide integrated assessments which fully assess how the land is to be used effectively and efficiently, how the relevant requirements of the structure plan are met including provision of infrastructure and how high quality <u>good</u> urban design outcomes are being achieved</i>	The amendment clarifies and simplifies the intent of the policy.

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Page 5 (Omokoroa and Te Puke Medium Density Residential)	Policy 14A.2.2.11	Support in part	Amend the policy as follows: <i>Limit non-residential activities, accommodation facilities and home enterprises to being undertaken only where any potential adverse effects on residential amenity values and the functioning of the residential environment are able to be avoided or mitigated.</i>	Reference to the functioning of the residential environment is an unclear statement. The policy should relate to residential amenity values.
Page 5 (Omokoroa and Te Puke Medium Density Residential)	Policy 14A.2.2.13	Oppose	Delete the policy as follows: <i>Ensure subdivision and development is designed to utilise the existing natural landform to limit the need for earthworks and retaining walls.</i>	The policy is inconsistent with the NPS-UD and is therefore inappropriate. The utilisation of existing natural landforms will result in a loss of yield and density. This is contrary to the NPS-UD and is not supported by Section 32 analysis which has not assessed the impact of the policy on infrastructure provision, housing choice yield and density.
Page 5 (Omokoroa and Te Puke Medium Density Residential)	Policy 14A.2.2.17	Oppose in part	Amend the policy as follows: <i>Ensure developments in the Omokoroa and Te Puke medium density residential zone residential precinct are designed holistically with respect to surrounding land uses, buildings, and colour changes, positively connect with and contribute to the quality of public spaces and provided density of use of land to deliver the planned character of a vibrant complimentary mixed use destination adjacent to the town centre complies with the requirements of the New Zealand Urban Design Protocol.</i>	The current wording of the policy fails to include Te Puke. The policy should refer to the New Zealand Urban Design Protocol to provide appropriate guidance on urban design outcomes.
Page 7 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.3.3.d (restricted discretionary activities – retirement villages (except for residential units which are permitted by complying with the density	Oppose	Delete reference to retirement villages as a restricted discretionary activity and provide for them as a controlled activity under Rule 14A.3.2.	Retirement villages are currently a controlled activity under the Operative District Plan. The change in activity status of retirement villages is less enabling than the current District Plan and does not give effect to the policy outcomes sought under the NPS-UD. Retirement villages should continue to be provided for as a controlled activity (i.e.

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	standards))			permitted but subject to conditions) to better enable housing supply.
Page 14 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.4.2.b (residential unit typologies)	Oppose	Delete the rule as follows: <i>b. residential unit typologies</i> <i>i. six or more residential units on a site</i> <i>a maximum of 50% of the total number of residential units on the site may be physically detached from any other residential units.</i>	The need for Council to overly restrict building typologies is unnecessary. The proposal is contrary to Policy 1 of the NPS-UD which requires Council's to enable a variety of homes that meet the needs in terms of type, needs, price and location of different households. The provision will limit choice and accessibility options for housing.
Page 15 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.4.2.d (impervious surfaces)	Oppose	Delete the rule relating to impervious surfaces.	The MDRS provisions contain separate coverage requirements, and these are accepted. The need for separate impervious surface requirements is not supported by MDRS provisions (which only relate to landscaping and building coverage) and is inconsistent with the NPS-UD.
Page 15 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.4.2.g (earthworks)	Oppose	Delete the rule relating to earthworks	The rule proposed to introduce new and restrictive earthworks provisions which will limit yield because of constraints on the ability to change existing ground levels/contours. This is inconsistent with Objective 6, and policies 1 and 3 of the NPS-UD. The rule will result in development capacity being unnecessarily constrained. The effects of the rule have not been properly assessed under Section 32 of the RMA in relation to the impact on infrastructure provision, housing choice, yield, and density.

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Page 20 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.5.1.a (notification requirements)	Oppose	Delete <i>Council may require public or limited notification of resource consent applications except as listed in b. below.</i>	The provision is unnecessary and repeat those provisions set out in Section 95 of the Resource Management Act 1991.
Page 20 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.5.1.b.iv	Oppose	Delete <i>Notification for a controlled activity as specified in Section 14a – General in Rule 4A.4.7.1.</i>	The provision is unnecessary as it repeats the requirements of Section 95 of the RMA. Controlled activity resource consents must be processed by the Council on a non-notified basis.
Page 21 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.6.1.f (matters of control)	Support in part	Amend the rule as follows: <i>f. design of services which provides for the extension of services to other properties as applicable as identified on <u>structure plans</u> to provide effective and efficient servicing of the whole urban area.</i>	The provision extension of services to other property owners (and thus to benefit other parties) should only relate to those “connections” as identified on structure plans to ensure that the provision of infrastructure is equitably funded and provided.
Page 21 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.6.1.h (matters of control)	Support in part	Amend the rule as follows: <i>h. the affect of additional driveways on public safety and amenity along footpaths.</i>	The provision is uncertain as it is unclear what the reference to “and amenity along footpaths” would relate to.
Page 21 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.6.1.i (matters of control)	Oppose	Delete as follows: <i>i. lot designs that provide areas orientated towards the sun</i>	It is unclear why this provision is incorporated as land orientated towards the sun may not be possible in many instances. This matter is largely already addressed in 14A.6.1e.
Page 21 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.7.1 (restricted discretionary activities – four or more residential units on a site, matters of	Oppose	Delete and redraft in accordance with guidance from the objectives and policies as set out in Schedule 3A of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, and the NZ Urban Design Protocol .	The assessment criteria are uncertain and are more restrictive than those in the existing District Plan. They are contrary to the enabling purpose of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

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	discretion)			<p>There are 47 separate matters of restricted discretion which the Council will apply when considering four or more units through a resource consent process. This is contrary to the enabling provisions of the NPS-UD. Policy 6 sets out that significant changes may detract from amenity values appreciated by communities including by providing increased and varied housing densities and types.</p> <p>The provisions as drafted will not assist in improving housing affordability or in creating certainty in relation to resource consent pathways and outcomes and housing choice.</p> <p>A stepped and more certain approach is required.</p> <p>Many of the criteria are unclear, subjective in nature and or create considerable uncertainty (for example assessment criteria a). <i>“whether the proposal is consistent with the objectives and policies of the District Plan”</i>.</p> <p>There are a significant number of urban design criteria which are subjective and uncertain in their nature.</p> <p>The urban design criteria specified should be deleted and replaced by reference to assessment against those matters set out in the New Zealand Urban Design Protocol.</p>

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Page 27 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.7.11 and 14A.7.13	Oppose	Delete the restricted discretionary activity criteria relating to non-compliance with residential unit typology and non-compliance with impervious surfaces and 14A.7.16 non-compliance with earthworks.	These assessment criteria for non-compliance are not necessary given our submission on earthworks, impervious surfaces, and residential unit typologies.
Page 29 (Omokoroa and Te Puke Medium Density Residential)	Rule 14A.7.1.9 (discretionary and non-complying activities – general)	Oppose	Delete the provisions	Providing guidance for considering discretionary and non-complying activities is unnecessary. The relevant matters are as set out in Section 104 of the Resource Management Act 1991.