

Appendix 7

Assessment of Variation 4 – Iona Residential Rezoning in respect of any Relevant National Direction and the RMA

1. Introduction

Section 83(1)(f) of the Resource Management Act 1991 (RMA) requires that in considering any planning instrument that it complies with the requirements of:

- i. any relevant national direction; and
- ii. this Act or regulations made under it.

In assessing Variation 4 'Iona Residential Rezoning' it has been identified that the National Policy Statement on Urban Development Capacity, 2016 (NPS-UDC), the National Policy Statement for Freshwater Management (NPS-FM) and the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations, 2011 (NES-CS) are relevant to this proposal.

Particular emphasis has been placed on assessing Variation 4 against the NPS-UDC, as the proposal was advanced through the Streamlined Planning Process to meet a significant residential growth need, thereby giving effect to or complying with this policy statement and meeting Hastings District Council's obligations as a medium growth area.

2. National Policy Statements

National Policy Statement on Urban Development Capacity (NPS-UDC) 2016:

The streamlined planning direction was granted (and applied for) on the basis that Variation 4 would meet two of the required entry criteria: that it implements national direction being the NPS-UDC and is needed to meet a significant community need for residential land. As outlined in greater detail in the application, this variation involves the rezoning of land to meet Hastings District and regional growth needs and in particular to provide for a continued supply of residential land for Havelock North where currently land available for housing is scarce. Hastings District is identified as a medium growth area, which requires that Council complies with specific objectives and policies of the NPS-UDC.

The NPS-UDC recognises the national significance of:

- a) *urban environments and the need to enable such environments to develop and change; and*
- b) *providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments.*

How Variation 4 gives effect to, or complies with, the relevant objectives and policies of the NPS-UDC is outlined in the table below:

NPS-UDC Objective and Policies		How Variation 4 complies or gives effect to the NPS-UDC objectives and policies
OA1	<i>Effective and efficient urban environments that enable people and communities and future generations to provide for social, economic, cultural and environmental wellbeing.</i>	<p>Variation 4 will rezone approximately 55ha of land in Havelock North for residential and reserve development. This will allow additional housing to be provided in a constrained market where demand currently exceeds supply thus redressing the balance. In turn this will enable the urban environment of Havelock North to operate in a more effective and efficient manner and allow people and communities to provide for their social, economic, cultural and environmental wellbeing.</p> <p>Higher density development is provided for in the Bull Hill Neighbourhood, which has the flatter land and is nearer to the main roading network, providing for the efficient use of land in this area while enabling the significant values of the wider development area to be retained.</p>
OA2	<i>Urban environments that have sufficient opportunities to meet demand and which provide choices that will meet the needs of people and communities and future generations for a range of dwellings types and locations, working environments and places to locate businesses.</i>	<p>One of the key principles of Variation 4 is the drafting of provisions to ensure that a variety of site sizes and house types are provided for within this new residential area. Variation 4 splits the rezoning area into four neighbourhoods – three of which are contiguous. The neighbourhoods have distinctly different density provisions which will ensure a wide range of choice is provided in terms of location within the greenfield area, lot sizes and the dwelling types provided.</p>
OC2	<i>Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.</i>	<p>Variation 4 is Council's response to high market demand for greenfield residential land and the limited supply of greenfield land in other New Urban Development Areas in Havelock North. The resolution of the appeal (which sat over a portion of the subject land) has been achieved through the notification of Variation 4. The use of the Streamlined Planning Process to advance Variation 4 means that Council has been able to respond to the needs of the community in a timely way while still providing for a high level of engagement with the community.</p>
OD1	<i>Urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other.</i>	<p>Variation 4 seeks to provide an integrated approach to infrastructure provision and urban development. While the infrastructure for this new greenfield area was not forecast to be needed until 2021, the Council made the decision in 2016 to bring allocated infrastructure funding forward in order to ensure the land subject to the rezoning could be serviced.</p>

OD2	<p><i>Coordinated and aligned planning decisions within and across local authority boundaries.</i></p>	<p>Urban growth areas within the Hastings District are identified in the Regional Policy Statement (RPS) which along with the Heretaunga Plains Urban Development Strategy (a strategy commissioned and undertaken by all three Councils governing the Heretaunga Plains area) provides for the identification of specific areas for urban growth.</p> <p>The RPS requires that any land proposed to be rezoned for growth must first be identified as an appropriate area within these documents. In addition, structure planning must be carried out prior to any areas being rezoned for urban growth. The Hastings District Council (HDC) have worked closely with the Hawkes Bay Regional Council (HBRC) in developing the structure plan for Variation 4 particularly in respect of the provision of stormwater services.</p>
PA1	<p><i>Local authorities shall ensure that at any one time there is sufficient development capacity available as follows:</i></p> <ul style="list-style-type: none"> • <i>Short term capacity must be feasible, zoned and serviced with development infrastructure;</i> • <i>Medium term capacity must be feasible, zoned and wither serviced with development infrastructure, or development infrastructure identified in a long term plan under the LGA.</i> • <i>Long term capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure to support it must be identified in an infrastructure strategy under the LGA.</i> 	<p>Variation 4 provides the means to ensure that the development capacity available within the Havelock North area is increased by at least 390-400 dwellings. The scenario mapping prepared as part of the hearing process, and given effect to by changes to the lot size and density requirements, demonstrates that this is achievable.</p> <p>Variation 4 ensures that suitable development capacity is zoned in an area where development is appropriate and feasible, and the funds to construct infrastructure services for the development area are identified and available within the Council's Long Term Plan.</p>
PA2	<p><i>Local authorities shall satisfy themselves that other infrastructure required to support urban development is likely to be available.</i></p>	<p>The consultation undertaken for Variation 4 has included other infrastructure services and providers including the Ministry of Education, PowerCo (Gas distribution), Unison Networks (Electricity distribution) and Chorus (Telecommunications).</p> <p>This consultation confirmed that either there is sufficient capacity or network upgrades would be required to provide sufficient capacity for this new urban development area. Where upgrades are needed, Council and developer/s will work with these providers to ensure the necessary upgrades are included in their work programmes.</p>

<p>PA3</p>	<p><i>When making decisions that affect the way and rate at which development capacity is provided, decision-makers shall provide for the social, economic, and environmental wellbeing of people and communities and future generations, having regard to:</i></p> <ul style="list-style-type: none"> • <i>Providing choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;</i> • <i>Promoting efficient use of scarce urban land and infrastructure;</i> • <i>Limiting as much as possible adverse impacts on the competitive operation of land and development markets.</i> 	<p>Variation 4 will provide the local community with a choice of housing location and dwelling type given the different density provisions around the four neighbourhoods that make up this new urban growth area.</p> <p>Furthermore the provisions of Variation 4 seek to ensure that the land is used in the most efficient manner while balancing the existing special character features and amenity values of the land. This is achieved through higher residential densities in the Bull Hill Neighbourhood which is due to its suitability for intensive development, with lower densities in the Iona Terraces and Plateau Neighbourhoods and the Breadalbane area due to the significant values of these areas and their wider landscape context.</p> <p>Consideration has been given to the practicalities of land development in drafting the provisions relating to Variation 4 in order to ensure that the ability of a landowner to subdivide their land cannot be constrained by other landowners. Variation 4 seeks to minimise these adverse impacts as much as possible.</p>
<p>PA4</p>	<p><i>When considering effects of urban development, decision-makers shall take into account:</i></p> <ul style="list-style-type: none"> • <i>The benefits that urban development will provide with respect to the ability of people, communities and future generation to provide for their social, economic, cultural and environmental wellbeing.</i> • <i>The benefits and costs of urban development at a national, inter-regional and district scale, as well as local effects.</i> 	<p>The land which is the subject of Variation 4 has been identified as an appropriate growth area through the HPUDS review process 2016. As part of the section 32 analysis Council has considered the suitability of the land for residential development along with the benefits and costs of the effects of the urban development of this land at a regional, district and local level. On this basis it is considered that Variation 4 meets this objective.</p>
<p>PC1 – Responsive Planning</p>	<p><i>To factor in the proportion of feasible development capacity that may not be developed, in addition to the requirement to ensure sufficient, feasible development capacity as outlined in policy PA1, local authorities shall also provide an additional margin of feasible development capacity over and above projected demand of at least:</i></p> <ul style="list-style-type: none"> • <i>20% in the short and medium term, and</i> • <i>15% in the long term.</i> 	<p>This policy requires that Councils provide sufficient ongoing development capacity to meet existing growth needs as well as medium and long term growth needs. As mentioned above, Variation 4 is Council’s response to high market demand for greenfield residential land and the limited supply of greenfield land in other New Urban Development Areas in Havelock North. As outlined in Council’s SPP application, there is a need to act expeditiously in order to meet the requirements of the responsive objective of the NPS-UDC. Rezoning the Iona area will ensure that there is sufficient capacity to meet the housing needs of Havelock North as required under the NPS.</p>

National Policy Statement for Freshwater Management, 2014

The NPS-FM has relevance to Variation 4 to the extent that increased stormwater runoff from the urbanised area has the potential to impact of freshwater quality.

In identifying areas for future growth, the Heretaunga Plains Urban Development Strategy considered the potential for impacts of soil and freshwater resources in identifying future growth areas. Guiding principles for selecting areas included:

Productive Value of its Soil and Water Resources are Recognised and Provided for and Used Sustainably¹

- *Recognise versatile soils for productive purposes through minimising the need for urban development on such soils and providing for rural lifestyle development in other locations.*
- *Ensure that the allocation and use of the water resource is efficient and sustainable.*
- *Protect the Heretaunga Plains aquifer system.*
- *Protect and enhance the water quality of streams, rivers, lakes and wetlands.*

Accordingly, it is considered that the Proposed Variation has had due regard to the NPS-FM in that growth areas under the HPUDES, including that area covered by Variation 4 'Iona Residential Rezoning', were selected on the basis that potential adverse effects are able to be managed to protect and enhance freshwater resources.

3. RMA and Regulations

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES-CS)

The Section 32 evaluation report at Section 7.12.1 (from page 66 and appended to this package of information as Appendix 4) assesses this variation against the NES-CS. This evaluation concludes that *"it is unlikely that the development area presents any significant impediment in terms of potential risk to human health that would prevent safe conversion to urban residential land use"*.

While there may be pockets of land that have the potential to have been contaminated due to past land use, these will be addressed at the time of land use change/subdivision/earthworks in accordance with the requirements of the NES-CS. As such, the proposal complies with the requirements of the NES-CS.

Resource Management Act, 1991

Variation 4 is in accordance with, and gives effect to, higher order planning instruments being the NPS-UDC and the Hawkes Bay RPS. These instruments have been prepared in accordance with the requirements of the Act. Section 45(1) and 59 of the Act outline the purpose of National and Regional Policy Statement, respectively, as being:

45(1): The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

¹ Heretaunga Plains Development Strategy, Draft Guiding Principles

59: The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region

Consistent with the principles in the King Salmon decision², it is considered that by giving effect to the requirements of both the NPS-UDC and the Hawkes Bay RPS, Variation 4 will meet the requirements of Part 2 of the Act.

Notwithstanding this, an assessment of Variation 4 (as amended) against Part 2 of the Act is provided below.

Section 5 of the RMA outlines its purpose, which is:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The Section 32 and 32AA reports that accompany Variation 4 and the Hearing recommendations provide a detailed evaluation of the provisions to ensure they are the most appropriate way of achieving the purpose of the RMA. In summary:

- Variation 4 provides for the zoning of residential land to provide essential development capacity, in accordance with the requirements of the NPS-UDC and the Hawkes Bay RPS, to provide a significant component of residential needs of Havelock North and Hastings District;
- The development capacity that has been provided for in Variation 4 meets the direction of the Minister for the Environment that was set for the Streamlined Planning Process of at least 390-400 dwellings;
- The zoning of the Iona and Breadalbane Special Character Areas has been undertaken in a way that provides sufficient development capacity while retaining the special landscape, character and amenity values of the area, and the Iona Terraces and Plateau Neighbourhoods and the Breadalbane area in particular.
- The provisions that have been adopted have been developed in a way that recognises, provides for and has particular regard to matters outlined in Section 6 and 7 of the RMA including in particular:
 - The protection of historical heritage;
 - The management of significant risks from natural hazards;

² Environmental Defence Soc Inc v The NZ King Salmon Co Ltd [2014]1 NZLR

- The efficient use and development of natural and physical resources;
- The maintenance and enhancement of amenity values.
- The provisions ensure that the potential stormwater adverse effects associated with urban development are appropriately managed, so that potential adverse effects on neighbouring properties are appropriately avoided or otherwise managed and mitigated;
- Mana whenua have been engaged with over a period of time in respect of wider growth issues and specifically in relation to Variation 4. No issues have been raised and no sites of significance were identified. Notwithstanding this, the provisions require a detailed cultural effects assessment to be undertaken at the time of subdivision to enable the identification of any areas of significant cultural significance and methods to mitigate any potential adverse effects.

Overall it is concluded that Variation 4, as amended by the recommendations of the Hearing Panel established to hear submissions, is consistent with the purpose and principles of the RMA. It provides for essential urban growth and development to meet community needs in accordance with the NPS-UDC, with appropriate regard being had to matters in Sections 6, 7 and 8 of the RMA, while ensuring that potential adverse effects are appropriately avoided, remedied or mitigated.