

The Waipa District Plan

Draft Inclusionary Housing Amendments

Text in blue are proposed additions/amendments.

Part B: Definitions

Add the following definitions:

'Lands Trust'	means a registered charity recognised by Council as a suitable entity to hold land in perpetuity for affordable housing.
'Registered Community Housing Provider'	means an entity registered under section 172 of the Public and Community Housing Management Act 1992.

Part C: Strategic Policy Framework

Add the following objective and policies:

Objective – affordable housing choices

- 1.3.7 To ensure affordable housing choices for low to moderate income households are provided in new residential developments so that a diverse and economically resilient community representative of all income groups is maintained into the future.

Policy – Inclusionary housing

- 1.3.7.1 Ensure that affordable housing choices for low to moderate income households are incorporated into new neighbourhoods and settlements and in redevelopments of existing neighbourhoods.
- 1.3.7.2 Ensure that affordable housing provided in accordance with Policy 1.3.7.1 is retained to meet the long term needs of current and future low to moderate income households.
- 1.3.7.3 Where developers are not incorporating affordable housing choices for low to moderate income households into new residential developments, require from development and subdivision that involves a residential component the transfer of land or money to Council or by agreement to a Lands Trust as a financial contribution towards meeting Objective 1.3.7 and policy 1.3.7.1 and 1.3.7.2, with contributions primarily sourced from residential subdivision and development.

Part E: District Wide Provisions

Add a new District-wide chapter as follows:

Section 18A – Inclusionary Housing

18A.1 Introduction

- 18A.1.1 The purpose of this chapter is to make provision for housing choices for low to moderate income households in new neighbourhoods and in redevelopments of existing neighbourhoods.

18A.1.2 Affordable housing is where a low or moderate income household spends no more than 35% [SUBJECT TO DEFINITION YET] of their gross income on rent or mortgage (principal and interest) payments. In the Waipa District, and for the purposes of these provisions, up to [EXAMPLE] 120% of the District's Median Household Income for the most recent 12 months is used to define a low to moderate income.

18A.1.3 The rules in this chapter apply to most forms of subdivision and development for residential activities. Provision is made for affordable housing by imposing a standard requiring that a development incorporate affordable housing, or that a financial contribution to be made. This chapter sets out the purpose of the financial contribution, and the manner in which the level of contribution (i.e. the amount) is determined. The financial contribution to be provided to the Council is for a different purpose to any development contribution listed in the Council's current contributions policy and is imposed in addition to a development contribution.

18A.1.5 The primary means of implementation of contributions received by the Council will be through a Lands Trust.

18A.2 Resource Management Issues

18A.2.2 The high demand on housing resources, limitations of land supply and the lack of variety in housing stock means that the District's housing market cannot function efficiently. This has long term consequences for low to moderate income households needing access to affordable housing. In turn, this has adverse outcomes for the integrated and sustainable management of natural and physical resources, including pressure for additional urban expansion, displacement of lower income households to outlying settlements, and reduction of social and economic wellbeing. (See especially Objective 1 and Policy 1 of the NPS-UD.)

18A.3 Objectives and Policies

Please also refer to the objectives and policies of Part C, Part D, and Part E, as relevant.

Objective – Inclusionary housing

18A.3.1 Provision of affordable housing for low to moderate income households in a way and at a rate that assists with providing a range of house types and prices in different locations so as to support social and economic well-being and manage natural and physical resources, in an integrated way.

Policy – Inclusionary housing

Target affordable housing contributions to residential subdivisions and developments (including Residential Visitor Accommodation and independent living units in retirement villages) where housing is in high demand and generally close to employment, educational and community services, being land within Urban Limits, or where a plan change or resource consent seeks to establish urban scale development.

18A.3.2 Require residential developments that indirectly influence housing choices for low to moderate income households, such as residential development in the Large Lot Residential and Deferred Large Lot Residential zones to contribute to meeting affordable housing needs.

18A.3.3 Ensure that residential subdivision and development set out in Policy 18A.3.1 and 18A.3.2 either incorporates affordable housing or provides a financial contribution for affordable housing. Avoid subdivision or development for residential activities that does not provide a contribution, or otherwise does not make appropriate provision to help meet the affordable housing needs of the District.

- 18A.3.4 Recognise that the following forms of residential development either provide affordable housing or do not generate pressure on housing resources and should not be subject to the affordable housing contribution:
- a) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a Registered Community Housing Provider;
 - b) Managed care units in a Retirement Village (as defined by the Retirement Villages Act 2003) or Rest Home (under the Health and Services Disability Act 2001); and
 - c) Secondary dwellings.
- 18A.3.5 Determine the amount of financial contributions in consideration of the following matters:
- a) The longer-term demand and need for affordable housing;
 - b) The impact of a contribution on the commercial feasibility of development at an area-wide scale and over different time periods;
 - c) The differences in commercial feasibility between greenfields and brownfields urban development; and
 - d) Whether the subdivision and development is located inside or outside of Urban Limits.
- 18A.3.6 For larger residential subdivisions within urban limits, contributions in the form of land are preferred over monetary contributions as this helps achieve distribution of affordable houses throughout the District. Contributions in the form of land must be lots located within the subdivision site. Contributions of lots located outside the subdivision site may only occur where this leads to a superior outcome in terms of access by future residents to services and community facilities.
- 18A.3.7 Financial contributions received by Council or by agreement directly to a Lands Trust shall be used for the purposes of providing affordable housing for low to moderate income households.
- 18A.3.8 Provision of affordable housing by means other than a financial contribution to the Council or a Lands Trust (such as direct transfer of land or units to a Registered Community Housing Provider for to a low to moderate income household) may occur where there are appropriate eligibility criteria and retention mechanisms.

18A.4 Rules

18A.4.1 Interpreting and Applying the Rules

- 18A.4.1.1 Contributions of money from a subdivision activity must be paid to the Council or by agreement to a Lands Trust before the issue of a certificate under section 224(c) of the RMA. Where land forms part or all of the provision of affordable housing by the developer, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of a certificate under section 224(c) of the RMA.
- 18A.4.1.2 Contributions of money from a land use activity must be paid to the Council or by agreement to a Lands Trust no later than 3 months after the issue of the necessary building consents under the Building Act 2004. If land forms part or all of a contribution, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of the necessary building consents under the Building Act 2004.
- 18A.4.1.3 Where a rule specifies a set monetary contribution per square metre of floorspace, this amount shall be adjusted in accordance with the most recent changes to Statistics New Zealand Producer Price Index for Construction Outputs - EE11 Building construction SQUEE1100, with March 2023 as the base year.

18A.4.1.4 For the purposes of this Chapter, residential floorspace is defined as any floorspace in a building that accommodates a residential activity, except the floor area of any garage or carport.

18A.4.2 Activity Status Tables

18A.4.2.1	Permitted activities
(a)	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) and provides an affordable housing financial contribution in accordance with standard 18A.4.3.1.
18A.4.2.2	Discretionary Activities
(a)	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) which does not provide an affordable housing financial contribution in accordance with standard 18A.4.3.1.

18A.4.3 Performance Standards

Rules – Inclusionary housing

18A.4.3.1 An Affordable Housing Financial Contribution shall be provided to Council as follows:

1. Subdivisions:

- a) Residential subdivisions within Urban Limits or other Residential or Deferred Residential Zones outside Urban Limits:
 - i. resulting in more than 1 but less than 20 new lots: a monetary contribution shall be paid to the Council or by agreement to a Lands Trust equal to 5% of the estimated sales value of serviced lots;
 - ii. resulting in 20 or more lots: a contribution of land comprising 5% of serviced lots transferred for no monetary or other consideration to a Lands Trust.
- b) Residential subdivisions within any Large Lot Residential or Deferred Large Lot Residential Zones:
 - i. A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to 5% of the estimated sales value of the lots created.

2. Development:

- a) Residential floorspace for any new or relocated units on lots that have not been subject to a financial contribution under 18A.4.3.1 above: A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to the lesser of:

- i. 2.0% of the estimated sales value of the additional units, or
 - ii. \$150 per sqm of the net increase in residential floorspace.
- b) Residential floorspace for any new or relocated units on lots that have not been subject to a monetary contribution under 1 (b) above: A monetary contribution shall be paid to Council or by agreement to a Lands Trust equal to:
 - i. \$75 per sqm of the net increase in residential floorspace.
- c) For new residential floorspace on lots that have provided a monetary contribution under 1(a) above, a 'top up' monetary contribution shall be paid to Council or by agreement to a Lands Trust, equal to the formula (A) – (B):

With (A) being the lesser of:

- 2.0% of the estimated sale value of the additional units, or
- \$150 per sqm of the net increase in residential floorspace, and

(B) being the per lot contribution paid under 1 a).

3. Exemptions:

For the purposes of this standard, the following types of residential activities shall not be counted as contributing to the total number of residential units in a development, nor be counted towards fulfilling the requirement of 18A.4.3.1:

- a) A secondary dwelling;
- b) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a Registered Community Housing Provider that complies with the requirements of Schedule 18.1, where affordable housing comprises at least 10% of the dwelling units in the development; or
- c) a managed care unit in a Retirement Village or Rest Home (as defined by the Retirement Villages Act 2003 or the Health and Disability Act 2001); or
- d) where previous agreements and affordable housing delivery with Council have satisfied objective 1.3.7 and 18A.3.1 and their associated policies.

4. Interpretation:

The estimated sales value of lots, units or residential floorspace shall be determined by a valuation report prepared, at the applicant's expense, by a Registered Valuer (as mutually agreed by the Council and the applicant) within the 3 months prior to the financial contribution being paid. In the event of disagreement, the Council shall appoint a valuer to determine the matter.

18A.4.3.2 Affordable lots provided in accordance with 18A.4.3.1 1 a) ii) shall be located within the development site, serviced and unencumbered.

18A.4.3.3 Where development is to be staged, the affordable housing contribution is to be provided as each stage proceeds, on a proportionate lot basis.

Activities that fail to comply with Rules 18A.4.3.1 to 18A.4.3.3 will require resource consent as a discretionary activity

18A.5 Assessment Criteria

18A.5.1 Discretionary activities

For discretionary activities Council shall have regard to the assessment criteria in Section 21. The criteria in Section 21 are only a guide to the matters that Council will consider and shall not restrict Council's discretionary powers.

18A.6 Schedule 18.1

Where a financial contribution is not provided, and an alternative solution proposed, then the requirements in 18A.4.3.1 must be met by compliance with the following:

Retention Mechanism

18A.6.1 The lot or floorspace being sold to an eligible buyer with a legally enforceable retention mechanism which is fair, transparent as to its intention and effect and registrable on the title of the property, including, but not limited to, a covenant that preferences the position of a Lands Trust, supported by a memorandum of encumbrance or similar legal arrangement registered on the record of title or consent notice under the RMA, that:

- a) limits ownership and re-sale (including a future residential unit in the case of a vacant site subdivision) to:
 - i. Kāinga Ora, a publicly owned redevelopment agency or a Registered Community Housing Provider, or
 - ii. an occupier who is approved by the Lands Trust as meeting the eligibility criteria below, and
- b) limits rent and resale to an eligible buyer based on a formula that ensures that the lot or dwelling remains affordable into the long term, including a future residential unit in the case of vacant site subdivision; and
- c) prevents circumvention of the retention mechanism and provides for monitoring of the terms of the retention mechanism covenant or consent notice and the process should those terms be breached including where occupiers have defaulted on the mortgage and lenders seek to recover their interests in the property, and
- d) is legally enforceable by the council in perpetuity through the means of an option to purchase in favour of the council or Lands Trust at the price determined in accordance with (e), supported by a caveat.
- e) at the time of resale, requires the reseller to:
 - i. apply the same formula used to determine the price of the original purchase;
 - ii. allows the reseller to recover the cost of capital improvements made subsequent to purchase, approved by the Lands Trust at a value determined by a registered valuer.

Eligibility

18A.6.2 For the purposes of 18A.6.1 an eligible buyer shall:

- a) Be a household with a total income of no more than 120% [EXAMPLE] of the District's area median household income;

- b) Be a household whose members do not own or have interest in other real estate;
- c) Must not own or be a beneficiary of a business or trust that has adequate income and/or assets that enables the household to enter into home ownership independently;
- d) Will live at the address and not let or sublet the unit to others; and
- e) Have at least one member who is a New Zealand resident or citizen.

Affordability

18A.6.3 Affordability means households who have an income of no more than 120% [EXAMPLE] of the district’s median household income and spend no more than 35 per cent [SUBJECT TO DEFINITION YET] of their gross income on rent or mortgage repayments, where:

- a) median household income shall be determined by reference to Statistics New Zealand latest data [OR OTHER AGREED SOURCE SUCH AS INFOMETRICS], and as necessary, adjusted annually by the average wage inflation rate;
- b) in the case of purchase, normal bank lending criteria shall apply. Body Corporate or Resident Society fees may be included in the calculation of purchase costs;
- c) In the case of the sale of a vacant site only, the site is sold at a price such that the resulting dwelling plus the site will meet the criteria set out above.

Amend Section 21 Assessment Criteria as follows:

21.1.27 Inclusionary Housing

Inclusionary Housing Assessment Criteria		
Discretionary Activities		
Refer also to 21.1.1 Assessment Criteria for ALL discretionary activities		
21.1.27.1	The amount of the contribution	a) Whether the site or development has unique or unusual characteristics that would mean full provision of the required number of affordable lots or monetary contribution imposes a significant financial burden on the development that would make the development unviable, as demonstrated by a site-specific development feasibility assessment that utilises industry accepted assessment methodologies, and an alternative mix or contribution is appropriate. It is expected that a full assessment of costs will be provided based on an “open book” approach i.e. the developer will be expected to make all of the relevant cost information available.
21.1.27.2	Land versus monetary contribution	a) Whether the contribution is more appropriately provided in the form of money rather than land (lots) due to the location of the lots; their size and/or on-going high costs

		of upkeep (including resident's society or body corporate fees or similar).
21.1.27.3	Off-site provisions	<p>a) Where lots are required, whether off-site locations may be considered for all or part of the requirement where:</p> <ul style="list-style-type: none"> i. there are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable housing, and/or ii. the alternative sites are in close proximity to the development (i.e. within 2kms) and offer a superior outcome in terms of improved access to services and transport and or improved mix of dwelling types. Particular consideration will be given to whether the off-site provision will better address priority needs, particularly family housing, and/or iii. the applicant has entered into a legally binding agreement with a Council approved Registered Community Housing Provider or Lands Trust who can demonstrate that on-site provision will not meet their operational requirements and that an off-site location will deliver a superior outcome in terms of the number, mix and/or on-going management of the required retained affordable housing.
21.1.27.4	Staging of dwellings units and/or lots	<p>a) Deferral of provision of affordable lots or units to subsequent stages should generally not occur.</p> <p>b) Whether delayed delivery of the affordable dwellings or lots can be appropriately secured through a suitable binding agreement with the Council or a by agreement a Lands Trust, the terms of which may include a bond.</p>
21.1.27.5	Alternative forms of contribution	<p>a) Alternative forms of contribution to that specified in 18A.4.3.1 (such as sale of lots or units direct to a Registered Community Housing Provider or a low to moderate income household) should not result in a lesser contribution.</p> <p>b) Transfer of lots or units should involve an appropriate retention mechanism and be subject to eligibility criteria (as specified in Schedule 18.1).</p> <p>c) Alternative forms of contribution should only be considered where exceptional circumstances apply.</p>