

BEFORE TAUPŌ DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 ('the Act')

AND

IN THE MATTER OF of an application for a Proposed Plan Change 37 Nukuhau

**SUMMARY STATEMENT FOR HEARING BY MATT BONIS [PLANNING]
ON BEHALF OF TAUPŌ DISTRICT COUNCIL**

Date: 9 November 2021

QUALIFICATIONS AND EXPERIENCE

1 My qualifications and experience are set out in my Evidence-in-Chief¹.

CODE OF CONDUCT

2 I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note and have complied with it in preparing this evidence. I also agree to follow the Code when presenting evidence. I confirm that the issues addressed in this brief of evidence are within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

BACKGROUND

3 I have prepared or contributed to the following documents:

- The Section 42A Report.

4 I have reviewed all of the evidence, submissions, and summaries associate with PC37.

5 The purpose of this summary statement is to respond to matters raised since the s42A Report was issued, including those raised in Day 1 of the Hearing, and narrow matters of contention where possible. As identified in my EiC I am reliant on expert evidence, including that provided by the Proponents and submitters. I have identified where I have relied on these views accordingly below.

6 The considerations of this summary are set out as follows.

Statutory Tests, role of the District Plan

7 There is no disagreement as to the statutory framework to be applied. The Panel's determination is then whether:

- a. The plan (as incorporating the change) would assist [the Taupō District Council] ... to carry out their functions to achieve the purpose of this Act (s72); and
- b. Weighting to be applied to various subordinate documents, that is:
 - i. *Effect* to be given to the provisions of the WRPS (s75(3)(c));
 - ii. Whether the policies and methods would be the most *appropriate* (or better) in *achieving* and *implementing* the unamended objectives of the District Plan (s32(1)(b) and s75(1)(b) and (c)).

¹ Bonis EiC [4, Attachment A]

iii. *Regard* is to be had to management plans prepared under other Acts ((s74(2)(b)(i)).

8 In terms of the above, there is an innate hierarchy in terms of considering the Plan Change against the various subordinate documents. I understand that:

a. *Give effect to* requires positive implementation of the superior instrument.

b. *Achieve* is to successfully bring about or reach.

c. *have regard to* means giving matters genuine attention and thought, and such weight as is considered to be appropriate.

9 Overall, there is agreement with the Proponent that the proposal will achieve the superior instruments; disputes relate to mechanism to ensure that residual resource management issues (iwi engagement, historic heritage) and infrastructure (transport) are addressed.

10 It is also noted that it is recognised that the resultant plan provisions should be clear and concise, such that administration by Council Officers, and expectations of the community can be easily understood.

Mechanisms

11 There has been considerable discussion on the manner in which relevant resource management matters are addressed. Based on the evidence considered my position on these matters are as follows:

12 *Archaeology*

12.1 Ms Walters has advised that she now agrees with the evidence and supplementary information provided by Ms Sykes, and that the Plan Change should be able to proceed based on her consideration of historic heritage. She acknowledges that '*An archaeological exploratory investigation of the depressions identified in Area C should be carried out, as provided by s.56 of the Heritage New Zealand Pouhere Taonga Act 2014 prior to development occurring in that area*'. I am agnostic as to whether Appendix 9.7 Structure Plan needs to be revised for such a matter, as I understand that such an authority will need to be sought regardless.

13 *Cultural Engagement*

13.1 I set out in the s42A Report that it would be helpful for the submitters who have raised mana whenua status and the Proponent to shed more light on this matter, particularly in terms of the requirement (or otherwise) for a CIA.

- 13.2 Mr Kusab's evidence for Rangatira 8A17 has provided a summation to the Panel which identifies², that the area would not have been approved for any development by the '*respected elders if the affected land had any cultural significance for Maoridom*', and that '*with regards to the Trust's lands, I do not believe that such a requirement (CIA) is necessary. While a Cultural Impact Assessment may be appropriate for the other land within the Plan Change area, in my view it is important that such an assessment is undertaken by people with a thorough and complete understanding of the history of the land*'.
- 14 Ms Cleary³ and I agree that the suitability for the land for urbanisation is appropriate and has been determined through TD2050(2018) and Section 3e of the District Plan including engagement with iwi. I also note the good faith endeavours undertaken by Mr Crawford to engage, and that no submission has been received on the Plan Change from an iwi authority, nor has evidence been provided from any party furthering matters associated with mana whenua engagement⁴, consideration with respective iwi management plans has been undertaken. I also agree with Commissioner Taylor that ongoing endeavours should be made to ensure consideration; such is also relevant in terms of the Development Principles 6A(j) and (q) in the WRPS⁵, and associations for landscape and design⁶.
- 15 Ms Cleary has recommended the addition of an assessment matter at 4a.7.2(d)(iii) of the Plan Change which seeks a CIA from mana whenua, or appropriate expert, or written confirmation that none is required.
- 16 I have sought to amend this slightly to focus on the specific matters raised by Mr Kusab's, Principle 6A and Ms Ryder as follows:

Recommended Changes – Bonis Summary 9 November

- (iii) The extent to which the cultural associations of the gully system and reserve planting, narratives, and values of importance to mana whenua are accounted for through either:
- (a) Pūkenga ((experts/learned individuals) engagement, and / or demonstrable and reasonable endeavours to engage with Pūkenga has been undertaken, the outcome of that consultation, and whether the subdivision responds to, or incorporates the outcome of that engagement including any management of identified areas or sites of sensitive mana whenua values as identified by the relevant Rūnanga or Hapū; and / or
 - (b) A cultural impact assessment for the entire Nukuhau Structure Plan area has been undertaken by Pūkenga on behalf of the appropriate iwi authority representatives and the proposal's consistency with values identified; and
 - (c) Whether a protocol has been agreed with the Rūnanga or Hapū for managing accidental discovery.

² Kusabs [5.1 – 5.3]

³ Cleary EIC [33]

⁴ Noting Ragatira E have provided evidence as to development opportunities.

⁵ Bonis EIC [106.7]

⁶ Ryder Summary [6]

Gully Management Plan and WRC

- 17 I have read and agreed with the changes suggested by representatives for WRC (Ms Craven and Mr Palmer) and accounted for in the summary of Ms Cleary. I consider that such matters provide appropriate increased certainty as to the management of stormwater and the gully network and represent a more effective suite of provisions than those notified. I note and acknowledge the proposed changes extending to referencing the Waikato Regional Council Stormwater Guideline 2020.07) and that stormwater is treated *predominantly* onsite to limit the use of the natural gully system as stormwater reserve⁷.
- 18 I note that Mr Farquhar after listening to the matters discussed yesterday has confirmed his preference that development pursued through the Plan Change should be accompanied by a comprehensive Gully Management Plan. Whilst I note that such would provide a more comprehensive approach to the entirety of the Nukuhau Plan Change area, I am concerned that such a Plan does not appear to have a clear and understood foundation, and would require ongoing engagement with WRC, the Council and landowners. I consider that such goes against the efficiency of such an approach, noting that WRC Officers and the Proponent are satisfied by the Plan Change provisions as amended in the Summary of Ms Cleary.

Stormwater Management Plan

- 19 Mr Meadowcroft identifies in his summary that:
- Taupō District Council currently manages stormwater services as part of the roading network or via gullies and overland flow paths in the urban areas of the Taupo District. The existing Nukuhau residential stormwater falls under a comprehensive discharge consent which covers all of urban Taupo (Resource Consent 105048). New greenfield areas specifically require a catchment wide CMP to allow the new stormwater infrastructure to be incorporated into the existing comprehensive stormwater consent. This should be provided for the full Nukuhau Plan Change area prior to any development.*
- 20 Refencing this matter as an additional requirement in the Plan Provisions (as an additional Discretionary Activity Rule in 4a.7.X) would provide additional certainty and clarity as to expectation, would ensure a more comprehensive approach to stormwater management and accordingly be more efficient.

⁷ Amendments to Proposed Rule 4a.7.2

Transport Network Infrastructure

21 There is agreement between myself and Ms Cleary⁸ that the current capacity constraints associated with the Control Gate Bridge (corridor) represent a hurdle to the realisation of immediate development facilitated by the Plan Change. That view is predicated in the modelling work undertaken by Ms Chui, and the analysis of Mr Swears and Mr Smith, There is agreement as to the proximity of the site to the Taupo CBD and the ability to facilitate active modes.

22 Ms Cleary has recommended a Discretionary Activity status for facilitated development (or a well-crafted Restrict Discretionary Status), I have recommended a non-complying status on the basis that I considered the proposal would otherwise run counter to those provisions of the superior documents seeking adequate and appropriate infrastructure be in place prior to development, and for the reasons set out in [113.6] my EiC.

23 Ms Cleary considers that increased congestion and associated decrease in amenity is inferred within Objective 4 of the NPS-UD⁹.

24 I do not agree, Policy 6 gives shape to Objective 4 of the NPS-UD, it provides direction that urban amenity is not to be protected in a fixed state, and that changes in amenity values do not represent an adverse effect. However, it is submitted that this should not be taken as a licence to generate congestion on the strategic road network in urban areas even if that would have adverse effects on amenity values. Policy 6 is concerned about amenity values arising from changes to "*planned urban built form*" in planning documents, not changes in activity. The relevant part of policy 6 states:

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types.

25 As also identified in my EiC, the NPS-UD seeks that 'adequate' infrastructure is in place to support development capacity¹⁰. The WRPS seeks that infrastructure that is 'appropriate' as necessary to service the development is in place¹¹, and that such infrastructure is *efficient and effective*.

⁸ Cleary EiC [71, 144], [Bonis 158]

⁹ Cleary EiC [21]

¹⁰ Definition Development Supply, Clause 3.4(3)

¹¹ WRPS Policy 6.3(a)(iv), and Policy 6.3(c)

26 In light of Mr Heath and Mr Spear's summaries, I understand that there is consideration that the Nukuhau Plan Change area could support an additional 140 dwellings beyond the 997 existing and zoned units that are otherwise anticipated to be developed by 2030 on the northern side of the Waikato River. I requested Mr Smith to provide some analysis as to the consequences of such which are included in his summary statement.

27 Overall, whilst Mr Smith retains his view that current control gate bridge is operating at or near capacity, he states at his [31 – 36] that:

Establishing 140 households adds up to 45 seconds travel time in the morning peak and 55 seconds in the evening peak to travel across the bridge. By 2030 under the permitted baseline this trip is taking 5-6 minutes (up from the 2.5 minutes modelled in 2021) in the morning peak southbound and 12 minutes (from Spa Road up from the 2.5 minutes modelled in 2021) in the evening peak northbound. As such the 140 households on PC37 which generate 63 vehicles in peak flow direction per hour (which is one vehicle a minute) are adding approximately 20% to travel times in the morning and 10% in the evening, and inconveniences other drivers by no more than a minute on average.

but that:

I have considered whether the modelled effects of 140 lots are acceptable in the context of a future permitted baseline with considerably worse performance than what is experienced today. I consider that this increase in traffic (one vehicle per minute) and travel time (up to 55 seconds per journey) would be at the threshold of being perceptible to general traffic that consistently experiences the 'permitted baseline' 5-6 minute and 12 minute travel times across the bridge in the morning and evening peak respectively

28 On that basis, and also taking into account Mr Spears contention that the modelling will be conservative and improvements will be accorded through both peak spreading and also take up of active modes, I consider that the modelling at 140 dwellings for Nukuhau provides an 'acceptable' and 'adequate' level of servicing transport infrastructure, but beyond which (and noting the somewhat arbitrary nature of the threshold) a more stringent activity status should remain. I consider non-complying to be the more appropriate given the gateway considerations pursuant to s104D.

29 I understand that the approach as expressed in Wakatipu Environment Society Inc Queenstown Lakes District Council is that where the objectives of the Plan can be met by a less restrictive regime than that regime should be adopted. Such an approach reflects s32(1)(b)(ii) to examine the efficiency of the provision by identifying, assessing and, if practicable, quantifying all of the benefits and costs

anticipated from its implementation. It also promotes the purpose of the Act by enabling people to provide for their well-being while addressing the effects of their activities .

- 30 For the initial 140 dwellings, I acknowledge that there is little in transport terms achieved by an ITA in terms of the avoidance, remediation or mitigation of consequential transport effects – this would steer me towards recommending a permitted activity status for such. The residual concern I have is ensuring that matters such as appropriate density of development and retaining integrity of the Appendix 9.7 Structure Plan are retained which may be matters better expressed in a restricted discretionary provision. I have not yet had the time to suggest an alternative rule.

Residual Matters

- 31 In terms of the **architecture of the Plan**, I note that Ms Cleary has recommended that Rule 4a.7.2 should be conferred the status of full Discretionary Activity (rather than controlled as notified), and subject to a non-exhaustive list of matters. Based on the principle identified in [29] above, and the unorthodox approach of listing some matters for consideration under a Discretionary status, I consider that matters 4a.7.2(a) to (i) revert to Controlled or at worst Restricted Discretionary status, as the matters are relatively confined.
- 32 In terms of Ms Cleary's amendments in terms of Transport, including those in the explanation to the Nukuhau Structure Plan area, I prefer my provisions, as subject to the 140 dwelling threshold identified above.

CONCLUSION

- 33 Subject to the matters above, I consider that the Plan Change be approved.



9 November 2021