

**BEFORE THE TAUPO DISTRICT COUNCIL
HEARING COMMISSIONERS**

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

AND

IN THE MATTER OF Private Plan Change 37 to the Taupo District Council (Nukukau) – Rezone land from Rural Environment to a mix of General Residential Environment and Medium Density Residential Environment.

**STATEMENT OF EVIDENCE OF BRETT FARQUHAR
29 October 2021**

1.0 INTRODUCTION AND SCOPE OF EVIDENCE

- 1.1 My name is Brett Farquhar, and I am a Director and Senior Planner at Stratum Consultants Ltd based in the Rotorua office. I hold the qualifications of Bachelor of Social Sciences in Resource and Environmental Planning (Honours) from Waikato University, and I have over 20 year's experience in the planning and resource management fields in both local authority and consultant planning roles. I am a Full Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
- 1.2 My Planning evidence relates to Private Plan Change 37 (**PPC37**) – Nukuhau, to rezone land from Rural Environment to General Residential Environment and Medium Density Residential Environment.
- 1.3 I am representing submitters, Rangatira E Trust, who are a significant landholder in the wider Acacia Bay and western Taupo area, with landholdings in excess of 994ha. They have land that is directly adjacent to the west and north of the land within proposed PPC37 (location plan

included as **Attachment 1**). Rangatira E are the owners and occupiers of addresses known as 252, 416, 621, 630 Acacia Bay Road, 73 Poihipi Road, and 649 Tukairangi Road, legally described as the Part Rangatira E Block. I lodged the Rangatira E submission dated 5 March 2021 to PPC37 on behalf of Rangatira E.

1.4 I confirm I have read and that I understand the Code of Conduct for expert witnesses contained in the Environment Court's Practice Note 2014 and that I agree to comply with it. Other than where I state that I rely on the evidence of others, the opinions expressed in this evidence are mine and within my expertise and experience.

1.5 I have reviewed the PPC37 application and supporting documents, the reporting planners s42A report and the statements of evidence provided by the applicants and their representatives lodged in support of PPC37. On behalf of Rangatira E, I reserve the right to comment further on any matters raised in the course of the hearing.

1.6 The Rangatira E submission dated 5 March 2021 (**the Rangatira E submission**) outlines the reasons for the opposition to PPC37. My evidence provides further clarification and assessment of the proposal contained in PPC37 and the evidence lodged to date in support of the plan change, in relation to the potential effects to Rangatira E and their landholding, including the s42A council reporting planner's report and applicant's planning evidence.

1.7 My evidence covers the following topics:

- Background
- Submission content
- Comment on the planners s42A report
- Concluding comments

1.8 It should be noted that due to limited resources, Rangatira E has not lodged technical evidence, challenging the assessments. However, as I have set out in this statement of evidence there are certain matters that have not been assessed so far as they impact on Rangatira E.

2.0 BACKGROUND

2.1 The strategic plan, Taupo 2050, recognises Rangatira E Trust as a significant landowner with an interest in the development of city and region. However, no meaningful links between the private plan change area and that of the Rangatira E Trust appear to be shown in the application

documents as required by Schedule 1 of the Resource Management Act 1991 (**RMA**). Neither have the Rangatira E Trust been specifically and formally consulted with by the applicant, or council, on the rezoning of the PPC37 land. This is a requirement which has not been met. The Rangatira E Trust considers itself to be directly affected by this private plan change, and the manner in which the Rangatira E Trust may seek to utilise its land resource in this location is directly impacted by the proposals in PPC37. This is a matter to which the purpose of the RMA relates. From a planning point of view, as part of the wider need to sustainably grow Taupo, Rangatira E must be part of the decision making process and their interests reflected in any plan process.

- 2.2 Rangatira E (and the Rangatira 8A17 and 8A1T blocks) have had ongoing discussions with Council staff over a number of years (at least 15 years) about developing their land. As Maori landowners they are frustrated at being continually pushed to the side, and this is happening again with PPC37. The RMA legally requires Rangatira E to be part of the process. The Council and the applicant have not satisfied the requirements of the RMA in this regard.
- 2.3 The Environment Court granted Land Use consent (TDC Ref: RM050291) by way of a Court Order on 29 April 2008 (*ENV-2007-AKL-000781: Towncentre Taupo Incorporated v Taupo District Council*). It allowed for the establishment and operation of a Neighbourhood Retail Centre of approximately 10.4ha located on Part Rangatira E land. Given the economic realities of the time (being the 2008 financial crisis, GFC), Rangatira E did not implement the consent. The land use consent for the Neighbourhood Centre was extended to April 2017. However, it remained unimplemented and this resource consent has since lapsed.
- 2.4 Nevertheless, that proposal approved in 2008 still remains a vision for the future use of Rangatira E's land. Like other Maori trusts, the long term, 100 year plus future of this locality is what Rangatira E's focus is. The ambition of Rangatira E is to develop their land into a neighbourhood retail centre, similar to that previously approved. It is also the wish of Rangatira E to also provide a range of living opportunities for the community. Other Maori trusts throughout New Zealand have created improved opportunities for the community whilst looking after the whenua. It is important that Rangatira E does not have this opportunity removed or affected through this plan change. Although discussions with Council staff are still regularly held to ensure this opportunity is not lost, Rangatira E have been told to wait until the Taupo District Plan review is underway and to be part of that process. However, there are two concerns with this approach. Firstly, this review never seems to arrive with Councils dates continually pushed out and secondly, the council is willing to support other land owners in their development aspiration, like

this applicant in this plan change. The council is required to treat all land owners equally, not to support some and abandon the interests of others. The integrity of the planning process is undermined by this approach as is the sustainable use of the limited land resource in Taupo District.

3.0 SUBMISSION DETAILS

Opposition

- 3.1 Rangatira E oppose the plan change in its entirety and request that the Commissioners decline the plan change, until at least a co-ordinated district wide review is commenced. Rangatira E have not changed their position since the notification of PPC37, or the receipt of the Council planner's report.
- 3.2 In my opinion, a holistic district wide feasibility study is firstly required to determine the requirements of the entire district and one that enables future development by landowners such as the submitter. This will include research into the location and the size of future development areas and subsequent land zoning, infrastructure (inc. stormwater) and roading. Three key areas with which there are issues within this proposed plan change.
- 3.3 PPC37 proposes to utilise all current and planned infrastructure (roading/state highway access and wastewater disposal specifically) taking all available capacity in western Taupo. This will result in landowners, like Rangatira E, not being able to pursue development opportunities unless they self-fund infrastructure costs. The Taupo District Plan Review was also scheduled for later in 2021 (since pushed out now), and therefore it is not unreasonable to wait for this upcoming process. PPC37 is considered premature by getting in ahead of the wider planning process. This is one of the reasons for the recent proposed RMA reforms – the failure of council to ensure integrated development that is supported by necessary infrastructure with costs to be born by all parties.
- 3.4 Taupo District Council needs to place a hold on all developments in western Taupo / Acacia Bay until an integrated and inclusive structure planning exercise of the entire area has been undertaken. This would include understanding growth targets, infrastructure, roading and stormwater management. All landowners and Council need to work together to create this western structure plan.

- 3.5 It is also inconsistent planning to allow for 3 (that I am aware of) ad-hoc developments happening prior to the District Plan review and/or an overarching structure plan in place. For example, the Watene Lane Ltd subdivision (that also forms part of the PPC37 area) has been lodged with Council for approval, even prior to the outcome of PPC37 being determined. The other two developments are PPC37 itself and 100 Loch Views to the west of Rangatira E's land (600+ lots). All of these developments are also immediately adjacent to Rangatira E land. (These other developments location plan included as **Attachment 2**).

The inclusion of medium density residential zones

- 3.6 The Medium Density Residential zoning is a new zoning to Taupo. Given that this is a new planning "tool", we suggest that this is better fleshed out as part of the wider District Plan review originally scheduled for later in 2021 (timeframe now extended out). This will allow for a more comprehensive and holistic approach to the locations and hectarage of medium density land, if that's what the Taupo community wants. PPC37 should not be the instigator of this, rather follow the planning approach through the wider District Plan review consultation process.
- 3.7 Furthermore, the Medium Density Residential zone actually allows for a higher density than the High Density Residential zone currently in the Taupo District Plan. As an example, if a retirement village is proposed in the Medium Density Residential zone, retirement units are permitted if it meets the zone rules - which is 55% coverage, 100% total floor area ratio and 80% impermeable. This proposed Medium Density Residential zone in PPC37 covers approximately 10 hectares of land. For example, if a landowner in PPC37 wanted to do 60m² single storey units for a retirement village, they could do 100m² lots in the Medium Density Residential area. That could easily accommodate 1,000 retirement units which in turn uses valuable infrastructure capacity.

Neighborhood shopping centre zone

- 3.8 An existing convenience shopping centre is already located in this catchment on the corner of Acacia Bay and Mansell Roads. This local shopping area has room for further expansion to its west. The consolidation of local shops should be encouraged before the creation of new local shopping areas when located in the same catchment.
- 3.9 No evidence has been provided that a further neighborhood shopping centre is actually required. The Property Economics report only assessed dwelling demand. It did not address retail shopping demand. Without any evidence that there is any demand for further shops (evident

with existing Acacia Bay and Mansell Roads shopping area still having vacant land), then this provision should not be accepted by the Commissioners. The resource consent process should instead be used, with expert evidence provided of its need.

The unique position relating to Māori-owned land

- 3.10 Proposed Plan Change 37 provides a limited pathway for developing multiple-owned land and limits the development opportunities of Māori land in this locality. The applicant's plan change, PPC37 proposal fails to incorporate any matters from Treaty Settlements in relation to land in this locality. The potential adverse effects from the development on the mauri of the locality along with the total disregard to the interests of Rangatira E means the proposal is not a sustainable use of land. Partly, this arises because the process is not Council led, instead led by the private sector, and is outside of the District Plan change review process. No meaningful consultation with the Rangatira E Trust has been held given they are directly affected by PPC37.
- 3.11 Because Māori owned land is often undeveloped or is under-developed, it has not contributed significantly to the economy yet. It has also meant that the vacant land is somehow seen as capable of mitigating the environmental effects arising from other developments. For instance, the impact of certain transport and stormwater mitigation has clearly not been assessed properly and therefore the impact on Rangatira E and its land has not been appropriately or fully assessed. The Section 32 report fails to address a number of issues relevant to Rangatira E. These have been discussed above. It is not and should not be up to a land owner, in this case a land owner who manages property for the benefit of future generations, to fund experts to advise another land owner of the defects in its plan change. That is in my view, the statutory role of council, having accepted to process this plan change.
- 3.12 The applicant and Council have failed in their duty to involve Rangatira E in this plan change process, and as such the Council has failed to satisfy the requirements of the RMA before accepting the plan change for notification and public submission.
- 3.13 Issue 2 of the Taupo District Plan states:

"The recognition and acceptance that there are different understandings of resource issues between Tangata Whenua and the Council is an important issue involved within resource management. Consultation between parties will provide the basis for achieving a greater understanding between Tangata Whenua and the Council." [Emphasis added].

3.14 The granting of PPC37 will limit the ability for Rangatira E to develop their land and would result in further piecemeal development in the Taupo District. Granting this plan change would also result in a failure to meet the Council's own strategic vision set out in Taupo 2050 for the aforementioned reasons.

Monitoring of Stormwater

3.15 It will be important to give confidence to the regional community that we are on target to achieving the short-term objectives and tracking positively towards achieving the goal of sustainable land use. However, the proposed plan currently proposes no methodology to monitor the outcomes promised and does not link to the future growth strategy of the district.

3.16 Furthermore, the health of the lake and the discharge of contaminants is a matter of great concern to the submitter.

3.17 Stormwater management is of great concern to Rangatira E. Not only the discharge of contaminants to the lake, but also the reverse sensitivity effects of Rangatira E's stormwater on downstream development. Rangatira E are already being blamed for stormwater coming off their farm through residential dwellings. As an example, in one such case (36 Chelsea Rise), so much water is coming off Rangatira E land that it is destroying a retaining wall. This is a stormwater engineering management design fault of the Chelsea Rise subdivision. Rangatira E have not altered their land yet are being blamed for this occurrence. This cannot be allowed to happen again, yet it could occur again and be facilitated by PPC37 without an integrated catchment management plan for the wider Acacia Bay area. Such holistic planning is a statutory role of the council under the RMA, yet a role that it has not fulfilled and appears to have left to individual land owners to manage.

3.18 As exemplified by the issue at 36 Chelsea Rise, Taupo District Council, in conjunction with the 36 Chelsea Rise developers, have been asked to remedy this situation. It is not up to a farm to have to mitigate the effects of run off when a Council permits nearby land use in a manner that fails to manage stormwater and other natural occurrences. The land owner seeking to change land use is required to mitigate, avoid or remedy the adverse effects of its own developments, not rely on nearby land owners who have not changed their land use to absorb the impact of their land use change. However, this is the way in which Taupo District Council is permitting change in land use. Without an overall strategy and with land owners being left to manage on their own.

3.19 Extensive stormwater reporting has been provided by the applicant and the Council reporting planner's section 42A report discusses stormwater in part, however only at a high level. An overview is provided with insufficient detail. There is no reporting that I am aware of that actually provides detailed assessment of the effects of stormwater from Rangatira E's land. Most, if not all, of the assessment relates to the management of stormwater from the plan change area, which in itself has adverse effects on Rangatira E's land.

4.0 SECTION 42A PLANNERS REPORT

4.1 I will now comment on the Section 42A report provided by Mr Bonis. As an overarching comment, it is disappointing that Rangatira E's submission has been given very little consideration. The s42A report is almost silent on the issues raised by Rangatira E, when they are such a significant adjacent landholder to the proposed plan change area. No assessment against the issues raised has been undertaken, with the only commentary being a simple rejection of each submission point at the rear (tables) of the s42A report. The Council has not even extended a courtesy to Rangatira E to discuss its concerns and determine how the issues it raises can be remedied. It is therefore arguable that the Council could even facilitate discussion between Rangatira E and the applicant for the plan change. However, it is leaving the parties to simply battle the issues out and potentially have to go to the Environment Court to obtain a solution which should be able to be worked through at a local level. The complete disregard for the voice and views of mana whenua in this proposal is most unusual in this day where the role and impact on mana whenua is of paramount statutory consideration.

4.2 There is one part of the section 42A report which Rangatira E agrees with. Part 12.3 of the planning report, that any subdivision with the plan change area should be deferred until capacity issues have been resolved. Again, we reiterate, this plan change *seems premature* and should have been part of a wider structure planning exercise to understand and agree on infrastructure planning and funding issues. This is supported by Objective 6 of the National Policy Statement - Urban Development (**NPS_UD**) which the council is bound by. Objective 6 requires "*Local authority decisions on urban development that affect urban environments are: integrated with infrastructure planning and funding decisions; and strategic over the medium term and long term;...*". I do not consider this wider structure planning has occurred. [Emphasis added].

4.3 Furthermore, paragraph 279.3 of the Section 42A report states that:

“Amendments to Policy 3a.2.3(v) and insertion of Rule 4a.7.5 which acts to provide a deferral of development otherwise enabled by the Request until such time as increased road capacity is provided at the Control Gate Bridge. I have identified that without such, development would not be efficient and effective in terms of achieving the higher order statutory framework, with some tension with those provisions of the WRPS156 and Taupō District Plan157 that seek development of Growth Areas adequately accounts for the efficient and effective functioning of supporting and surrounding infrastructure.” [Emphasis added].

4.4 Paragraph 193 of the Section 42A report has recommended a new rule, that states:

“Rule 4a.7.5: Any subdivision within the Nukuhau Structure Plan Area prior to the provision of additional capacity at the Control Gates Bridge beyond that supplied in October 2021 is a non-complying activity.” [Emphasis added].

4.5 Although I agree that a halt on development within PPC37 is prudent due to these constraints, I do not believe this recommendation goes far enough. In my opinion, allowing the rezoning of land through a private plan change on one hand, yet then imposing a non-complying rule to actually develop the land on the hand is incongruent. Why have a plan change to keep the status quo? This is bad planning practice and does not have regard to the NPS_UD. The better outcome would be to resolve these issues up front through a wider structure planning process, then once resolved a public plan change is initiated. What would follow is at least a somewhat complying resource consenting process afterwards. In this case, it is my opinion PPC37 should be declined in its entirety, or at least deferred until wider growth management strategies are considered and the Council leads the plan change process. This is not just a sequencing matter – that this developer is fed up with waiting. The failings in this case have long term consequences which have not been addressed and which will result in failure to satisfy Part 2 of the RMA. The plan change does not result in the sustainable management of scarce development land in the western Taupo area.

Waikato Regional Policy Statement

4.6 Paragraph 103 of the Section 42A report outlines the relevant objectives and policies that relate to growth management and infrastructure. I agree that this is the relevant policy framework. In my opinion, these policies individually and as a collective steer the Council towards the *“development of the built environment... in an integrated, sustainable and planned (and coordinated) manner...”* Again, without a wider look at the whole of western Taupo, in my opinion these objectives and policies are not adhered to.

4.7 Furthermore, Policy 6.11 states that: “(b) ensures that urban development of an identified urban growth area occurs by way of a Taupō District 2050 structure plan process and associated plan change process.” Method 6.11.2 states that for Structure planning: “Taupo District Council should develop structure plans to implement the Taupo District 2050 identified urban growth areas.” Again, in my opinion this structure plan process has not occurred.

Taupo District Plan

4.8 Objective 3e.2.1(v) and its policies also reiterate the same urban development requirements. That being: “Ensure that urban development of an identified urban growth area occurs by way of a Taupō District structure plan process and associated plan change process.” Objective 3e.2.2 states that: “Ensure that the subdivision and development of Urban Growth Areas for new urban growth occurs by way of a comprehensive Taupō District Structure Plan Process and plan change”. Although PPC37 provides a structure plan and a plan change, it is only narrow in its scope to its land alone. The plan change is not comprehensive and it does not consider the wider western Taupo / Acacia Bay area. (Paragraph 110 of the Section 42A report).

4.9 Mr Bonis in paragraph 111 correctly identifies that “there is not a Taupo District Council initiated Structure Plan for this area, as the TUSP came prior to the provisions of Section 3e.” For that reason, in my opinion, PPC37 is premature (especially with regard to transportation issues and in Rangatira E’s eyes stormwater management of water from their land), and therefore it does not meet Objective 3e.2.2(v) and Objective 3e.2.3. This is endorsed by Mr Bonis in paragraph 113.4 of his Section 42A report.

5.0 SUMMARY

5.1 I consider that the granting of PPC37 fails to stratify Part 2 considerations under the RMA and will limit the ability for Rangatira E to develop their land.

5.2 The s42A report does not adequately address the original planning concerns and other matters as set out in Rangatira E’s submission. The Section 42A report goes some way to identifying some key development constraints, however it does not go far enough in saying that this private plan change is too premature in its overall planning.

5.3 The applicant has not demonstrated a holistic planning view of the western Taupo / Acacia Bay area and its infrastructure requirements. Allowing this will continue the piecemeal / ad-hoc

development of western Taupo / Acacia Bay. PPC37 has been very narrow in its focus, just on PPC37 land only. It will generate adverse external environmental effects on Rangatira E.

- 5.4 The proposal is contrary to the relevant Objectives and Policies of the District Plan and directive by the future planning documents requiring integrated, sustainable, planned and coordinated structure planning.
- 5.5 Given the above, I request that the Hearings Committee require the decline PPC37 in its entirety.

Brett Farquhar
29 October 2021

Attachment 1



Attachment 2

