

TAUPŌ DISTRICT PLAN

Under: the Resource Management Act 1991

In the matter of: **Proposed Plan Change 36**

Whareroa North – Rezone land from rural environment to residential environment

JOINT WITNESS STATEMENT (PLANNING)

1. This signed Joint Witness Statement (**JWS**) is written in response to the Commissioner Panel's First Minute dated 27 March 2020, which states at paragraph [37]:

*If expert conferencing occurs then a Joint Witness Statement (JWS) is to be prepared for each specific topic of expertise and be provided to the Hearings Administrator by 4.00pm on **Wednesday 6 May 2020**. The Commissioners anticipate that experts for the Incorporation will assume responsibility for preparing each JWS unless the conferencing experts decide otherwise amongst themselves. The Commissioners may request further conferencing during the course of the hearing.*
2. The Commissioner Panel have advised an amended the date of lodgement for any JWS by **Friday 5 June 2020**.
3. The JWS requires that the experts seek to identify and reach agreement with the other expert witness(es) on the issues and matters within their field of expertise, and at the conclusion of the conference, prepare and sign a joint witness statement that includes:
 - (a) the issues/matters on which the expert witnesses agree.
 - (b) the issues/matters on which they do not agree, including the reasons for their disagreement.
4. This report relates to the conferencing topic of **Planning**.
5. A conference meeting was held on **Tuesday 2 June 2020** between 9:30am and 11:30am, by way of video link.
6. Participants were:
 - a. Ms Joanne Lewis, Planner for the Proponent.
 - b. Ms Miffy Foley, Planner for the Waikato Regional Council.
 - c. Ms Michelle Flay for the Waikato Regional Council (as Observer only).
 - d. Mr Matt Bonis, Planner for the Taupo District Council.
 - e. Ms Mary Monzingo, Landscape Architect for the Proponent – Reserves discussion in Part (A) only.
 - f. Ms Annette Campion, Parks Planning Consultant for the Council (who has adopted the EiC and rebuttal evidence of Mr Nathan Mourie) – Reserves discussion in Part (A) only.

7. In preparing this statement, the experts have read and understood the **Code of Conduct for Expert Witnesses** included in the Environment Court Consolidated Practice Note 2014 and agree to be bound by it. In particular, the attendees Have read the Environment Court Practice Note 2014 in respect of Appendix 3 – Protocol for Expert Witness Conferencing and agree to abide by it.
8. Ms Foley for the Waikato Regional Council (**WRC**) advised, as is proper in relation to the Code of Conduct, that she would abstain from providing an expert view on those resource management matters outside of the scope of her evidence and the WRC submission, such as those matters associated with the analysis of the Taupo District Plan. Accordingly, Ms Foley will be recorded as ‘abstain’ for those matters as below.

Key Issues of discussion

Part (A) – Reserve Provision

1. ***Mechanism for Reserve.*** *Do the Experts support the amendments to identify the land between the two cul-de-sac heads as Proposed Maori Reservation (as circulated by Mr Weddings referred to as the amended **Whareroa North Concept Plan dated 24 May 2020**), with the Pedestrian link to be vested as (Local Purpose Reserve (Access) to vest in Council.*

Background

Ms Lewis set out the basis for the amendment, identifying in her view it was an iteration from the initial stormwater management area to be vested, and now no longer required for that purpose. She agreed with Mr Bonis that this preference for ownership emerged during the Proponents Evidence.

Mr Bonis advised that it was his view that the notified Application referenced this area as ‘reserve’ and Utility Reserve (Local Purpose Reserve).

Outcomes

There was **agreement** that the area referred to as ‘Reserve Area’ should be protected. The primary function being for indigenous planting / regeneration, and a secondary function being pedestrian / cycling access (within the proposed residential area).

Mechanism

Ms Lewis / Ms Monzingo stated that the mechanism should be Proposed Maori Reservation (**PMR**). The ‘pedestrian linkage’, including the connection to the indicative road serving the Residential environment would be secured by way of Local Purpose Reserve (Access) at subdivision consent during Stage 1 (Appendix 8). They considered that pest control and other management matters would be secured through the establishment of the Maori Reservation through the Maori Land Court process.

Ms Champion and Mr Bonis considered that the late introduction of this matter and uncertainty as to function that the ‘Reserve Area’ be vested through the orthodox process as Scenic Reserve (s19(1)(b) Reserves Act 1977) and the pedestrian link Local Purpose Reserve (Access). Ms Champion noted the scenic reserve classification would support the conservation outcomes and would enable pedestrian and cycling access via a path formed through the reserve. Ms Monzingo questioned the appropriateness of Scenic Reserve status for an area of newly planted indigenous vegetation and was of the view

that the planted area should be managed in conjunction with the adjoining SNA escarpment area also proposed to be Maori Reservation (Conservation).

2. **Matters of Linkage Design.** *Do the Experts support the approach by the proponents as to cycling and walking access via the pedestrian link to the reserve, within the wider subdivision and linking to Whareroa Village ? Is more information / mechanisms needed in terms of materiality, width and design.*

There was **agreement** between the experts (Ms Foley abstained) that matters associated with the pedestrian link were subject to detailed design, more appropriately considered at time of subdivision. Ms Lewis stated that issues regarding linkage design (such as width, purpose and CPTED) would be appropriately addressed in Appendix 8 through the Proponent's rebuttal evidence.

Ms Monzingo and Ms Campion excused themselves at 10:00am.

Part B – Statutory Tests

1. *Is there agreement as to the **statutory tests** (Bonis rebuttal 6, Lewis 7.1)*
Yes.
2. *Is there agreement as to the **applicable** Regional Policy Statement provisions and Taupo District Plan **provisions** in evidence?*

Yes. Ms Lewis and Ms Bonis also agreed with Ms Foley who also considered Waikato Regional Policy Statement (WRPS) Method 6.1.8 'Information to support new urban development and subdivision' as relevant.

3. *Is there agreement as to the identification of Whareroa North as an **identified Urban Growth Area** (WRPS Policy 6.11(i)) TDP Policy 3e.2.1(i)).*
Yes

Part C – Scope of the Plan Change

Does the **Plan Change** extend to:

1. **The Bridge, Road and pedestrian link.**

Ms Lewis considered that these elements were not part of the land proposed to be rezoned but were part of the proposal which the plan change sought to enable. Ms Lewis was of the view that the existing Plan framework managed the bridge / road access by way of consent application (and those existing Plan provisions remained unchanged), and that the provisions of Appendix 8 would add to the management framework in the specific case of Whareroa North.

Ms Foley considered that these elements were not part of the Plan Change, but that the zoning in advance of these elements created an expectation that consent was a given.

Mr Bonis reiterated his view from his rebuttal evidence. There are no amendments to the *status quo* of provisions in the plan as these relate to the Bridge and Road access. The ability to amend explicit provisions as to subdivision, excavation and fill within the SNA, or notate additional SNA as offsets are outside the scope of the Plan Change. The viability of the Plan Change however is dependent on bridge and road access, and these matters have been left to future chance based on a consenting regime although with increased requirements sought to be imposed by Appendix 8.

Ms Lewis and Mr Bonis **agreed** that there is an existing operative framework in the Plan to consider subdivision, indigenous vegetation removal, excavation and fill within the SNA and OLA.

2. *The ability to introduce amendment to **Appendix 8***

Ms Foley abstained.

Ms Lewis and Mr Bonis **agreed** that additional matters to manage / mitigate effects are able to be included in Appendix 8. Mr Bonis reiterates his rebuttal evidence statement [87] that this is subject to those matters being contained within the confines of the notified framework for a relief package as to constraints and staging to be achieved.

3. *Change in status from **vested reserve** to proposed Maori Land Reservation*

Ms Foley abstained.

Ms Lewis – Yes, as the land is no longer required for the notified purpose (ie as local purpose reserve for stormwater infrastructure), and the landowners' preference is to retain the land as Maori Reservation (Conservation), ie a reserve purpose with indigenous vegetation protected.

Mr Bonis – No as this area was notified as vested reserve and considered in the Council's evidence (Mr Mourie) as such.

Part D – Strategic Urban Growth Management

1. *Is the Plan Change to be considered under the framework of the **NPS-UDC**?*

Ms Lewis considered that the NPS-UDC did not apply as Whareroa North is not an 'urban environment'. She referred to the definition of "urban environment" in the NPS, the wording beneath the "Objectives" and "Policy PA1 – PA4" headings, all of which support that view.

Mr Bonis and Ms Foley considered that the NPS was a relevant matter, as the zoned requested is urban in nature, and represents 'development capacity'. Accordingly, the Objectives and Policies PA1 – PA4 from the NPS are applicable.

2. *What **weighting** should be applied to the Plan Change in terms of the **SSSP** and **TD2050**?*

It was **agreed** that in the statutory hierarchy of considerations 'regard is to be had' to these documents pursuant to (74(2)(b)(i)), which means that they are to be given genuine attention.

Ms Lewis further considered that the weighting to be given to the SSSP should reflect it being an integral part of the TDP Section 3e process for urban growth areas.

3. *What are the implications for the application of **WRPS Policy 6.1**, and in particular clause (a) and the **development principles in Section 6A**, in particular principles (a) and (c).*

The relevant sections are:

Policy 6.1 Planned and co-ordinated subdivision, use and development

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

- a. has regard to the principles in section 6A;*
- b. recognises and addresses potential cumulative effects of subdivision, use and development;*
- c. is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and*
- d. has regard to the existing built environment.*

(emphasis added)

Method 6.1.1 Regional plans, district plans and development planning mechanisms

Local authorities shall have regard to the principles in section 6A when preparing, reviewing or changing regional plans, district plans and development planning mechanisms such as structure plans, town plans and growth strategies.

6A Development Principles

New development should:

- a. support existing urban areas in preference to creating new ones;*
- b. occur in a manner that provides clear delineation between urban areas and rural areas;*
- c. make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;*
- d. ...*

Explanation

Section 6A includes a set of principles to guide future development of the built environment within the Waikato region. These principles are not absolutes and it is recognised that some developments will be able to support certain principles more than others. In some cases, certain principles may need to be traded off against others. It is important, however, that all principles are appropriately considered when councils are managing the built environment. The principles are supported by Methods 6.1.1, 6.1.2, 6.1.3 and 6.1.4.

Mr Bonis and Ms Foley considered that these matters (Policy 6.1 and Development Principles clause (a) and (b)) promote a consolidation approach to urban development, in preference to sprawl or greenfield development. Paying 'genuine attention' therefore must mean consideration of both opportunities for infill in conjunction with existing zoned opportunities to accommodate housing growth minimising greenfield development.

Ms Lewis considered that General Development Principle e) was also relevant "e) *connect well with existing and planned development and infrastructure*,". In her view WRPS Policy 6.11 (concerned with implementing TD2050) should be given greater weight than these general principles which applied to the whole of the Region.

It was **agreed** that Policy 6.1 was to be 'given effect to' in terms of the statutory hierarchy of considerations, with the Development Principles in Section 6A needing to all be appropriately considered in terms of their achievement of Policy 6.1. It was **agreed** that 'regard' in both Policy 6.1(a) and Method 6.1.1 also required these matters be given 'genuine attention' within the statutory hierarchy of considerations.

4. For the application of WRPS Policy 6.3:

Is the provision and co-ordination of infrastructure effective and efficient in terms of:

- *Roading (bridge) and access.*
- *3 Waters*
- *Telecommunications and electricity.*

Ms Lewis considered that the TD2050 and subsequent DP provisions (Section 3e) along with the Southern Settlement Structure Plan (**SSSP**) provided the framework by which the TDC gives effect to WRPS Policy 6.3 by co-ordinating growth and infrastructure. She considered that in the case of access (including bridge), the three waters etc, there was efficient and effective provision of supporting infrastructure for the proposed Whareroa North residential development.

Ms Foley considered that the proposal did not give effect to WRPS Policy 6.3, as it was critical to consider the proposed Plan Change within the context of co-ordinating growth and infrastructure across the district. In her view, an absence of housing demand results in the proposal compromising co-ordinated and integrated infrastructure and land use at that district wide scale.

Mr Bonis noted that Policy 6.3 (clause (a)(i) and (ii), and (c) references both the *effective* (how successful infrastructure is in terms of achieving its purpose) and *efficient* (whether the benefits or the provision of that infrastructure outweighed the costs, either immediately or other time) functioning and provision of infrastructure and co-ordination with land use.

Mr Bonis is of the view that servicing infrastructure (3 Waters, transport and telecommunications and electricity) based on the evidence of the Infrastructure witnesses can be *effectively* provided, excepting remaining concerns with the bridge / future roading connection. He considers that the proposal will not give effect to Policy 6.3(a)(iv) which seeks to ensure new development does not occur until infrastructure is in place, as both the bridge and future road connection remain uncertain and are left to future chance. Mr Bonis does not consider that plan change would result in the *efficient* provision of infrastructure when considering the wider district urban growth context.

5. *What **weight** should be ascribed to **Policy 6.3(a)(iv)** which seeks to ensure new development does not occur until provision for appropriate infrastructure necessary to service the development is in place?*

In relation to road access (including bridging the Whareroa Stream), Ms Lewis considers that the policy seeks to ensure that “new development” does not occur until such infrastructure is in place. In her view, therefore, it is not necessary that such infrastructure should be in place, or be capable of being put in place, at the time of Plan Change, as the development will not occur until the subdivision process is undertaken.

Mr Bonis and Ms Foley considered that given the uncertainty as to the bridge and future road connection, on which the Plan Change is dependent, substantial weighting should be applied to the Policy. Ms Foley identified that supporting Method 6.1.8 is prescriptive, seeking that district plan zoning ‘*shall be supported by information which identifies, as appropriate the scale and potential effects of the development... (b) the location, type, scale, funding and staging of infrastructure to service the area*’.

6. *For the application of **WRPS Policy 6.11**;*
 - i. Is there an inherent hierarchy in matters (a), (b) and (c);*
It was **agreed** there is no hierarchy in the provisions.

ii. *What is the importance of being recognised an Urban Growth Area for the purpose of clause (a)?*

Ms Lewis and Ms Foley considered that Whareroa North as an Urban Growth Area is an important resource under clause (a)(i) and included in the SSSP (clause (a)(ii)). Ms Lewis further considered that recognition as a growth area in the SSSP was important in terms of clause (a)(ii) as the SSSP was an example of “adopted structure plans” that the clause seeks to ensure urban development is consistent with.

Mr Bonis agreed that Whareroa North as an Urban Growth Area is an important resource under clause (a)(i) and included in the SSSP (clause (a)(ii)), but also considered that clause (a) in its entirety identifies Urban Growth Areas as a resource able to be developed, in a way and at a rate that accords with their wider statutory merits including that the staging, (or development) of growth areas (plural) is to be efficient and supported by adequate infrastructure (clause (a)(v)). Urban development in other areas is precluded by clause (a)(iii).

Ms Lewis disagreed with Mr Bonis about the latter point - clause (a)(v) of WRPS Policy 6.11 (“*ensuring that staging of development in the urban growth areas is efficient, consistent with and supported by adequate infrastructure;*” – underlining added). In her view the word “in” means “within” or “inside”, rather than “among” or “between”. She gave the example of the Omori Growth Area which has several stages areas in it – the policy is seeking efficiency of infrastructure provision within the growth area, rather than between or among the growth areas of (in the case of the SSSP) the Omori, Kuratau, and Whareroa North growth areas.

iii. *What is the significance of clause (b)?*

The planners **agreed** that clause (b) does not have the statutory effect of automatic (or similar) approval of any subsequent rezoning Plan Change request. Further the planners **agreed** that clause (b) sets out the sequence by which Urban Growth Areas are to occur by way of inclusion in a structure plan process, and subsequent associated Plan Change. This mirrors the process as set out in Figure 1 and Section 3e.7 of the Taupo District Plan.

iv. *Does ‘merits’ for the purpose of clause (c) require consideration of likely demand and supply, and consequential efficient provision and use of infrastructure?*

Ms Foley and Mr Bonis considered that it does.

Ms Lewis considered that clause (c) of WRPS 6.11 (concerned with implementing TD2050) did not require the Proponents in this case to undertake a district wide growth and infrastructure analysis (or at a sub-district level such as in the southern settlements area) as that work is already done as reflected in the SSSP which the TDP says the Plan Change should be based on (and that landowners rather than Council are to decide when the market is right) and which WRPS Policy 6.11(a)(ii) says future urban development should be consistent with. Further, Ms Lewis noted that the evidence of economist Mr Counsell was that positive economic benefits would likely result from the plan change proposal.

7. For the application of **TDP Objective 3e.2.1**:

- i. Is there agreement that the Plan Change is to achieve / implement Objective 3e.2.1?

Ms Lewis and Mr Bonis **agreed**.

- ii. What does 'recognition of the appropriateness of Urban Growth Areas as an important resource' mean in terms of Policy 3e.2.1(i).

Mr Bonis and Ms Lewis **agreed** that the Policy identifies the appropriateness of Urban Growth Areas as an important resource for implementing Objective 3e.2.1.

- iii. What is the purpose / application of Policy 3e.2.1(ii), (iii) and (iv)?

Mr Bonis and Ms Lewis **agreed** that the clauses are interpreted as:

- (ii) Coarse identification of Urban Growth Areas as indicative 'red blobs' as identified in Section 3e.6 of the District Plan.

- (iii) Precluding urban development in rural areas external to the indicative 'red blobs' as identified in Section 3e.6 of the District Plan.

- (iv) Avoiding the fragmentation of land resource within Urban Growth Areas that may preclude or frustrate more co-ordinated development patterns

Note: Ms Foley abstained from discussion on this matter and the remaining topics in this section (as they are all TDP policy matters).

8. For the application of **Policy 3e.2.1(v)** and **Objective 3e.2.2** what are the implications for the Plan Change? What are the implications of Policy 3.2.2(iv) and (v) in terms of the provision, and efficient and effective functioning of supporting infrastructure?

Mr Bonis and Ms Lewis **agreed** that Policy 3e.2.1(v) and Objective 3e.2.2 sets out the process steps in terms of an urban growth area being incorporated in a Structure Plan and then subsequently considered by way of Plan Change.

In terms of Policy 3.2.2(iv) and (v) Mr Bonis considered that the focus in these provisions is ensuring that supporting infrastructure is provided in an efficient and effective manner. As recorded above, there is agreement that infrastructure can be provided effectively (excluding uncertainty as to the supporting road connection and bridge); but based on an excess supply of housing in the district and southern bays, in conjunction with implications (and costs) associated with landscape and indigenous biodiversity, it is not considered that infrastructure can be provided efficiently.

Ms Lewis disagrees. She considers that the infrastructure required to support the Whareroa North development is able to be provided both effectively and efficiently as required by Policy 3e.2.2(v). In relation to Policy 3e.2.1v (and as discussed above, where almost the same wording appears in WRPS Policy 6.11(a)(v)), Ms Lewis considers that the word "in" means "within" or "inside", rather than among or between and that the policy is seeking efficiency of infrastructure provision within each of the growth areas, rather than between or among them.

Mr Bonis disagrees, noting that the reference in the policy is to Urban Growth Areas (plural).

9. What are the implications for appropriate and sufficient levels of community infrastructure for the Plan Change area (**Objective 3e.2.3**) in terms of the matters specified in Policies 3e.2.3(i) to (iv).

Ms Lewis and Mr Bonis **agreed** that clauses (i) to (iii) can be achieved subject to connection across Whareroa Stream. Ms Lewis also considered clause (iv (“Avoid, remedy or mitigate the adverse effects of new development and activities on the safe and efficient functioning of the existing and future roading networks including those identified through the Taupō District Structure Plan Process”) to be achieved through provision of access (including bridge) to the Whareroa North residential development.

Mr Bonis considered that the absence of certainty as to the installation and operation of the roading connection and bridge meant that the Plan Change did not achieve clause (iv), as safe and efficient transport networks were left to future chance.

10. *What are the **implications for community investment in infrastructure**, and associated provisions seeking the efficient and co-ordinated provision of infrastructure where over the next 20 years, supply exceeds demand (at both the district and local level). Does any weight need to be given to community infrastructure costs, if the available supply of lots does not satisfy demand?*

Ms Lewis reiterated her view that the Proponents should not be required in this case to undertake a district wide growth and infrastructure analysis (or at a sub-district level such as in the southern settlements area). That work is already done as reflected in the SSSP which the TDP says the Plan Change should be based on (and that landowners rather than Council are to decide when the market is right) and which WRPS Policy 6.11(a)(ii) says future urban development should be consistent with. Further, Ms Lewis noted that the evidence of economist Mr Counsell was that positive economic benefits would likely result from the plan change proposal.

Mr Bonis retains his view as expressed in rebuttal - A supply demand imbalance will result in the inefficient provision and utilisation of infrastructure and result in the transfer of demand within existing zoned areas of the district, resulting in a more dispersed and inefficient land settlement pattern as these matters are given a statutory context in terms of WRPS Policy 6.1 and associated Development Principles 6A, Policy 6.3 and Policy 6.11(a)(v) and (c); as well as TDP Objective 3e.2.1, Policies 3e.2.2(iv) and (v). Conversely if the Panel, after hearing all the evidence conclude that demand exceeds supply, the provision of efficient community infrastructure is an accepted community cost of growing any district as there is a reciprocal community benefit in accommodating growth

Part E – Indigenous Biodiversity

1. **Appendix 8** which seeks to insert the Outline Development Plan into the District Plan introduces a number of elements associated with biodiversity mitigation and offsets.
- i. *Are these matters within scope, particularly in terms of the bridge, road access and pedestrian link?*

The Planners **agreed** that scope was restricted to the matters expressed in Appendix 8, as the Plan Change did not alter the status quo of the zoning, overlays (SNA, OLA) or respective standards (subdivision, vegetation clearance, excavation) applicable to the bridge, road access or pedestrian link.

- ii. *Are these matters expressed with sufficient certainty?*

Mr Bonis and Ms Foley considered that the provisions in Appendix 8 were not expressed clearly or concisely, and did not provide certainty as to the management / mitigation of matters.

Ms Lewis considered that the Appendix 8 matters (in EiC dated 29 April, 2020) were sufficiently certain to ensure that the outcomes relied on in terms of indigenous biodiversity would be achieved. Ms Lewis agreed that further modifications would be proposed through rebuttal evidence to provide greater certainty.

iii. Is there confidence that the mitigation / offset would be achieved to an extent that accords with the relevant statutory provisions, including:

- (a) WRPS Policy 11.1, including methods at 11.1.1;*
- (b) WRPS Policy 11.2, including Method 11.2.3 and the identification of Zone 2 as warranting significance under the criteria in Section 11A and acknowledgement in terms of TDP Objective 3i.2.2 and 3i.2.3.*
- (c) Does not result in more than minor effects for the purpose of Objective TDP 3i.2.1.*

Based on the material provided to date, Mr Bonis and Ms Foley considered that the Plan Change would not give effect to, or implement, the respective statutory provisions. These provisions collectively seek to maintain and enhance indigenous biodiversity.

Ms Lewis considered that the management response was appropriate to align with these statutory requirements, but that greater precision would be provided in the amended Appendix 8 to be affixed to her rebuttal evidence.

2. *Is WRPS Method 11.2.2(g) 'regard to the **functional necessity**' applicable to access and/or the residential development?*

(g) have regard to the functional necessity of activities being located in or near areas of significant indigenous vegetation and significant habitats of indigenous fauna where no reasonably practicable alternative location exists.

Ms Lewis considered that it was a relevant matter in terms of providing for the bridge and indicative roading connection as there was a functional requirement for those activities to traverse the SNA overlays. She agreed that this did not extend to the residential component of the Plan Change.

Ms Foley is of the view that this clause should be considered in the same way that the NZ Coastal Policy Statement 'activities that have a functional need to be located in the coastal marine area' should be considered i.e. activities with a functional need to be in the CMA are those that can only occur in the marine environment. This context, it would be activities that can only occur in the SNA.

Mr Bonis did not agree that the method was relevant. He considered:

- Functional necessity, in this context relates to the extent to which an activity is dependent, in terms of its function on a resource that is located in or near areas of significant indigenous vegetation or fauna. In this context the Plan Change in seeking to enable residential development does not have a functional necessity to traverse the SNA overlays.
- The method likely stems from requirements in the NPS Renewable Energy Generation (Part C).
- The above consideration is aligned with the explanation for Policy 11.2 which states:

“Method 11.2.2(g) requires that plans shall have regard to the necessity for certain activities to locate in areas of significant indigenous biodiversity where the presence of another resource leads to a functional need for the activity to locate there. Clause (g) does not provide activities with an exemption from the other clauses within Method 11.2.2, it is another matter to be considered through the decision-making process as appropriate”.

Ms Lewis disagreed. She considered that the wording of the policy was clear and did not support the interpretation expressed by Mr Bonis and Ms Foley.

3. **What is the *trigger to further provide for these matters* in terms of any subsequent subdivision consent?**

Ms Lewis and Mr Bonis **agreed** that these were limited to the provisions contained in Appendix 8 in conjunction with other TDP provisions operative at the time.

Ms Foley abstained.

Part F – Landscapes

1. **Appendix 8 which seeks to insert the Outline Development Plan into the District Plan introduces a number of elements associated with landscape mitigation and offsets.**

i. Are these matters within scope, particularly in terms of the bridge, road access and pedestrian link?

The Planners **agreed** that scope was restricted to the matters expressed in Appendix 8, as the Plan Change did not alter the status quo of the zoning, overlays (SNA, OLA) or respective standards (subdivision, vegetation clearance, excavation) applicable to the bridge, road access or pedestrian link.

ii. Are these matters expressed with sufficient certainty?

Mr Bonis and Ms Foley considered that the provisions in Appendix 8 were not expressed clearly or concisely, and did not provide certainty as to the management / mitigation of matters.

Ms Lewis considered that the Appendix 8 matters (in EiC dated 29 April, 2020) were sufficiently certain to ensure that the outcomes relied on in terms of landscape maintenance and protection would be achieved. Ms Lewis agreed that further modifications would be proposed through rebuttal evidence to provide greater certainty.

iii. Is there confidence that the mitigation / offset would be achieved to an extent that accords with the relevant statutory provisions, including:

(a) WRPS Policy 12.1, including methods at 12.1.1(a)(ii);

(b) WRPS Policy 12.2, including the hierarchy of responses in clauses (a) to (e);

(c) Objective TDP 3h.2.1 and Objective 3h.2.2.

Based on the material provided to date, Mr Bonis and Ms Foley considered that the Plan Change would not give effect to, or implement, the respective statutory provisions. These provisions collectively seek to protect natural character and outstanding natural features and landscapes from inappropriate subdivision, use and development.

Ms Lewis considered that the management response was appropriate to align with these statutory requirements, but that greater precision would be provided in the amended Appendix 8 to be affixed to her rebuttal evidence.

2. *Is WRPS Policy 12.2(e) 'regard to the **functional necessity**' applicable to access and/or residential development?*

(e) *regard is given to the functional necessity of activities being located in or near the coastal environment, wetlands, lakes, or rivers and their margins where no reasonably practicable alternative locations exist.*

Ms Lewis considered that it was a relevant matter in terms of providing for the bridge and indicative roading connection as there was a functional requirement for those activities to traverse the OLA overlays. She agreed that this did not extend to the residential component of the Plan Change.

Ms Foley is of the view that this clause should be considered in the same way that the NZ Coastal Policy Statement 'activities that have a functional need to be located in the coastal marine area' should be considered i.e. activities with a functional need to be in the CMA are those that can only occur in the marine environment. This context, it would be activities that can only occur in the OLA.

Mr Bonis did not agree that the clause was relevant, for the same reasons as expressed above in terms of indigenous biodiversity. In addition, he noted that implementation method 12.2.1 requires that district plans shall have particular regard to: Clause (d)(viii) '*the need to locate renewable electricity generation activities where the renewable energy resource is available*'.

Ms Lewis disagreed. She considered that the wording of the policy was clear and did not support the interpretation expressed by Mr Bonis and Ms Foley.

3. *What is the **trigger** to further provide for these matters in terms of any subsequent subdivision consent?*

Ms Lewis and Mr Bonis **agreed** that these were limited to the provisions contained in Appendix 8 in conjunction with other TDP provisions operative at the time.

Ms Foley abstained.

Part G - Geotechnical

1. *Is the proposal consistent with WRPS Development principle 6A(h) in terms of directing new development away from **natural hazard** areas.*
2. *Does the proposal give effect to WRPS Policy 13.1, specifically clause (c) as this relates to '**intolerable risk**'.*
3. *Does the proposal give effect to WRPS Policy 13.2, specifically clause (a) as this relates to **assessing risk**.*

In responding to all of the above, Ms Foley and Mr Bonis considered that there was not sufficient information provided by the Proponent to make a determination.

Ms Lewis considered, based on the evidence of Mr Phadnis, that the above three matters are positively addressed.

Dated 8th June, 2020

Experts:



Annette Campion



Mary Monzingo



Miffy Foley



Joanne Lewis



Matthew Bonis