

# 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

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## REBUTTAL EVIDENCE (PLANNING)

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1. My full name is Matthew Bonis. My qualifications and experience are set out in the s42A Report dated 22 April 2020 (**EiC**).
2. I have read the Statement of Evidence produced by all the experts on behalf of the Proponent of the Plan Change. I have also read the submitter evidence of:
  - a. Submitter 4 – Stephen Sanderson
  - b. Submitter 16 – Heritage New Zealand, Carolyn McAlley
  - c. Submitter 17 – Waikato Regional Council, Ms Marie-Louise Foley
3. On 1 May 2020 the Hearings Panel requested that Council Officers provide answers to a series of questions. These are provided in **Attachment B**.
4. The purpose of this Rebuttal Evidence is to respond to matters contained largely within the Evidence in Chief (**EiC**) from Ms Joanne Lewis. I have grouped these matters into the following:
  - a. The regulatory context
    - i. Application of the NPS-UDC
    - ii. Weighting to be applied to management plans
  - b. Merit associated with specific provisions in the TDP and WRPS
    - i. Does the planning framework direct the rezoning of Whareroa North?
    - ii. Is the development co-ordinated with, and supported by infrastructure provision and integration?
    - iii. Are the effects of the rezoning accounted for, and is there confidence in mitigation and management?
    - iv. Are the benefits (or costs) of urban growth a relevant consideration?
  - c. Scope.
  - d. Residual questions for the Proponent.
5. As stated in my EiC I have read and I am familiar with the Environment Court's Code of Conduct 2014 for Expert Witnesses. For the purpose of this evidence, I remain bound by that Code of Conduct and have familiarised myself with the requirements as set out in the Code.

## The regulatory context

6. There is no disagreement as to the statutory framework to be applied<sup>1</sup>. 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)).
    - iii. *Regard* is to be had to management plans prepared under other Acts ((s74(2)(b)(i)).
7. 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.
8. There remain disputes over the application of the NPS-UDC<sup>2</sup>, weighting to be applied to management plans prepared under other Acts (s74(2)(b)(i)) of the Act<sup>3</sup>, and merit associated with specific provisions in the TDP and WRPS.

### Application of the NPS-UDS

9. Ms Lewis states "*in my view it (the NPS-UDC) is not relevant, therefore, to the plan change, and the plan change is required to neither be in accord with it nor give effect to it.*"<sup>4</sup>
10. Ms Lewis bases that contention on the fact that Whareroa North would not constitute an '*urban environment*' as defined by the NPS given resident population would not exceed 10,000.
11. I address this matter at Section 7.2.1 of my EiC. I acknowledge that the drafting of the NPS is imprecise.
12. The plan change seeks an urban zone. Whilst '*urban development*' is not defined in the NPS – UDC the character, purpose, zoning and intensity of the development enabled by the zoning sought is urban development. Regardless, there can be no dispute that the plan change seeks to provide '*development capacity*' as defined in the NPS-UDC.
13. The statement of National Significance states:

*"This national policy statement is about recognising the national significance of:*

  - a. *Urban environments* and the need to enable such environments to develop and change;  
and

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<sup>1</sup> Section 4 and 7 s42A Bonis. EiC Lewis [7.1]

<sup>2</sup> EiC Lewis [9.20 – 9.21]

<sup>3</sup> EiC Lewis [9.25 – 9.32]

<sup>4</sup> EiC Lewis [9.21]

- b. *Providing sufficient development capacity to meet the needs of people and communities and further generations in urban environments.*

Accordingly, if the plan change does not come under the ambit of clause (a), it clearly comes under that of clause (b).

14. I consider that the Plan Change cannot be artificially separated from Taupō District Council's overall statutory mandate as a low-growth Local Authority to apply all of the Objectives in the NPS-UDC as well as Policies PA1 – PA4<sup>5</sup>. The relevant NPS-UDC provisions require:
- a. Co-ordinated and aligned planning decisions within local authority boundaries (OD2); and
  - b. That the effects of urban development are taken into account (PA4);
  - c. When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, including: choice, the efficient use of urban land and development infrastructure; and limiting impacts on the competitive operation of land and development markets (PA3).
15. Were the Panel to form a different view, as noted in my evidence<sup>6</sup> the same principles are found in the urban growth management provisions of the WRPS<sup>7</sup> and District Plan<sup>8</sup>; in my view these are more prescriptive and directive than the considerations contained in the NPS-UDC.

#### *Weighting to be applied to management plans*

16. Ms Lewis provides considerable importance that Whareroa North has been identified in TD2050 (2006), the TD2050 (2018), and the Southern Settlements Structure Plan (2013) as a 'new growth area'.
- a. *SSSP ... remains an operative TDC policy document and therefore in my view the owners can rely upon it<sup>9</sup>.*
  - b. *The excerpt referred to in the s42A report and included in the Background" section of the SSSP document was describing an aspect of the SSSP development process which resulted in the structure plan outcomes in Part Three of the document. It is not correct in my view to suggest that the structure plan then required those same matters (ie integrating growth management and infrastructure efficiency) to be readdressed. The SSSP at page 49 does contain a list of matters expected to be considered in a subsequent plan change (such as landscape, ecological, policies and plans, vegetation, land stability, visual effects etc). It is made clear that the list is not exhaustive, but in my opinion if the expectation was that a plan change reliant on the structure plan (as the TDP prescribes) was to revisit whether or not, from a growth and infrastructure planning perspective, growth at Whareroa is appropriate then I would have expected that to be included on the list and it is not<sup>10</sup>.*
  - c. *In my view landowners and the community should be able to rely on the SSSP which is a public policy document, remains operative, and is referenced in Section 3e of the TDP as the preferred basis on which landowners (and not council) are to seek rezoning of urban growth areas (such as Whareroa North)<sup>11</sup>.*

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<sup>5</sup> Preamble. NPS-UDC

<sup>6</sup> EiC Bonis [168]

<sup>7</sup> Objective 3.12, Policies 6.1, 6.3 and 6.11

<sup>8</sup> Section 3e

<sup>9</sup> EiC Lewis [9.28]

<sup>10</sup> EiC Lewis [7.12]

<sup>11</sup> EiC Lewis [7.13]

17. I understand that in *Mapara Valley Preservation Society Inc v Taupō District Council* (A083/07), the Environment Court noted in relation to application of the Taupō District Council Growth Strategy (TD2050) to an urban growth matter that, while the urban growth strategy was not a statutory document, it:

*"was publicly notified for consultation with the 2006 – 2016 Long Term Council Community Plan using the special consultative procedures under the Local Government Act 2002. We thus find that the Variations should be given **substantial respect and weight** [when making decisions on a resource consent]".*[49]

and

*"Plan Changes 19, 21, 23, 24 and Variation 25 are based on and informed by a comprehensive Growth Management Strategy, the Taupō District 2050 District Growth Management Strategy, a document which has been the result of an extensive period of research, consultation and a participatory process under the Local Government Act".* [58]

18. Ms Lewis implies that these documents provide for a determination that the land should be zoned residential. She also implies that considerations of slower growth or oversupply, and efficient infrastructure integration should not need to be reconsidered.

19. As outlined in my EIC I disagree on the following grounds:

- a. Both the SSSP and TD2050 are subordinate to the WRPS and TDP statutory instruments which are to achieve the purpose of the Act;
- b. The TD2050 and SSSP identify that a subsequent rezoning request would require the Proponent to demonstrate that effects can be managed<sup>12</sup> and that the costs to the community associated with reconciling growth demands remain relevant considerations<sup>13</sup>.

20. I reject Ms Lewis's assertions in her [7.12] that the SSSP absolves the Proponents from needing to "*revisit whether or not, from a growth and infrastructure planning perspective, growth at Whareroa is appropriate*". As stated in the SSSP under the heading New Growth Areas:

*"Furthermore, Council needs to be very cautious about the level of expenditure it undertakes with any new development. There are significant financial risks associated with rezoning too much land ahead of reasonable demand, particularly if that land is not currently serviced. If Council invests in main infrastructure services the costs can be considerable (particularly interest costs on borrowings) and the return period on investment long".*

21. There is no dispute between me and Ms Lewis that regard is to be had to TD2050 and the SSSP, nor that these documents identify Whareroa North as a 'new growth area'.

22. These documents in my view identify 'growth areas' as a resource to be developed, in a way and at a rate so as to meet household demand, and where effects can be appropriately managed. Effectively the TD2050 and SSSP as management plans establish a framework that largely excludes development outside of 'growth areas' and provides information guidance on prospective plan changes for identified growth areas.

23. Both the SSSP and the TD2050 2018 explicitly identify a slowdown in demand<sup>14</sup>, text in these documents consistently reinforces the need for the integration of land use development with infrastructure, and to manage the effects of development on: the SNA; OLA; and as associated with access<sup>15</sup>.

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<sup>12</sup> EIC Bonis [49]

<sup>13</sup> EIC Bonis [43]

<sup>14</sup> TD2050 (2018) Section 4.7. SSSP Executive Summary [page 5].

<sup>15</sup> SSSP Whareroa North [page 49]

24. In my view these management plans do not absolve the Proponents from undertaking any element of a thorough and robust assessment of relevant matters through a plan change process.

### **Merit associated with specific provisions in the TDP and WRPS**

25. The wording of the relevant objectives and *policies* of the TDP and Regional Policy Statement identifies that land notated as 'urban growth areas'<sup>16</sup> is a resource for providing for new urban land development, but conjunctively manages the way and rate in which such land is rezoned. The way and rate in which such areas could be urbanised requires consideration of:
- a. integration of land use development with infrastructure, that new development should not occur until appropriate infrastructure is in place<sup>17</sup>;
  - b. the enhancement of indigenous biodiversity, and protection of significant indigenous vegetation<sup>18</sup>.
  - c. that outstanding natural features and landscapes are protected from inappropriate subdivision, use and development<sup>19</sup>; and
  - d. the risk from natural hazards is managed to avoid the creation of new intolerable risk, and residual risk does not exceed an acceptable level<sup>20</sup>.
26. The Plan Change does not seek to alter any of the District Plan objectives. Therefore, the consideration is whether the Plan Change is the more appropriate zoning than the incumbent to achieve those objectives, and gives effect to the relevant provisions of the WRPS.
27. Ms Lewis considers that the proposed Plan Change will accord with the first limb, that is as an identified Urban Growth Area the rezoning would provide for housing choice and growth and 'give effect' to **WRPS Policy 6.11**<sup>21</sup>. In terms of the second limb, Ms Lewis considers that the package of mitigation to be included in the Outline Development Plan (Appendix 8 to be inserted into the Plan) and in particular the Preliminary Stage and Stage 1 will appropriately manage effects<sup>22</sup>; the provision of Maori Roadway and Deed<sup>23</sup> will resolve issues of efficient and effective integration of access infrastructure to the rezoned area; and lastly that positive benefits in terms of urban growth and associated economic effects will eventuate<sup>24</sup>.
28. I consider the following, and associated policy context is pertinent to the Panel's determination:
- a. *There is nothing directive in the language of the WRPS or District Plan provisions that provide an obligation on, or requires Whareroa North to be rezoned as residential, either now or in the future.*
  - b. *There remain concerns the supporting infrastructure is not in place, nor sufficient certainty that it would be efficiently and effectively integrated with the rezoning, as specifically related to the Bridge and Road access;*

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<sup>16</sup> WRPS Policy 6.11(ii), DP Policy 3e.2.1(i)

<sup>17</sup> EiC Bonis [Section 7.3.5, Section 7.4.1]

<sup>18</sup> EiC Bonis [Section 7.3.1, Section 7.4.4]

<sup>19</sup> EiC Bonis [Section 7.3.2, Section 7.4.3]

<sup>20</sup> EiC Bonis [Section 7.3.3, Section 7.4.5]

<sup>21</sup> Lewis [9.44, 9.49]

<sup>22</sup> Lewis [9.61, Section 8, 9.71]

<sup>23</sup> Lewis [7.23-7.24]

<sup>24</sup> Lewis [9.53]

- c. *The effects of the rezoning remain partially unaccounted for and there is limited certainty as to management; and*
- d. *What would be the benefits (or costs) associated with urban growth.*

*Does the planning framework direct rezoning of Whareroa North?*

- 25 As outlined in my EiC<sup>25</sup> **WRPS Policy 6.11(a)(i)** cannot be read in isolation from the remainder of that provision. The clauses are without hierarchy and are conjunctive.
- 26 Whareroa North is identified as an important *resource* for providing for new urban land development, however the staging of any development is to be efficient and supported by adequate infrastructure<sup>26</sup>, and must be considered on its merits under the RMA<sup>27</sup>.
- 27 Similarly, whilst TDP **Policy 3e.2.1** seeks to recognise the appropriateness of Urban Growth Areas as an important *resource* for providing for new urban land development, the matter to be considered by the Panel is whether rezoning Whareroa North, as a 'resource' would be the most appropriate in terms of achieving unamended **Objective 3e.2.1** which seeks to:
- 'provide for and manage urban growth so as to achieve the sustainable management of the District's natural and physical resources'.*
- 28 WRPS **Policy 6.11** cannot also be considered in isolation from the remainder of the RPS. WRPS **Policy 6.1** requires regard be had to the principles in Section 6A and be based on sufficient information to allow an assessment. **Policy 6.3** seeks that the nature, timing and sequencing of new development is co-ordinated with transport and other infrastructure so as to optimise the efficient and affordable provision of infrastructure, and to ensure that new development 'does not occur' until appropriate infrastructure is in place.
- 29 I agree with Ms Lewis the Development Principles (**WRPS Section 6A**) referred to in **WRPS Policy 6.1** and Method 6.1.1 are to be had *regard to*<sup>28</sup>. I also consider that in the hierarchy of considerations, *having regard to* both the Development Principles in Section 6A, and the SSSP as a management plan for the purposes of s74(2)(b)(i)), does not require the SSSP to prevail in terms of weighting as outlined by Ms Lewis.
- 30 As outlined above the meaning of 'have regard to' confers a responsibility to consider matters with genuine attention. I also do not consider that there is a tension between the Development Principles of Section 6A and the SSSP that needs to be reconciled. Many of the provisions outlined in Section 6A largely replicate those matters identified in the SSSP to be considered for any subsequent plan change for Whareroa North<sup>29</sup>. It is noted that the list of matters identified in the SSSP is stated as not being exhaustive.

*Is the development co-ordinated with, and supported by infrastructure provision and integration?*

- 31 There are explicit provisions within the WRPS and TDP as to the need to effectively and efficiently integrate infrastructure with development. These are identified in planning evidence<sup>30</sup>. The specific relevant provisions are as follows:

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<sup>25</sup> Bonis [198]

<sup>26</sup> WRPS Policy 6.11(a)(v)

<sup>27</sup> WRPS Policy 6.11(c)

<sup>28</sup> EiC Lewis [9.44]

<sup>29</sup> SSSP [page 49]

<sup>30</sup> EiC Bonis [Section 7.3.5, Section 7.4.1, Section 7.4.2]. EiC Lewis [6.9, 9.44]

**WRPS Policy 6.3** Management of the built environment ensures:

- (a) the nature, timing and sequencing of new development is co-ordinated with the development, funding, implementation and operation of transport and other infrastructure, in order to:
- i. optimise the efficient and affordable provision of both the development and the infrastructure;  
and
  - iv. ensure new development does not occur until provision for appropriate infrastructure necessary to service the development is in place;
- (c) the efficient and effective functioning of infrastructure, including transport corridors, is maintained, and the ability to maintain and upgrade that infrastructure is retained;

**WRPS Policy 6.11** Implementation of Taupō District TD2050

Growth in the Taupō District will be managed in a way that:

- (a) recognises that Taupō District 2050 provides for the management of future growth, including by:

- (v) ensuring that staging of development in the urban growth areas is efficient, consistent with and supported by adequate infrastructure; and

**TDP Objective 3e.2.3** Ensure the maintenance of an appropriate and sufficient level of community infrastructure within existing serviced areas.

- 32 I accept based on the infrastructure evidence of Mr Keys, and the response from the Council experts that internal servicing in terms of roading, stormwater, water and waste is able to be addressed and secured in due course.
- 33 The Council's Infrastructure Experts have identified that there are unassessed costs associated with servicing (by way of example upgrades to the water supply network<sup>31</sup>). These unknowns have not been further advanced in the expert evidence received from the Proponent.
- 34 I understand from Council's experts that the necessary upgrades and the provision of infrastructure is not insurmountable.
- 35 I agree with Mr Keys that the costs for such would need to be met by the developer. However, I understand that as a Plan Change it would be reasonable for estimated costs to be advanced so that a complete picture of the Plan Change can be established. It is considered that the Council, if advancing such a Plan Change itself would provide such costings, such that the efficiency of funding such growth areas is part of the decision-making process.
- 36 I consider that *ensure* for the purpose of **WRPS Policy 6.3** and **TDP Objective 3e.2.3** means '*to make certain that (something) will occur*'.
- 37 Whether the Plan Change gives effect to **WRPS Policy 6.3(a)(iv)** requires a determination as to whether the development at Whareroa North could occur in the absence of certainty as to: the provision of legal mechanism to secure the access bridge; or the consenting and mitigation package associated with both the bridge and access road.
- 38 Ms Lewis<sup>32</sup> provides some detail as to how a legal mechanism associated with a Maori Roadway could be advanced to resolve issues raised by Council experts to establish an appropriate legal instrument to secure public access in perpetuity and service

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<sup>31</sup> EiC Swindells [17(b)]

<sup>32</sup> EiC Lewis [7.23-7.24]

connections. I have also read the letter from Harkness Henry to TMTB as dated 20 April 2020.

39 Whilst this is a belated solution, I understand that it can provide an alternative access arrangement to a vested road reserve.

40 As outlined in the rebuttal evidence of Mr D Lewis there are both process and implementation issues associated with that solution. His evidence is that the concept does not provide a satisfactory solution<sup>33</sup>, and certainly the rezoning should not proceed in advance of this matter being resolved, as to do so would bind the Council, and have implications for Council's agency under the LGA2002 as asset manager<sup>34</sup>.

41 Mr Winchester in legal submissions, is very clear about this position:

*"These decisions are not decisions made under the RMA and are beyond the scope of decision-making powers under the RMA. Put another way, the Hearings Panel acting under delegated authority from the Council has no power to bind, or make a determination or direction about, the Council's acceptance or otherwise of Maori roadway status as part of PPC36. It is not a RMA issue and would be beyond the scope of the delegated authority for the Council's statutory powers and discretions under other legislation to be fettered".*

42 I concur with both Mr Denis and Mr Winchester.

43 In the absence of:

- i. an associated arrangement with TMTB, the Incorporation, and Council;
- ii. a staged process in terms of forming a Deed; and
- iii. subsequent Joint Application to the Maori Land Court to declare the road (over the bridge) as Maori Roadway,

there is no meaningful provision for bridge access. Reliance on the access bridge (and road) remains reliant on a subsequent resource consent process (mitigation and offset), in conjunction with a tripartite Deed, approval by the Taupo District Council as asset manager under the LGA2002, and an agreed approach to the Maori Land Court.

44 In terms of **WRPS Policy 6.3** and **TDP Objective 3e.2.3** there is no meaningful provision, or even certainty of implementation in terms of bridge and road access. These matters are left to both future chance and the viability of the mitigation package. Accordingly, I consider that the Plan Change falls well short of these provisions, which are both directive and prescriptive in ensuring that supporting infrastructure is in place to support development, and in the case of **WRPS Policy 6.3** prior to new development occurring.

*Are the effects of the rezoning accounted for, and is there confidence in mitigation and management?*

45 The Section 42A evidence as a bundle identified a collective Council view as to shortcomings in the analysis of actual or potential adverse effects as a consequence of the development, and the provisions and mechanism necessary to manage those effects. These were particularly pronounced in relation to indigenous vegetation (SNA062)<sup>35</sup> and Landscape values (OLA60) and natural character<sup>36</sup>, and geotechnical risk<sup>37</sup>.

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<sup>33</sup> Rebuttal D Lewis [21]

<sup>34</sup> Rebuttal D Lewis [17]

<sup>35</sup> EiC Bonis [124-126]

<sup>36</sup> EiC Bonis [132]

<sup>37</sup> EiC Bonis [155]



46 It is acknowledged that there has been a substantial amount of additional information and analysis provided by the Proponents in evidence.

### Indigenous Biodiversity

47 The evidence of Mr Wedding identifies that cumulative effects, including those on SNA 062 associated with access will be significant if not managed or offset<sup>38</sup>.

48 Rebuttal evidence from Mr Shaw raises concerns that the full extent of effects, including edge effects and vegetation clearance have not been fully identified<sup>39</sup>.

49 More critically Mr Shaw considers that the claimed mitigation measures that would result in net environmental gain and positive biodiversity outcomes are not fully formed<sup>40</sup>, nor could be relied on<sup>41</sup>.

50 Mr Shaw also considers that the mitigation measures to address the types and scale of effects proposed are not fully and appropriately formed as set out in the evidence of Ms Lewis.

51 Accordingly, he retains his view as expressed in evidence that the Plan Change should be rejected<sup>42</sup>.

52 I consider that there is agreement between the ecologists that, if left unmanaged, the adverse effects on indigenous biodiversity are significant, these include effects on SNA 062 and Zone 2 which Mr Shaw also considers warrants recognition in terms of section 6(c) of the Act.

53 From a planning perspective, I share Mr Shaw's concerns as to the remaining unknowns as to ecological impacts associated with the bridge crossing, details as to proposed biodiversity offset, or reconciling issues associated with the disjunct between the extent of benching for road access<sup>43</sup> and the provision of future canopy trees<sup>44</sup>.

54 These matters are left to future chance as I am also not of the view that they are addressed with certainty in the amended Appendix 8 provisions provided by Ms Lewis. By way of example, with respect to Zone 2 as identified by Mr Shaw as meriting recognition as an SNA, the approach is:

*h) In the area shown as "Regenerated Scrub", provision for house sites and protected indigenous vegetation through, for example, clusters of house sites (secured by building envelopes) at the road frontage and protected indigenous vegetation behind (to minimise fragmentation and achieve a protected buffer to SNA062);*

55 I retain my view as expressed in my EiC that the proposal does not give effect to the provision in the WRPS<sup>45</sup>, or the TDP<sup>46</sup>. Whilst the evidence as now lodged is a significant improvement from that contained in the application, there remain deficiencies in terms of overall assessment and the mitigation package<sup>47</sup>.

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<sup>38</sup> EiC Wedding [8.1 – 8.3, 8.11]

<sup>39</sup> Rebuttal Shaw [19]

<sup>40</sup> Rebuttal Shaw [19]

<sup>41</sup> Rebuttal Shaw [24, 25]

<sup>42</sup> Rebuttal. Shaw [37].

<sup>43</sup> EiC Phadnis Attachment 5, EiC Monzingo Viewpoint 2, Appendix 6

<sup>44</sup> EiC Wedding [8.8, 10.2]

<sup>45</sup> EiC Bonis [182]

<sup>46</sup> EiC Bonis [231]

<sup>47</sup> EiC Bonis [126.3]

## Landscape

- 56 The evidence of Ms Monzingo I understand establishes the following<sup>48</sup>:
- (a) Landscape effects (post mitigation) on character and amenity of the surrounding landscape will be moderate. Effects from initial access will be high (localised) but due to scale of the OLA will not adversely affect overall values and character of OLA.
  - (b) Visual effects will initially be moderate, lowering to low once planting is established. Access will create a localised adverse effect, these can in part be mitigated, however the scale of OLA will absorb these effects without overall effects and character of OLA being adversely affected.
  - (c) In terms of cumulative effects – the amenity of Whareroa North will be same the as the existing village and will sit comfortably in that environment. Access will have high localised adverse effects on natural and amenity values of OLA60 but will be mitigated with no cumulative effects.
- 57 Ms Monzingo has also had input into the Appendix 8 provisions attached to the evidence of Ms Lewis. In conjunction with the scale of OLA60, Ms Monzingo concludes that the landscape effects of the proposal are able to be absorbed by this environment to an acceptable level.
- 58 There remains a dispute between Ms Ryder and Ms Monzingo as to the scale of effects, prior to mitigation. In particular Ms Ryder disagrees that the overall scale of OLA 60 is such that it absorbs the proposal with no adverse landscape effects<sup>49</sup>.
- 59 There is agreement on the following:
- (a) The identification of moderate adverse landscape effects.
  - (b) High adverse effects on OLA60, noting these are assessed at a localised scale.
  - (c) The identification of moderate adverse visual effects.
  - (d) The mitigation package in Appendix 8 contributes to the integration and absorption of the proposal into the landscape and visual catchment.
- 60 Ms Ryder also raises concerns that the mitigation relied on by Ms Monzingo will avoid or reduce landscape and visual effects to the extent necessary. These relate to<sup>50</sup>:
- (a) Quality urban design and residential amenity;
  - (b) Controls on building height, colour and lighting; and
  - (c) Minimising the clearance of existing indigenous vegetation and the proposed planting of indigenous vegetation, particularly with the access<sup>51</sup>.
- 61 Ms Ryder is also unclear as to the temporal nature associated with proposed mitigation planting, especially visual effects associated with the road access and associated benching. Nor can she agree that there is no prospect of adverse cumulative landscape or visual effects from the proposal<sup>52</sup>.
- 62 Accordingly, Ms Ryder is of the view that the landscape and visual impacts identified by Ms Monzingo, without mitigation are understated.

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<sup>48</sup> EiC Monzingo [2.5]

<sup>49</sup> EiC Ryder [19]

<sup>50</sup> EiC Ryder [14]

<sup>51</sup> EiC Ryder [22]

<sup>52</sup> EiC Ryder [35]

- 63 Regardless, Ms Ryder is of the view that there remains considerable uncertainty as to the direction and ability to implement appropriate landscape controls – in particular the relationship of the visual sensitivities of the site with managed overlay(s), including height. Whilst I do not have the qualifications or experience as to whether effects are understated, at a minimum there is agreement between the landscape witnesses that management is reliant on an appropriate mitigation package. I share Ms Ryder’s view that the current package is uncertain.
- 64 Accordingly, I retain my view in the EiC that the operative Rural Environment better achieves the relevant landscape provisions of the WRPS and TDP.

### Geotechnical Investigation

- 65 The matter of contention was well canvassed between the Council and the Proponent prior to the lodgement of the s42A Report. Essentially, there remain unresolved costs and risks associated with the rezoning without adequate understanding of the severity of geotechnical risk associated with the long-term urban development that could arise from such a rezoning<sup>53</sup>.
- 66 Without initial geotechnical investigation, neither the Council nor the Proponent can advise the Panel with certainty that the proposal does not represent an intolerable risk in terms of natural hazards (**WRPS Policy 13.1(c), Policy 13.2(c)**). It is my view that the statutory provisions require a proactive approach be undertaken, whereby development risk is ascertained prior to rezoning<sup>54</sup>.
- 67 There is no change to the recommendation by either myself or Ms Phillips in this matter.

### *Are the benefits (or costs) of urban growth a relevant consideration?*

- 68 The evidence of Mr Counsell for the Proponent is that there is a market for residential properties at Whareroa North, and that overall a net economic benefit is likely to result. He considers that there is a shortfall of district residential supply in the medium term with demand for 2,300 properties exceeding the supply of 2,200<sup>55</sup> as based on the NZ Statistics ‘high’ household growth projection.
- 69 At the local level, Mr Counsell is of the view that the shortfall identified by Property Economics Ltd of between 6 – 28 properties over the long term (30 years) is likely underestimated to a material degree<sup>56</sup>. Mr Counsell estimates a localised short term (10 year) range of between 14 properties exceeding demand, to a shortfall of 20 properties; with a long term (30 year) shortfall of between 22 – 70 properties at Whareroa.
- 70 The proposal seeks to enable 160 households.
- 71 There is a dispute between Mr Osborne and Mr Counsell as to whether the 47 properties at Whareroa Village are indeed vacant and are available to accommodate future demand. From a planning perspective, they do not contain a house - and hence are not counted as households from the perspective of either Council’s building consent data, or current unoccupied dwellings by Statistics New Zealand.

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<sup>53</sup> EiC Bonis [157]

<sup>54</sup> EiC Bonis [195]

<sup>55</sup> EiC Counsell [15]

<sup>56</sup> EiC Counsell [17]

- 72 As outlined in my EiC, I consider that the policy framework in the WRPS and the TDP recognise urban growth areas as an important *resource* for providing for new urban land development<sup>57</sup>.
- 73 The provisions collectively allow for choice, by determination through rezoning as to the nature, timing and sequencing of new development. Urban growth areas provide the resource (**WRPS Policy 6.11, TDP Policy 3e.2.1**) as to the 'way and rate' in which urban growth can be provided for, as determined by consideration of relevant matters such as:
- 73.1 Addressing effects on natural values and hazard risk<sup>58</sup>;
  - 73.2 Integration with supporting infrastructure<sup>59</sup>; and
  - 73.3 Growth Management<sup>60</sup>.
- 74 A brief synopsis of the evidence of Mr Osborne, is that the rezoning gives rise to an oversupply of residentially zoned land. Increasing the supply of residential land would likely increase community costs, compromise the efficient integration of infrastructure with development and simply transfer demand from existing zoned land within the district.
- 75 Importantly, given the unresolved matters relating to effects, particularly associated with indigenous vegetation removal (SNA 062) and landscape (OLA 60), these represent additional environmental costs associated with facilitating residential development in an oversupplied market.
- 76 The relevant Policy framework is outlined in both Planning briefs of evidence<sup>61</sup><sup>62</sup>. The dispute in policy terms is:
- (i) the weight to be afforded to the Development Principles in Section 6A of the WRPS, particularly the need to consider that new development should:
    - (a) *support existing urban areas in preference to creating new ones;*
    - (c) *make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;*
    - (d) *not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated;*
    - (e) *connect well with existing and planned development and infrastructure*
  - (ii) the manner in which the plan change at the community level provides for the efficient co-ordination and functioning of infrastructure (**WRPS Policy 6.3(a)(i) and (c)**); and ultimately
  - (iii) whether the Plan Change would provide for and manage urban growth so as to achieve the sustainable management of the District's natural and physical resources (**TDP Objective 3e2.1**).
- 77 I have addressed the matter of weighting of the Section 6A development Principles above. In terms of the co-ordination of infrastructure, and whether sustainable management is achieved are matters that require explicit determination as to whether they are given effect to, or achieved respectively.
- 78 I concur with the evidence and rebuttal evidence of Mr Osborne.

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<sup>57</sup> EiC Bonis [199]

<sup>58</sup> EiC Bonis [200, 201]

<sup>59</sup> EiC Bonis [200, 202 – 204, 210]

<sup>60</sup> EiC Bonis [200, 205- 206]

<sup>61</sup> EiC Bonis [135-138, Section 7.35, 7.4.1]

<sup>62</sup> EiC Lewis [9.44, 9.50]

- 79 I consider that there is sufficient residentially zoned land in the district to meet demand both at the district level and localised level over the next 20 years.
- 80 I accept Mr Osborne's use of the medium growth household projections, especially in light of the unrealised Covid-19 consequences as being the more appropriate. I note that even under the NZ Statistics 'high' growth projections demand over the next 20 years is for 4,850 households (including unoccupied households) where supply consists of 5,632 zoned lots.

### Scope of the Plan Change

- 81 The processing of the Plan Change has highlighted two matters relating to Scope that require consideration. These are in summary:
- 81.1 Are the Bridge / Road Access and their necessary consents 'part' of the Plan Change<sup>63</sup>; and
  - 81.2 Are the Incorporation's proposed 9 April 2020 amendments to PPC36 sufficiently within the 'scope' of the original proposal<sup>64</sup>?
- 82 It is understood that the 'Scope' of a plan change is limited by the terms of the proposed change (including its breadth), and the content of the submissions filed.
- 83 The change itself seeks to amend the *status quo* zoning from Rural Environment (zone) to Rural Environment to a specified 14.63 ha area.
- 84 The notified Outline Development Plan introduces outcomes and staging. The matters in the ODP extend to further constraints (controls on height, colour) to be implemented by way of consent notice. 'Outcomes' reference establishing a roading connection to the existing Whareroa Village.
- 85 The Change is explicit that there are no amendments to the *status quo* with regard to any bridge or road access. An indicative location is identified in the Application. The application identifies that the establishment of such infrastructure remains subject to the operative plan provisions.
- 86 **In terms of the bridge and the road access**, the Council s42A evidence has taken the view that the Change does not extend to altering the *status quo* for the Bridge / Road. 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. However, the Plan Change is directly reliant and conditional on these matters being consented to facilitate the plan change. Accordingly, the viability of the bridge and road access under those operative instruments, their effects and package of mitigation offered in Appendix 8 of the Plan Change should be appropriately considered in the context of the Plan Change.
- 87 **The 9 April 2020 amendments** are considered to be contained within the scope of the Plan Change and the submissions therein. The notified provisions, whilst sparse and general, do set out a framework for a relief package in terms of further constraints and staging. Submissions also seek the avoidance or management of a range of effects.
- 88 The detailed analysis of the question of Scope is set out in **Attachment A**.

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<sup>63</sup> EiC Lewis [7.3-7.6]

<sup>64</sup> Panel Questions for the S42A Reporting Officer

## **Residual questions for the Proponent.**

- 89 There are several matters that emerge from the Proponent's EIC, many of which potentially result in unintended consequences in terms of the plan change as put forward. A number of these have been expressed in Council's rebuttal evidence. It would be beneficial to Council to obtain clarity on the following:

### Reserves

- 90 The EIC of Ms Lewis<sup>65</sup> seeks to amend that area identified on the notified provisions from vested recreation reserve to 'Maori Reservation with provision for public access'. That area relates to the land between the two cul-de-sac heads in the concept plan accompanying Appendix 8. This change is in part is to accommodate the mitigation package and planting suggested by both Mr Wedding and Ms Monzingo for the applicant.
- 91 Mr Mourie in his rebuttal evidence<sup>66</sup> identifies his concerns with such an approach, including ownership, function and administration. He identifies that given that change and uncertainties, that his recommendation, in terms of the Council's reserve functions, is to oppose the plan change.
- 92 It would be useful to have this matter clarified. In particular, the reliance that Mr Wedding and Ms Monzingo place on establishing an indigenous vegetation function to this area in priority to an informal reserve function.

### Transport

- 93 Mr Keys identifies that cycling and pedestrian access to Whareroa North would be provided as separate to the Road access<sup>67</sup>. The basis, as I understand it is to reduce the footprint, and hence impact on SNA062 in terms of road access<sup>68</sup>. Any reduction in indigenous vegetation I understand to be supported by the respective Proponents and Council witnesses.
- 94 However, as raised by Mr Hansson<sup>69</sup> this raises concerns as to connectivity and function. It may also be that in resolving functional issues, the 'indicative cycle / pedestrian connection' results in unforeseen impacts in terms of ecology and landscape. Additional details from the Proponents experts as to a collective view on this matter would be of use.

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<sup>65</sup> EIC Lewis [7.22, Appendix 8]

<sup>66</sup> Rebuttal Mourie [56 – 60]

<sup>67</sup> EIC Keys [5.9, 7.5]

<sup>68</sup> EIC Keys [5.8]

<sup>69</sup> Rebuttal Hansson [Section 3]

## Conclusion

- 95 In summary there has been progress made by the Proponent's experts in terms of addressing relevant matters needed to consider the plan change in terms of the statutory tests.
- 96 That consideration, and the Council's rebuttal throws into stark relief the following:
- 96.1 It is my view that matters associated with securing a(n agreed) legal mechanism to provide public access and service connections in perpetuity and base level geotechnical investigations are prerequisites in terms of resolving whether the Plan Change could proceed. These are effectively binary matters; without resolution the Panel can neither determine whether the site can be serviced with supporting infrastructure, or that the level of hazard risk is acceptable prior to a decision being made on zoning.
  - 96.2 For the former especially, as identified by Mr Winchester, the mandate of the Panel in determining this matter cannot extend to the Taupō District Council's statutory functions in terms of asset management under the LGA2002, nor the process by the Maori Land Court under the Te Ture Whenua Maori Act 1993.
  - 96.3 There is greater agreement as to the range of effects identified in terms of indigenous vegetation, landscape and natural values, and archaeology. For the latter, I understand from Mr K Phillips that this matter can be resolved based on the EiC of Sian Keith and that of Heritage New Zealand Pouhere Taonga.
  - 96.4 There remains a merit-based dispute as to deficiencies of assessment in terms of landscape and indigenous vegetation – particularly as associated with the bridge and road access, and importantly concerns as to the viability and effectiveness of mitigations and environmental offsets proposed.
  - 96.5 Lastly, there is no consensus between the economic witnesses. Mr Osborne considers that the proposal will result in an inefficient outcome creating unnecessary economic costs to the community and operating contrary to the economic justification for the Taupō District planning framework. I agree, and therefore also consider that the landscape and indigenous vegetation impacts associated with the proposal also weigh heavily as costs against the plan change.
  - 96.6 Based on the above, I do not alter my position in my EiC. The proposed plan change does not represent the better, or more appropriate approach to achieving the provisions of the Taupō District Plan or give effect to the Waikato Regional Policy Statement.

Dated 15 May 2020



Matt Bonis

## Attachment A: Scope of the Plan Change

### *The Road / Bridge connections*

#### The Application

1. The Plan Change does not amend the *status quo* zoning of either the zoning or the operative plan provisions as these relate to the Bridge or access (excavation, vegetation clearance in an SNA / OLA).
2. The Plan Change is (in terms of the Avon Hotel vs Christchurch City Case) a small and confined Plan Change (a bulls-eye). The alterations are small, effectively recasting the existing Residential Environment provisions to a green field area, as associated with a specific policy and ODP package (plan and outcomes).
3. The Executive Summary to the Plan Change states that the Plan Change seeks to:  
*“leave unaltered the District Plan provisions which manage the effects of indigenous vegetation clearance, earthworks, and structures (associated with construction of road and services to the residential development area) through land identified as having natural and/or landscape values”*
4. The land affected by the Plan Change is identified (Section 3.1.2) as ‘identified with yellow marker dots’.



5. Section 3.4.3 identifies that “*potential liquefaction issues in the vicinity of the Whareroa Stream will (along with flood hazard issues) be addressed in the design and consenting stages for the proposed road and bridge*”.
6. Matters associated with bridge design and location are to be “*appropriately addressed through the future resource consent processes*” (Section 3.4.12).
7. The application does in relation to a number of experts reports acknowledge in generic terms adverse effects associated with the road. For example, the Landscape Assessment identifies:  
*“The road and associated vegetation clearance across the plateau to the residential development area is likely to be visible from areas on Lake Taupō and Whareroa Village”.*
8. The Plan Change documentation seeks to amend Plan Map C29 as follows:





9. Under the heading 'Unaltered Plan provisions' (Section 4.3.1) the Application states:

*As referred to above, the proposed road connection between the southern side of the Whareroa Stream and the proposed "Residential Environment" boundary is across land currently zoned "Rural Environment" in the District Plan. As further explained (in Section 7.2 of this report below) this land is also subject to Significant Natural Area (SNA) and Outstanding Landscape Area (OLA) overlays. The current District Plan provisions (zoning, policy framework, and rules) which apply to this area will remain unchanged by the proposed Plan Change. In particular, any earthworks, vegetation removal, or structures associated with the access road construction (and services) will continue to be subject to the following District Plan rules...*

10. The Concept Plan (Section 4.4) includes:

- Connection from the south via the existing road reserve (ie between Whareroa Road and the Whareroa Stream);
- Bridging of the Whareroa Stream and road up escarpment through indigenous vegetation (an indicative road route is shown with the final route determined through the required resource consent process)...

11. In response to requests from Council for further information (dated 15 February 2018, 3 August 2018), Ms Joanne Lewis responded in terms of this issue that:

- *It appears that there is an expectation that a detailed assessment of the proposed access road can be undertaken because "the access corridor is generally known". However, the Concept Plan notes that "Final alignment to be determined at resource consent phase" – **i.e. the route is not finalised**. In any event the route is only one of a range of elements that together constitute the proposed access road;*
- *Sufficient information about all of the physical elements (such as road, earthworks, retaining systems, planting etc) is needed to inform a detailed assessment and that detailed design work is not reasonably available at Plan Change stage but rather at the subsequent resource consents stage..... **Further, in the case of the access road the existing District Plan provisions provide an appropriate framework for the management of visual and landscape effects (and these provisions are not affected by the Plan Change application).** (my emphasis).*

12. The Council commissioned Lachland Muldowney Barrister (20 February 2019) as Independent Commissioner as to whether there was insufficiency of information associated with the application. The Commissioner notes on this matter:

[26] ... It is also notable that the Applicant refused to provide Council with the requested specificity around landscape impacts, noting that these issues would be addressed at the resource consenting stage. While this may be acceptable in some circumstances, the Plan

*Change seeks controlled activity status for subdivision which would mean consent could not be declined if adverse landscape effects were deemed acceptable”.*

(it is noted that the status would be **discretionary** given the subdivision to vest road reserve within the SNA).

### Submissions

13. There are a number of submissions that raise issues in terms of the Road and Bridge. For example, Sub #1 Rob Ewen in opposing the Plan Change identifies “*we are concerned at the impact access roading will have on the pristine environment*”.

### The Section 42A Report

14. The Section 42A Report identifies the approach taken towards the Road / Bridge as:

*[28] A ‘future’ bridge across Whareroa Stream and Road serving the potential settlement would encroach on both OLA60 and SNA062. The Plan Change does not address these matters, nor incorporate them within the zone change / amended provisions. The proponent seeks to resolve these matters by way of subsequent resource consent under the more general provisions of the Plan (Rules 4e6.2, 4b.2.7 and 4b.2.8), rather than through the Plan Change process.*

*[34] The indicative road, pedestrian pathway and bridge access across Whareroa Stream are located within SNA062 and OLA60. These elements, whilst necessary to provide public access to the area, are outside the scope of the Plan Change and would be subject to resource consent.*

### Consideration

15. There is considerable uncertainty expressed in the Application as to the extent by which the Road access and Bridge are part of the Plan Change. This seems to be principally derived through seeking to defer any assessment of the bridge and access to any subsequent resource consent. This position has been reinforced by the Planner for the Applicant through numerous requests to obtain further information, and associated effects with the Bridge and Road.
16. The spatial extent of the Plan Change does not amend the *status quo* of the zone, nor any provisions as these relate to the Bridge or Roadway.
17. The notified Outline Development Plan refers to Stage 1 consisting of ‘bridging the Whareroa Stream, construction of the access road up to the elevated residential above and will yield approximately 30 residential lots’.
18. The approach taken in the Section 42A report, is that the Plan Change does not extend to altering the *status quo* for the Bridge / Road. Accordingly, there is no ability to amend those provisions in the District wide rules (Section 3e.5 Landscape Values, and Section 4e.6 Natural Values).
19. However, the effects of such are deliberately attributable to, and dependent on, the Plan Change request. Therefore, and given the section 6 matters impacted by such, their effects and package of mitigation should be appropriately considered in the context of the Plan Change. These omissions, although now partially addressed

through the Proponents evidence is a material consideration in terms of ensuring the desired zoning and plan provisions is sufficient to resolve these matters.

20. The only recourse in terms of management (e.g. deferred zoning until Bridge / Road are consented) is limited to the inserted Outline Development Plan provisions.... which is where the Proponents have now turned their attention in the revised April 2020 amendments.

*The Incorporation's proposed 9 April 2020 amendments*

The Application

21. As identified above, the Plan Change (as consisting of the notified ODP package and associated policy and rule set) was spatially limited and confined.
22. The ODP identifies a number of key outcomes – as related to further effects management, limitation on number of dwellings (for wastewater purposes) and staging. These outcomes are both imprecise and general.
23. The 9 April 2020 Amendment (track version attached) substantially increases these matters. These are largely derived from the expert evidence subsequently provided by the Proponent's experts. By way of example:

| Proponent Expert  | Mitigation Package Amendments  |
|---|--|
| <p>Ecology<br/>Issues associated with road cutting, revegetation and 'offset'.</p>            | <ul style="list-style-type: none"> <li>• Manage the adverse effects of loss of indigenous vegetation, fauna and their habitats through best practice management and restoration methods. This includes:               <ul style="list-style-type: none"> <li>➢ careful timing of any indigenous vegetation removal from the SNA, wildlife relocations, habitat replacement and enhancement;</li> <li>➢ pest predator control;</li> <li>➢ dense buffer planting along new edges created by road through SNA062;</li> <li>➢ other restoration activities that follow the hierarchy of mitigation to avoid, remedy and mitigate;</li> <li>➢ offsetting or compensation of any significant residual adverse effects in accordance with best ecological practice to achieve a Net Environmental Gain. Note: any offset planting required will be undertaken within, or contiguous with SNA062;</li> </ul> </li> <li>• Legal protection in perpetuity of SNA vegetation and areas of offset planting;</li> </ul> |
| <p>Landscape<br/>Issues associated with different sensitivities associated with the site.</p> | <ul style="list-style-type: none"> <li>➢ Control of the following matters by Consent Notice on the titles of future residential allotments:               <ul style="list-style-type: none"> <li>○ One (only) dwelling per lot and no further subdivision permitted;</li> <li>○ Controls on building height, with a maximum height of 8m and lesser heights in areas of the site with moderate or greater visibility from off site. Note:</li> </ul> </li> </ul>   |

|  |   |
|--|---|
|  | <p>Building height may also be controlled for viewshaft management purposes;</p> <ul style="list-style-type: none"> <li>○ Limiting colours of building exteriors to those from the A and B Groups of the British Standard BS 5252 colour chart with reflectivity levels of less than 35%..</li> </ul> |
|--|---|

### Submissions

24. There are a number of submissions that raise issues in terms of the management of effects, and the imprecise nature of effects. For example Sub #9 Ian Sutcliffe *“the extent to which the development requires removal of native vegetation and the reliance on mitigation is yet to be identified”*.

### The Section 42A Report

25. For each respective discipline (ecology, landscape and geotechnical investigation), the s42A report identifies a similar approach:
- [125.3] *The application identifies potential ecological effects. However, the assessment and associated plan provisions, and mechanism to manage ecological effects, are imprecise.*

### Consideration

26. The 9 April 2020 amendments are considered to be contained within the terms of the Plan Change and the submissions therein. That is, they are ‘on’ the plan change and seek to resolve issues associated therein. Considerable reliance remains placed on subsequent resource consent processes.
27. The notified provisions, whilst sparse and general, did set out a framework for a relief package in terms of further constraints and staging. Submissions also sought further guidance as to the avoidance or management of a range of effects.
28. Accordingly, the amended package does address the extent to which the plan change alters the pre-existing status quo. The modifications and alterations now prescribed (which vast, and still lacking in certainty and clarity) could in my view have been envisaged by a member of the public considering the nature of the Plan Change, and an associated management regime. Lastly, the amendments do not seek to alter any other operative aspect of the Plan.
29. Ultimately, the amended provisions remain imprecise which goes to the efficiency and effectiveness under section 32. However, I consider that they are fairly and reasonably **on** the Plan Change.

## Attachment B: Panel Questions for the s42A Reporting Officers

The following responds to the Panel questions as received on 1 May, 2020. The respective s42A Officers have responded and are able to talk to these matters further as needed.

| Paragraph  | Question   |
|------------|--|
| Matt Bonis | Section 42A Report   |
|            | <p>Can you please confirm that the reference in Table 2 (page 13) that reads “Council resolution to accept and notify the Plan Change request” dated 30 July 2020 means that PPC 36 been accepted <u>but not adopted</u> by TDC (RMA Schedule 1, clause 25(2)).</p> <p><i>Response: Correct, Council accepted but did not adopt Plan Change 36. This occurred July 2019.</i></p>   |
| 12.5       | <p>Did Simpson Grierson provide TDC with a written opinion on this matter and if so can we receive a copy please, together with the questions they were asked to address?</p> <p><i>Response: A legal opinion was not sought in relation to the Council’s considerations pursuant to clause 25 of Schedule 1.</i></p> <p><i>Lauchlan Muldowney Barrister provided an Independent determination (dated 20 February 2019) whether the request, pursuant to clause 23(6) of Schedule 1 should be rejected or not approved on the basis of insufficiency of information. He determined that the request could proceed to be considered pursuant to clause 25 of Schedule 1. A copy will be provided to the parties and the Panel.</i></p> <p><i>The Council Report relating to clause 25 can be found at:</i><br/> <a href="https://taupo.infocouncil.biz/Open/2019/07/TDC_20190730_AGN_5334.PDF">https://taupo.infocouncil.biz/Open/2019/07/TDC_20190730_AGN_5334.PDF</a></p> |
| 42         | <p>Is TDC2050 Refresh still in draft form or has it been formally adopted by TDC?</p> <p><i>Response: TD2050 was updated and adopted in 2018.</i></p>  |
| 53         | <p>Can you advise why TDC withdrew its further information request relating to nitrogen loads on 19 January 2020?</p> <p><i>Response: This request was withdrawn 19 January 2019.</i></p> <p><i>It was clear there was going to be a nitrogen shortfall, and TDC requested the applicant make up this shortfall through the supply of nitrogen credits. The applicant raised the point that the nitrogen associated with the land parcel previously provided to Council means their nitrogen contribution is already made. TDC reviewed this agreed that the additional discharge from the WWTP due to the proposed development and the nitrogen associated with the land are approximately equivalent. This is outlined in Point #46 of the infrastructure evidence report.</i></p>   |
| 76.2       | Can you explain why an expanded wastewater discharge is a positive effect?   |

| Paragraph | Question   |
|-----------|--|
|           | <p><i>Response: This was expressed in this manner in recognition that Hauhungaroa #6 had vested that land (in advance) for the express purpose of providing for development enabled by this plan change. Reference also Mr Condell [46] and Mr Keys [8.10]</i></p>   |
| 83 and 90 | <p>Can you explain how you came to your conclusion that PPC36 is supported by adequate three waters infrastructure when it appears delivery costs are still unknown?</p> <p><i>Response: This is considered in detailed in my Rebuttal evidence [32-35]</i></p>  |
| 86        | <p>Does “retirement” refer to the wastewater disposal area (the ‘expansion area’) or the 14.63ha of pasture within the PPC36 rezoned area?</p> <p>What is the current NDA for the ‘expansion area’ and what will the nitrogen loss be from that area when it is used for wastewater disposal?</p> <p><i>Response: Yes the Expansion Area was “retired” from farming.</i></p> <p><i>WRC have made the nitrogen assessment based on loading rates in this instance rather than nitrogen loss (NDA). The idea being that if the overall loading is reduced by 20% then the overall leaching will respond similarly.</i></p> <p><i>This is detailed partially in the Table in para 45 (TDC Cordell).</i></p> <p><i>Current “expansion area” benchmark period – 379.5 kg total allowed load (reduced by 20% to 303.6 kg/yr).</i></p> <p><i>Wastewater loading potential (upper limit) is 2.48 Ha (some of the site can not be irrigated) x 250 kg/ha/yr = 620 kg/yr. However the expected maximum (based on wastewater discharge estimate is 470 kg/yr.</i></p> <p><i>Note not all of this wastewater is attributable to the proposed development (see comment on para 53 above and para 46 of TDC Infrastructure Evidence.</i></p> |
| 103       | <p>Do you mean section 106(1)(c)?</p> <p><i>Response: Yes that is the appropriate reference. The clause in full is:</i></p> <p><b>Section 106 Consent authority may refuse subdivision consent in certain circumstances</b></p> <p><i>(1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—</i></p> <p>...</p> <p><i>(c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.</i></p>   |
| 151       | <p>Are the estimated ‘wider community costs’ of \$52,000 per annum (or the net present value of those costs at \$660,000) able to be ‘levied’ on the Incorporation under the provisions of the Taupō District Plan by way of financial contribution or alternatively under the Council’s Development Contributions Policy 2018?</p> <p><i>Response: The Taupō District Plan does not provide for financial contributions. The application site also sits outside of the identified catchments for the adopted Development Contributions Policy. Conceivably Council and the</i></p>  |

| Paragraph                  | Question  |
|----------------------------|---|
|                            | <p><i>Incorporation could enter into a development agreement whereby the Incorporation agreed to pay Council the sums in question.</i></p> <p><i>With regard to a targeted rate, Council does have the legal ability to impose targeted rates. However, before doing so Council would need to make the necessary assessments under the Local Government Act 2002 to establish whether such a rate is justifiable. Furthermore, Council would need to undertake community consultation before making a decision. These processes introduce a high level of uncertainty about the outcome. Use of a targeted rate in this manner would be inconsistent with the approach that Council has taken across the application of its rating functions. The longevity of such a rate would also be questionable, with a likelihood that future ratepayers may question the fairness of a targeted rating approach that is not applied elsewhere across the district.</i></p>  |
| 56 and 247                 | <p>The draft and amended Appendix 8 (dated 9 April 2020) appears to attempt to address issues of landscaping, erosion, geotechnical and water issues. Noting the s42A author's comments regarding efficiency and effectiveness, and the "Conclusion as to Appropriateness" (page 56), do the amendments included in the 9 April 2020 material address the issues of concern to TDC's technical advisors?</p> <p><i>Response: The amended Appendix 8 (the amended package) certainly progresses matters in terms of identifying, in a generic level, the range of mitigation measures to be undertaken as a consequence of development. These have substantially been added to through the Proponent's EiC. There remain considerable concerns raised in the rebuttal evidence (particularly Mr Shaw and Ms Ryder) that the measures are not effective in mitigating effects. I also retain concerns that a number of measures particularly in relation to the preliminary stage and stage 1, as to securing geotechnical information and establishing suitable mitigation / offset for the bridge and road way are the more efficient mechanisms.</i></p> |
| 243                        | <p>Are the Incorporation's proposed 9 April 2020 amendments to PPC36 sufficiently within the 'scope' of the original proposal so as to enable the Plan Change to continue to be progressed in the absence of renotification?</p> <p><i>Response: This matter is explicitly addressed in paragraphs 81 – 88 of my Rebuttal Evidence, and Attachment A.</i></p>   |
|                            | <p>Noting that the private economics are at the Incorporation's risk, how much weight do we need to give to the apparent and likely economic cost to the community if we find that the available supply of lots does not appear to satisfy a community wide demand?</p> <p><i>Response: If the Panel finds that demand exceeds supply, therefore additional land is needed to provide for community growth, whilst there is a community cost in terms of servicing such demand, those costs are an accepted part of a Council's mandate under both the RMA 1991 and LGA 2002. 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.</i></p>   |
| Philip Osborne – Economics |   |
| 2.3                        | <p>The second and third sentences do not appear to make sense?</p> <p><i>Response: Please amend as follows:</i></p>   |

| Paragraph   | Question  |
|-------------|---|
|             | <p><i>The issue assessed through this evidence is one of economic efficiency, whether, at a high level, the potential economic benefits of the proposed plan change outweigh the potential economic costs. The costs and benefits considered in this assessment <u>high relate to</u> the social or community costs associated with residential development and rezoning. These external impacts (or externalities) and those not general considered by the market in decision making.</i></p>  |
| 5.10        | <p>Given that around 30% of dwelling demand is for holiday homes in all of TDC, and presumably that share is greater than 30% in locations like Whareroa, then is the wider change in resident population a strong enough indicator? Is there also information on new dwelling consents over the last 5-10 years in the Lake Taupo Bays SA2 and/or the small settlements around the Lake which could provide some insight into holiday home, or combined holiday home and residential home demand – especially in light of the higher than projected population growth to 2019 (Figure 2)?</p> <p><i>Response: Response:</i></p> <p>a. <i>While the overall assessment of holiday home demand in Taupo District has been assessed utilising a trended proportion of the resident households, the potential demand for Whareroa has not been presented in his manner. The SA2 associated with Whareroa has experienced a decline in resident population over the last few censuses adopting the 30% approach would therefore have resulting in a negative demand for the area. The initial Property Economics report (and subsequent evidence) did not utilise localised residential population to assess localised demand, it did consider demand in terms of historical consents for the area which indicated that the Kuratau / Omori / Whareroa areas combined had seen a falling number of annual consents averaging at 10 per annum. This was in relation to potential capacity of 198 undeveloped sites currently in the Whareroa and Kuratau areas. This represented, at the higher end, at least 20 years of residential capacity, notwithstanding the extent of additional substitutable holiday areas in Taupo with significant capacity. It is important to note that these consents represent the most up to date information including any recent growth experienced within the District.</i></p> <p>b. <i>Even with the 20-year local capacity and sufficient substitutable District capacity, there are several tempering factors to this position. Firstly, the historical consents utilised occurred during a significant period of growth within the District. Secondly, the 30% proportion utilised indicates unoccupied dwellings and so potentially overrepresents the holiday market. More importantly this component of the housing market is likely to be the most significantly affected by the economic ‘fallout’ of Covid 19 with the markets general ability to retain and build more holiday homes dramatically affected, through lower incomes, less employment and greater uncertainty. While the uncertainty in a post Covid market is likely to be short-term (in the context of a 30 year timeframe), impacts on incomes, capital and job security are more likely to have longer term impacts of potential demand.</i></p> <p>c. <i>Finally, it is important to note that although the Districts population has grown at a ‘high’ level between the 2013 and 2018 censuses, the key driver of housing demand, households has grown (between the two censuses) only marginally beyond the medium, and below the high projections due to higher than expected household sizes.</i></p> |
| 5.6 and 6.3 | <p>At 5.6 projected demand to 2038 is for 2,850 dwellings including holiday homes. At 6.3 this seems to be re-cast as 2,450?</p> <p><i>Response: Paragraph 6.3 should again read 2,850</i></p>  |



| Paragraph                 | Question   |
|---------------------------|--|
| 6.10                      | <p>Is the assumption that demand at Whareroa would have the same shares (70% resident, 30% holiday) as demand throughout TDC? Or is a different share assumed for the holiday home market in Whareroa?</p> <p><i>Response: No assumption has been made regarding the composition of holiday home versus permanent residents within the Whareroa area (see 5.10 (a) above). A sensible assumption would suggest a higher composition of holiday home demand at this location potentially transitioning over time. In fact there has been a decrease of usual residents in his area over the past 2 censuses which would indicated that demand in almost entirely holiday homes.</i></p>   |
| 9                         | <p>Can you elaborate as to why the report was confined only to matters relating to public costs/demand – were there any other factors considered?</p> <p><i>Response: One objective of the report was to assess the potential impact on the economic well-being of the community resulting from the proposal. While potential private costs and benefits were not explicitly assessed for this development, it has been assumed that, without clear evidence that the accommodated demand would be unique (i.e. would not have otherwise come to Taupo), the potential net private benefits (such as profit) and the additional activity generators (such as employment utilised for construction) are likely to simply represent a redistribution of demand (and thereby these benefits) from existing capacity within Taupo.</i></p>   |
| Rebecca Ryder - Landscape |  |
|                           | <p>Your Annexure B, page 3, discusses CPTED – Crime Prevention Through Environmental Design principles. Are these adequately addressed in PPC36 in your opinion?</p> <p><i>Response: At a plan change scale these principles largely relate to the placement and layout of open space within the outline plan design. The layout of the reserve space has been designed to be integrated as part of the native bush with walking bush tracks connection these spaces to proposed roads.</i></p> <p><i>There are no direct provisions proposed that address CPTED Principles for the subdivision design which could inform covenants on visual permeability of fencing on reserves, reserve and street lighting, and sense of ownership through orientation of dwellings.</i></p> <p><i>CPTED principles and the provision for a CPTED assessment as part of the subdivision design stage could address these latter detailed outcomes.</i></p> <p><i>For the plan change the critical CPTED principles that haven't been addressed relate to walkways and passive surveillance to the walkways and reserve space. In my opinion the depicted LP reserves have very poor street interface, reducing the opportunity for passive surveillance.</i></p> |
| William Shaw - Ecology    |  |

| Paragraph                        | Question   |
|----------------------------------|--|
| 22                               | <p>SNA 062 and OLA60 cover a wide area towards the north and west of Whareroa. To your knowledge (and review of relevant documents) have karerea or kereru (referred to in the SSSP excerpt) been located to the PPC36 area - have any bird surveys been undertaken?</p> <p><i>Response: Bioresearches (2005) undertook and reported separately on bird surveys on the PPC36 site, in July-August 2005, in both the North Side Development Area and the Whareroa Stream Riparian Habitat. The same methods were used in both parts of the site: three five-minute bird counts at nine count stations (i.e. 27 counts), and nocturnal recorders were also used.</i></p> <p><i>Indigenous species recorded in the North Side Development Area, in order of relative abundance, were: bellbird, silvereye, tui, fantail, grey warbler, and whitehead.</i></p> <p><i>Indigenous species recorded in the Whareroa Stream Riparian habitat, in order of relative abundance, were: silvereye, tui, bellbird, grey warbler, fantail, harrier, white-faced heron, and morepork.</i></p> <p><i>Bioresearches (2005) noted that although kereru and karearea/falcon were not recorded at the site, they were known to be present in the wider area, with kereru being reasonably common seasonally in the wider area.</i></p> <p><i>This was a one-off survey, in a single season, so it is not surprising that highly mobile species such as kereru and karearea/falcon were not recorded. Bioresearches (2005) also commented that long-tailed cuckoo (At Risk-Naturally Uncommon) may utilise the site, due to the presence of whiteheads (At Risk-Declining), but that the survey was at the wrong time of the year for them to be present.</i></p> <p><i>I am not aware of any other bird surveys of the PPC36 site. Based on my observations widely across Taupo District, both kereru and karearea/falcon occur widely across the District and are both likely to utilise the PPC36 site on an occasional basis.</i></p> |
| Kenneth Phillips - Archaeology   |  |
| 5.1<br>5.2                       | <p>If the applicant applies for a Heritage New Zealand authority under the provisions of section 44a of the Pouhere Taonga Act 2014, would it still be necessary, in your opinion, for a new archaeological survey and assessment of effects to be commissioned as a precursor to progressing PPC36?</p> <p><i>Response: This matter is able to be resolved as set out in Rebuttal evidence.</i></p>   |
| Maddison Phillips - Geotechnical |  |
|                                  | <p>In your Attachment 3, second page, paragraph 8, you refer to a “draft site investigation plan” which the Incorporation’s geotechnical expert was to provide to you. Was it provided and if so, do you consider the investigation(s) described therein would be adequate to address the information gaps that you have identified and the stormwater concerns set out in paragraph 71(d) of the Swindells <i>et al</i> evidence?</p>   |

| Paragraph                                      | Question  |
|--|---|
|  | <p><i>Response: The proposed site investigation plan is included in Mr Harshad's geotechnical evidence as <a href="#">Appendix 12</a>.</i></p> <p><i>Yes. The amount and coverage of proposed site testing with subsequent interpretative analysis would be sufficient to cover our concerns. I note that the amount and coverage proposed is more in line with subdivision level testing, and is thus more extensive than I believe is required to inform the plan change stage.</i></p>   |
|  | <p>Are any fault lines mapped within the PPC36 area?</p> <p><i>Response: There are no fault lines mapped within the PPC36 area. The closest mapped fault is the Waihi Fault (active), approximately 10km south of the site (ref: GNS Active Faults Database, <a href="https://data.gns.cri.nz/af/">https://data.gns.cri.nz/af/</a>, accessed on 6 May 2020).</i></p>  |
| Thomas Swindells <i>et al</i> - Infrastructure |   |
| 36 to 46                                       | <p>Have you determined the reduction in nitrogen loss that would result from the conversion of 14.63ha of pasture into residential landuse as a result of PPC36?<br/>Would that reduction qualify as an "equivalent offset" (your paragraph 44)?</p> <p><i>Response: No, but I do not believe it is relevant. As I understand it, some nitrogen minimum allowance will remain with the site to cover losses from residential land. The remaining nitrogen could be used elsewhere by the owners. It's does not necessarily stay attached to that piece of land. This allowance is effectively what TDC was requesting from the applicant in late 2018 before ending that request.</i></p> |
| 48 and 51                                      | <p>Are these infrastructure upgrades funded by development contributions under the Council's Development Contributions Policy 2018?</p> <p><i>Response: No, these upgrades are not currently budgeted or in the Development Contributions Policy 2018.</i></p>  |
| Johan Hansson - Transport                      |   |
| 8.20   | <p>Is it correct that your recommended upgrade of the SH32/Kuratau Hydro Road intersection is <b>not</b> attributable to adverse traffic safety effects arising from PPC36?</p> <p><i>Response: This statement is correct. In my professional opinion, I believe that the SH32/Kuratau Hydro Road intersection can support the additional development traffic with less than minor impact on road safety.</i></p> <p><i>Therefore, the recommended sightline improvement and upgrade of the SH32 SH32/Kuratau Hydro Road is to address general safety issues of the road network and not to mitigate any adverse traffic effects arising from PPC36.</i></p>                              |
| 8.24   | <p>In this paragraph you say "the next phase of the project". By that do you mean subsequent detailed subdivision design and consenting should PPC36 be approved?</p>   |

| Paragraph | Question   |
|-----------|--|
|           | <i>Response: Yes correct. My statement that refers to “the next phase of the project” means the subsequent detailed subdivision and design and consenting should PPC36 be approved.</i>  |
| 10.2(a)   | <p>Are the “road maintenance costs” related to Whareroa Road and Kuratau Hydro Road or to roads within the proposed development?</p> <p><i>Response: Paragraph 10.2 (a, b and c) refers to and highlights potential increase in infrastructure costs to Taupō District Council as a result of the project. These are not mitigation measures for the developer as part of the PPC36.</i></p> <p><i>The road maintenance costs refer to the new cost for the roads within the proposed development and a predicted small increase in maintenance cost for Whareroa Road and Kuratau Hydro Road.</i></p> |
| 10.2(b)   | <p>Does this vegetation clearing comprise the sightline improvement that you recommend in paragraph 8.20?</p> <p><i>Response: Yes, the vegetation clearing is part of the recommended sightlines improvement stated in Paragraph 8.20</i></p>  |
| 10.2(c)   | <p>Is this statement accurate as you said earlier that the recommended intersection upgrade did not result from the proposed development/project?</p> <p><i>Response: Yes, this paragraph is correct as it refers to potential increase in cost to Taupō District Council as part of the project and not proposed mitigation measures for the developer.</i></p>   |
| 11.4      | <p>Is this recommendation linked to the project or general road safety (refer to comments at 8.20 and 10.2 (b) &amp; (c))?</p> <p><i>Response: This recommendation is related to general road safety.</i></p>  |

Additional panel question received 11 May 2020:

**Do you have information on the place of usual residence of the owners of holiday homes in Whareroa and other settlements (or the southern settlements generally), which might identify whether or not owners are part of the usually resident population of TDC, or are from other cities/districts (for example, utilising information on ‘address for service’ from the TDC rating data).**

**Response: Please see attachment.**

### Breakdown of where Ratepayers within the Southern Settlements are from

#### Whareroa Village

| Ratepayers Home Address | Number of Properties | %     |
|-------------------------|----------------------|-------|
| Whareroa                | 21                   | 10%   |
| Taupō District          | 13                   | 6.5%  |
| Outside Taupō District  | 172                  | 83.5% |
| Total                   | 206                  | 100%  |

#### Kuratau Village

| Ratepayers Home Address | Number of Properties | %    |
|-------------------------|----------------------|------|
| Kuratau                 | 54                   | 7.5% |
| Taupō District          | 19                   | 2.5% |
| Outside Taupō District  | 641                  | 90%  |
| Total                   | 714                  | 100% |

#### Omori Village

| Ratepayers Home Address | Number of Properties | %    |
|-------------------------|----------------------|------|
| Omori                   | 49                   | 15%  |
| Taupō District          | 14                   | 4%   |
| Outside Taupō District  | 266                  | 81%  |
| Total                   | 329                  | 100% |

## Pukawa Village

| Ratepayers Home Address | Number of Properties | %    |
|-------------------------|----------------------|------|
| Pukawa                  | 11                   | 5%   |
| Taupō District          | 6                    | 3%   |
| Outside Taupō District  | 190                  | 92%  |
| Total                   | 207                  | 100% |

### Notes to accompany breakdown:

The following notes outline methodology and assumptions which may create discrepancies in data. Points to note regarding the figures above:

- A geographic area was selected for each village. The properties selected could vary depending on how the village was defined.
- The total number of homeowners from the Taupō District is the village number and the Taupō District number added together.
- It is not possible to tell specifically where ratepayers with PO Box numbers live. In this case the area where the PO Box was located was used. For example, a PO Box in Turangi was defined as Taupō District.
- Information in the database where these addresses were derived changes constantly as people move houses, so figures supplied 6 months ago will be different from now.
- As this data was extracted during Covid-19 lockdown it is possible that ratepayers changed their postal address to their bach as they temporarily moved there during the lockdown period.
- Some ratepayers own multiple properties within the villages. This means for example that the usually resident population in Whareroa is shown higher than in reality due to the same ratepayer owning more than one property.