

# 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

## **S42A REPORT OF MATT BONIS**

### **Planning Report on Submissions and Further Submissions**

**22 April, 2020**

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Attachment C	<b>Summary of Submissions and Recommendations</b>
Attachment D	<b>Economics – Phil Osborne, Property Economics</b>
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Attachment F	<b>Ecology – Willie Shaw, Wildlands</b>
Attachment G	<b>Archaeology – Ken Phillips, Archaeology B.O.P.</b>
Attachment H	<b>Geotechnical – Maddison Phillips, WSP</b>
Attachment I	<b>Servicing, Infrastructure and Reserves, Thomas Swindells, Michael Cordell, Roger Stokes, Nathan Mourie Taupō District Council</b>
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## 1.0 INTRODUCTION

1. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (**RMA**).
2. My full name is Matthew William Bonis. I am an Associate at Planz Consultants in Christchurch. I have held this position since 2009.
3. I hold a Bachelor in Regional Planning degree and have been employed in the practice of Planning and Resource Management for some 14 years. I am a full member of the New Zealand Planning Institute and a Certified Hearings Commissioner.
4. My experience with regards to matters raised through the Proposed Plan Change (**PPC**) is provided in **Attachment A**. I was commissioned by Taupō District Council to assist in considering the Plan Change both in terms of this Section 42A Report, as well as the First Schedule clause 25 Report in July 2019. I have reviewed all relevant material, visited the site, and had numerous discussions with the Proponent's Planner and Counsel.
5. I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2011, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. Terms and coding used in the evidence include:
  - WRC** – Waikato Regional Council
  - PPC or PPC36** – Proposed Plan Change 36
  - RMA or the Act** – The Resource Management Act 1991
  - SSSP** – Southern Settlement Structure Plan (2013)
  - TD2050** – Taupō District Growth Strategy (updated 2018)
  - TDC** – Taupō District Council
  - TDP / District Plan** – Operative Taupō District Plan
  - The Proponent** - Proprietors of Hauhungaroa No.6
  - The plan change area / the area** – the site as subject to the PPC36 rezoning request
  - MTB** - Tūwharetoa Māori Trust Board
  - WRPS** – Waikato Regional Policy Statement
7. I have relied on the expert evidence of the below, as outlined in Attachments D to J below, unless explicitly identified:
  - Attachment D: Economics: Phil Osborne
  - Attachment E: Landscape Values: Rebecca Ryder
  - Attachment F: Indigenous Biodiversity: Willie Shaw
  - Attachment G: Archeology
  - Attachment H: Geotechnical Investigation: Maddison Phillips

Attachment I: Infrastructure Evidence: Thomas Swindells (Water), Michael Cordell (Wastewater), Roger Stokes (Stormwater), Nathan Mourie (Reserves).

Attachment J: Transport: Kris Hansson

8. The **purpose** of this s42A Report is to recommend to the Hearings Panel whether PPC36 as applied for, or amended by submissions, will better meet the purpose of the Resource Management Act 1991 compared to the existing provisions.
9. I am familiar with Taupō District and surrounds. I was the reporting Council Officer for Plan Changes 28 – 33. I have visited Whareroa Village and surrounds on 15 April 2019 and was welcomed onto the site by the Proponents on 27 August 2019. I am extremely grateful for their manaakitanga shown to me throughout.
10. The Hearings Panel will also be greatly assisted by evidence from the Proponents of PPC36 and submitters. The Hearings Panel are not constrained or bound in any way to accept or adopt the recommendations in this report.

## 2.0 EXECUTIVE SUMMARY OF SECTION 42A REPORT

11. Table 1 outlines a summary of PPC36 and main issues raised by submissions.

Taupō District Plan	Operative 25 September 2007
Waikato Regional Policy Statement	Operative 28 April 2016
Name of Proposed Plan Change	PPC36 - Whareroa North – Rezone land from rural environment to residential environment
Date of notification	31 October 2019
Number of submissions received	Seventeen (17) <ul style="list-style-type: none"> <li>• Thirteen (13) Opposition</li> <li>• Three (3) Support</li> <li>• One (1) Neutral</li> </ul>
Main issues emerging from submissions	<ul style="list-style-type: none"> <li>• Co-ordinated and strategic growth in the district;</li> <li>• Integration of infrastructure and land use,</li> <li>• Subsequent reliance on resource consent process for roading access and bridge and management of effects on OLA(60) and SNA(SNA062),</li> <li>• Service provision and capacity – transport and wastewater.</li> <li>• Geotech risks from subsequent development.</li> <li>• Information sufficiency.</li> </ul>
Additional issues raised in this report	<ul style="list-style-type: none"> <li>• Unresolved matters in relation to: <ul style="list-style-type: none"> <li>~ Legal mechanisms to secure public access</li> <li>~ Landscape effects</li> <li>~ Ecology effects</li> </ul> </li> </ul>

Table 1: Summary of PPC36 and key matters

12. This section 42A report recommends that the Plan Change be **rejected**. The basis of that recommendation is as follows:

- 12.1 Insufficient information to provide a recommendation on substantive matters relating to Geotechnical risk, ecological and landscape effects.
- 12.2 Regardless of the above, this Planning evidence concurs with that of Mr Osborne who has identified that the supply (and costs associated with that supply) exceeds demand, with consequent costs associated with infrastructure integration, as well as the implications for ecology and landscape values as outlined by Ms Ryder and Mr Shaw respectively.
- 12.3 I disagree with the conclusions in the NERA Report<sup>1</sup> which conflates increased competition with providing endless opportunities for development. The collective provisions of the WRPS and the TDP do not provide a mandate for an approach where

<sup>1</sup> NERA – Whareroa North Plan Change: Review of the Property Economics Report. 26 February 2020.

continual rezoning for residential land represents the better approach to achieving the purpose of the Act, least of all the most economically efficient outcome.

- 12.4 In addition, there are fundamental, irresolvable problems associated with securing public access over the Whareroa Stream. Despite TDC raising concerns over this issue on several occasions since the request was lodged, public access to the plan change area (including reticulated services) and the legal basis for such remains unresolved. I consider it would be contrary to sound resource management practice to enable residential zoning where there is such uncertainty over a fundamentally important matter. There are complex ownership / interest / legal issues arising from TMTB landownership associated with Whareroa Streambed. Without clarity as to the mechanism ensuring public access in perpetuity to the adjoining Plan Change area such an issue weighs heavily against the Plan Change.
- 12.5 This Section 42A report has been reviewed by Taupō District Council's Solicitors, Simpson Grierson. It is understood that Simpson Grierson endorse the report and recommendations as appropriate from a legal perspective.

## 3.0 THE PROPOSED PLAN CHANGE

### 3.1 Context

13. Proprietors of Hauhungaroa No.6 (**the proponent**) has applied to the Taupō District Council to rezone 14.63ha area north of Whareroa Stream adjoining the existing Whareroa settlement (**the plan change area / the area**).
14. The area is zoned under the TDP as Rural Environment.
15. The area is located on the southern shore of Lake Taupō, on an elevated plateau (406msld – 420msld) some 50m above Whareroa Stream to the south (which includes a one chain ROW<sup>2</sup>).
16. The plan change area comprises of grazed pasture (12.63ha) and to the east 'scrub' (2.0ha) consisting of bracken and emerging fivefinger and kanuka indigenous vegetation. There is no legal road frontage to the area (Figure 1).



Figure 1: Site location

17. The plan change area is north of the existing Whareroa Village which is zoned Residential Environment. The Village comprises some 202 sections, of which some 47 are vacant lots. Community facilities associated with Whareroa Village include a boat ramp and associated jetty,

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<sup>2</sup> Plan Change Application. [3.1.4]



carpark and toilet block and esplanade reserve. There is also a network of paths providing permeability through the existing village.

18. Rangitukua Scenic Reserve is located further south on the margin of Lake Taupō between Whareroa Village and Kuratau Village.
19. The Whareroa Esplanade Reserve as vested in the Taupō District Council runs parallel to both the Whareroa Stream and the western margin of Lake Taupō, at a width of some 40m. The latter is elevated above Lake Taupō by some 23m and is clad in indigenous vegetation and notated SNA 062 and OLA60.
20. The balance area to the east of the plan change area, as also zoned Rural Environment, is a continuation of the plateau as part of the Part Hauhungaroa 6A Block, notated as SNA 062 and predominantly OLA60.
21. To the west is Whareroa Station being some 1750ha of pastoral land, also zoned Rural Environment. The station has been recently extensively planted with manuka as a commercial Manuka Apiary Orchard, but historically was farmed as a sheep and beef operation.
22. To the north is a 16ha parcel of multiple owned Maori land, also zoned Rural Environment. This block, and the parcels immediately to the north are accessed across private land to Karangahape Road to the northwest. These landholdings include several dwellings, regenerating indigenous vegetation and Poukura Marae.
23. Whareroa village is located some 30mins (32.5km) from Turangi (SH41 / SH32 / Whareroa Road) and just over an hour (80km) from Taupō (SH1 / SH41 / SH32 / Whareroa Road).
24. The overriding purpose of the Plan Change is to rezone the land to facilitate residential development.
25. The request was initially lodged with Council in December 2017.
26. The intent of the request is to provide an additional 140 – 160 residential sections, with lot sizes ranging between 500m<sup>2</sup> to 1,100m<sup>2</sup>. The request seeks to constrain residential development, by way of consent notices through subdivision, to a maximum of one (1) dwelling per lot<sup>3</sup>. That is, a maximum of 160 dwellings in the plan change area.
27. The plan change area is set back from the foreshore of Lake Taupō, thereby largely avoiding encroachment into notated Outstanding Landscape Area 60 (**OLA60**) and Significant Natural Area 062 (**SNA062**).
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.

### 3.2 Site History

29. On my site visit on 27 August 2019 I was presented with a 'Family Whakapapa' of the early 20<sup>th</sup> Century history of the immediate area. It records that the original owners of Hauhungaroa No 6, when partitioned on 6 June 1902, were descendants of Monika Paehua, Materita Kerei (also known as Raugiwhero Pakowhai) and Ngatau Hoani.

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<sup>3</sup> Information Request Response. 3 October 2018. [Page 3, Servicing Capabilities].

30. It is understood that the Maori Incorporation, the Proprietors of Hauhungaroa No.6 was established in 1965. A 200 acre lakeside block of Whareroa Station, as under the management of both the Department of Lands and Survey and the Department of Maori Affairs, was set aside when the Departments agreed to the owners taking over administration for the development of a holiday settlement subdivision of that 200 acre block, and the entity was formed. The balance land to the west remains as a farming enterprise for the Trustees.
31. The application contains a detailed history of development at Whareroa Village commencing at Section 2. The key elements are:
- 31.1 Whareroa Village subdivision commenced in the 1980's. The associated subdivision included:
- (a) Esplanade reserves of 6.9ha on the southern side of Whareroa Stream and lake frontage, as bisected by Local Purpose Road (reserve) where Whareroa Road abuts the stream (Lot 511 DPS46631).
  - (b) A 1.9ha esplanade reserve along the lake frontage to the north of Whareroa Stream.
- 31.2 The majority of residential building development occurred in the early 1990's.
32. Based on the historic aerial photographs accompanying the application<sup>4</sup>, the majority of the plan change area was cleared for pastoral agriculture between 1943 and 2002. Apart from batten and wire stock fencing and a 4 x 4 access track from Whareroa Farm proper, the area is currently devoid of any further development.

### 3.3 Statutory History to the Plan Change area

#### *Operative Plan and Policy Statement notations*

33. The area is zoned Rural Environment in the District Plan.
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.
35. Section 3e of the Plan identifies 'Urban Growth Areas' as resources for new urban land development<sup>5</sup>; Whareroa North is identified as such<sup>6</sup>.
36. The WRPS at **Policy 6.11** seeks to implement Taupō District 2050 Growth Strategy. The policy is in three parts. Clause (a) seeks to focus urban land development to identified Urban Growth Areas; with clauses (b) and (c) setting out a process and subsequent merits-based approach respectively to potential rezoning.

#### *TD2050 (2006) and TD2050 (2018)*

37. TD2050 (2006) sits at the heart of all of the spatial planning the Council has undertaken over the last 15 years. The district wide strategy addressed a wide range of issues that could influence the growth of the District.

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<sup>4</sup> Bioresearches Ltd Ecological Assessment (2005). [Figure 3 and Figure 4]

<sup>5</sup> Policy 3e.2.1(i)

<sup>6</sup> Taupo District Plan. Section 3e.6.3

38. The strategy identified a pattern of future urban growth, as predicated on the optimistic population projections of the time. Those projections showed ongoing population growth for the entire planning period. The growth approach was to focus settlement patterns on existing centres, albeit a number of 'future growth areas' which included Whareroa were identified.
39. The Strategy articulated how the Plan was to be amended (which took place in 2010 with the introduction of Section 3e):
- “Taupō District 2050 has signalled a significant shift in philosophy for the Proposed District Plan to better deal with those cumulative effects (from development). The Plan is now going to be used to strategically zone land for future urban growth in accordance with the settlement pattern identified in Taupō District 2050”.*<sup>7</sup>
40. TD2050 (2018) reviewed and replaced the superseded TD2050 (2006).
41. Apart from needing to refresh the Growth Strategy given its age, population projections were considerably more subdued than in 2006. The revised populations projections from Statistics New Zealand also identified the peak in the District population within the planning period. TD2050 (2018) identified that there were 5,000 potential residential lots zoned or previously identified for growth to meet an anticipated residential demand for 3,000 residential lots till 2048; that is, a surplus of 2,000 residential lots over 30 years.
42. The Draft TD2050 Refresh as provided to the Council for public consultation<sup>8</sup> did not include Whareroa as an identified Future Residential Growth Area.
43. The Council Minutes<sup>9</sup> record the Council resolution to reinstate Whareroa within the Draft TD2050 (2018) along with the following text to be inserted as Section 4.7 of the document:
- “Whareroa North is included as a future growth area on the basis that it has previously been identified in planning documents and Council has recently received a private plan change seeking to have the zoning changed. It will need to be demonstrated that there is demand for this land and that costs to the community can be appropriately managed. Ultimately its future will be determined through the private plan change process (shown as amber on the maps)”*
44. Submission 38<sup>10</sup> (Proprietors of Hauhungaroa No 6 Block Inc) to TD2050 (2018) supported the inclusion of Whareroa North as a future growth area in the TD2050 Growth Strategy, but opposed Section 4.7 of the document for singling out Whareroa.
45. The Council decision to approve TD2050 (2018) was made on 18 October 2018 which sought to retain specific wording for Whareroa to:

*“enable the private plan change process to determine what happens with that land”.*

#### *Southern Settlements Structure Plan (SSSP) (2013)*

46. The Southern Settlements Structure Plan outcomes includes<sup>11</sup> identification of land needed to meet residential growth demands to 2035. The SSSP identified Omori / Kuratau and Whareroa North along with specific matters that would need to be advanced in consideration

<sup>7</sup> Taupo District 2050(2006) (Page 135)

<sup>8</sup> 31 July 2018 – Ordinary Council Meeting, Policy and Decision Making Item 5.5  
[https://taupo.infocouncil.biz/Open/2018/07/TDC\\_20180731\\_ATT\\_2250.PDF](https://taupo.infocouncil.biz/Open/2018/07/TDC_20180731_ATT_2250.PDF)

<sup>9</sup> 31 July 2018 – Ordinary Council Meeting, Policy and Decision Making Item 5.5  
[https://taupo.infocouncil.biz/Open/2018/07/TDC\\_20180731\\_MIN\\_2250.PDF](https://taupo.infocouncil.biz/Open/2018/07/TDC_20180731_MIN_2250.PDF)

<sup>10</sup> [http://taupo.infocouncil.biz/Open/2018/10/TDC\\_20181018\\_MIN\\_5324.PDF](http://taupo.infocouncil.biz/Open/2018/10/TDC_20181018_MIN_5324.PDF)

<sup>11</sup> Southern Settlements Structure Plan [pg 8]

of any subsequent plan change. Ongoing development was expected at Motuoapa, Turangi and Tokaanu.

The executive summary<sup>12</sup> identifies that:

- *The effect of the global economic conditions has meant that development in the southern settlements has slowed significantly;*
- *Council has to manage its costs very carefully, particularly money spent on new infrastructure;*
- *Changes to Regional Council water quality rules in Lake Taupō mean that Council has to manage its wastewater and stormwater discharges very carefully and there will be new restrictions on development as well as existing wastewater systems (both Council and private); and*
- *Council now considers it more appropriate that private landowners/developers undertake changes to the District Plan to zone land for new development, rather than Council doing this work*

47. Whareroa is identified as a future residential growth area at pages 48 – 51 of the Structure Plan.
48. Two options WFG1 and WFG2 are shown in terms of potential growth areas<sup>13</sup>, with the latter extending into the identified SNA and ONL. A ‘possible road crossing’ is shown connecting the potential growth areas to the existing settlement.
49. The Structure Plan identifies that any plan change request is to carefully consider matters including:
- Effects on the SNA and ONL;
  - Ecological and landscape effects;
  - Erosion control;
  - Conflicts between obtaining views and landscape planting;
  - New recreational areas;
  - Buffer planting and
  - Visual impacts on the existing Whareroa settlement.
50. The Structure Plan does not presume that the rezoning of land is a simple formality, and it clearly identifies that issues of capacity and the cost of infrastructure remain relevant matters:

*“Possible staging within Urban Growth Areas is an option to ensure the efficient use and development of natural and physical resources across the District and within the Urban Growth Area itself. Regard should be given to the capacity of currently zoned areas and new growth areas to accommodate the growth of the District in a 20 year period and possibly beyond. Consideration also needs to be given to the cost of infrastructure and the utilisation of existing capacity and services, prior to new areas being developed and new service extensions being required. Overall, investments made by Council on behalf of the community should be recouped prior to new investments being made”<sup>14</sup>.*

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<sup>12</sup> Southern Settlements Structure Plan [pg 5]

<sup>13</sup> Southern Structure Plan – Whareroa Growth Area, page 50.

<sup>14</sup> Southern Structure Plan – Whareroa Growth Area, page 18

51. The last statement as underlined, signals clearly within the SSSP that the efficient use of under-utilised existing infrastructure should, where possible, be achieved before the Council invests elsewhere in the absence of identified need/demand. To do otherwise would not be prudent use of Council resources.

### 3.4 The Plan Change Request

#### Background

52. The request was lodged on 20 December 2017.
53. The request has a long history (Table 2) and consists of several requests for further information and clarity (**Attachment L**).

Table 2: Process History

20 December 2017	Request for the plan change is lodged with the Council.
15 February 2018	Council Officers request further information to better understand the request. This includes requests that Council Commission a report (at the proponent's cost) to identify efficiency of additional residential land demand (and existing supply) as measured against infrastructure cost.
Feb 2018 – Aug 2018	A series of meetings were held between the Council Officers and proponent's Agent(s) over a number of months, to clarify information requests.
3 August 2018	Council Officers clarified in writing the basis for the further information request and noted new information regarding wastewater.
3 October 2018	Elements of the information request were responded to. The proponent advised that additional information as requested would not be provided and refused (as is their right) for Council to commission a residential demand report.
19 October 2018	The outstanding geotechnical report was provided. The proponent requested that the Plan Change be accepted for processing in terms of clause 25 of the Resource Management Act 1991.
8 November 2018	Council asked for additional information on potential to transfer nitrogen credits.
19 January 2019	Council withdrew request relating to nitrogen.
10 February 2019	Independent Commissioner decides that the Plan Change can be processed under clause 25, but that remaining 'omissions' in the information provided remain concerning.
7 June 2019	Additional information is provided by the proponent, including: <ul style="list-style-type: none"> <li>• Overview Letter – Additional Information</li> <li>• Letter C/- Bailey re localised housing demand</li> <li>• Preliminary Stormwater Assessment C/- Cheal Consultants Ltd</li> <li>• Updated Whareroa North Concept Plan (dwg IBA1070-SC002, dated 7 June 2019)</li> </ul>
30 July 2019	Council resolution to accept and notify the Plan Change request.
21 October 2019	Amended Concept Plan and provisions (utilised for notification) ( <b>the notification provisions</b> )  Revised Preliminary Stormwater Assessment (Cheal IBA 1070 Rev 4 dated 26 September 2010)

31 October 2019	Notification
20 November 2019	Property Economics Whareroa North PPC36 Economic Assessment
20 December 2019	Submission close
18 March 2020	NERA review of Property Economics Report received
20 March 2020	Further Submissions close
6 April 2020	Landscape Montages / Visuals and revised Amended Concept Plan and provisions ( <b>the amended provisions</b> )

*Outline of the Plan Change Request – **the notification provisions***

54. The Plan Change seeks to rezone a 14.63ha area referred to as Whareroa North, from Rural Environment to Residential Environment (zone).
55. The Plan Change seeks to:
- 55.1 Amend District Plan Environment Map C29 – to notate the change in zoning.
- 55.2 Amend District Plan Section 3a (Objectives and Policies) to insert:
- i. new Policy 3a.2.1(v)

**Subdivision and Development at Whareroa North should be generally in accordance with the Whareroa North Outline Development Plan**
  - ii. Associated amendments to the ‘explanation section’ to reference the Whareroa North Outline Development Plan; and
  - iii. New Anticipated Environmental Outcome 3a.5(vi) which paraphrases inserted Policy 3a.2.1(v).
- 55.3 Amend District Plan Section 4a Residential Environment (Rules and Standards):
- (a) Insertion of Rule 4a.3.1A – which deems ‘Subdivision’ *generally* in compliance with Whareroa North Outline Plan (an inserted Appendix 8) a **controlled activity**.
  - (b) Insertion of Rule 4a.3.1B – which deems ‘subdivision’ not *generally* in compliance with Whareroa North Outline a **restricted discretionary activity** as subject to matters in Rule 41.3.2.
  - (c) Insertion of a ‘Note’ under inserted Rule 4a.3.1B. This note purports to identify that the activity status for Stage 1 of the Whareroa North Residential Subdivision is also determined by rules relating to development and subdivision in the ONL<sup>15</sup>, and vegetation clearance and subdivision within an SNA.
  - (d) Rule 4a.3.2 - discretion as matters to be considered as Controlled Activity is amended to include reference to Rule 4A.3.1A such that they can be considered for Whareroa North.
  - (e) Rule 4a.3.3 through the insertion of an exception ‘Note’ which purports to clarify that the rule (Restricted Discretionary status for any subdivision in a non-

<sup>15</sup> The statutory effect of the Note is that Stage 1 of any development at Whareroa North would be a **Discretionary Activity** through subdivision of land within the ONL (Rule 4b3.3) to provide for Local Purpose Reserve (Road) for the provision of public access.

serviced Residential Environment) is not applicable to subdivision *generally* in accordance with Whareroa North Outline Development Plan (inserted Appendix 8).

55.4 Insert District Plan *Appendix 8 Whareroa North Outline Development Plan*. This includes:

- (a) A context statement.
- (b) A Subdivision Design statement and 'Concept Plan' (Figure 2).
- (c) A description of key outcomes from subdivision design, including generic statements as to natural value management, and more prescriptive statements as to number of lots, dwellings per lot, and lot sizes.
- (d) Commentary on staging, including the statement '*... no development will be able to be undertaken until the necessary (TDC and WRC) consents are granted*', as well as identifying the need for consents for bridge and road access.
- (e) A statement as to Engineering and Servicing, including identifying that Stage 1 is reliant on bridge access across Whareroa Stream and roading connection, and the provision of separate pedestrian and cycle links. For stormwater a conceptual design is sought to be included in the Outline Development Plan to be included as Appendix 8 to the District Plan.

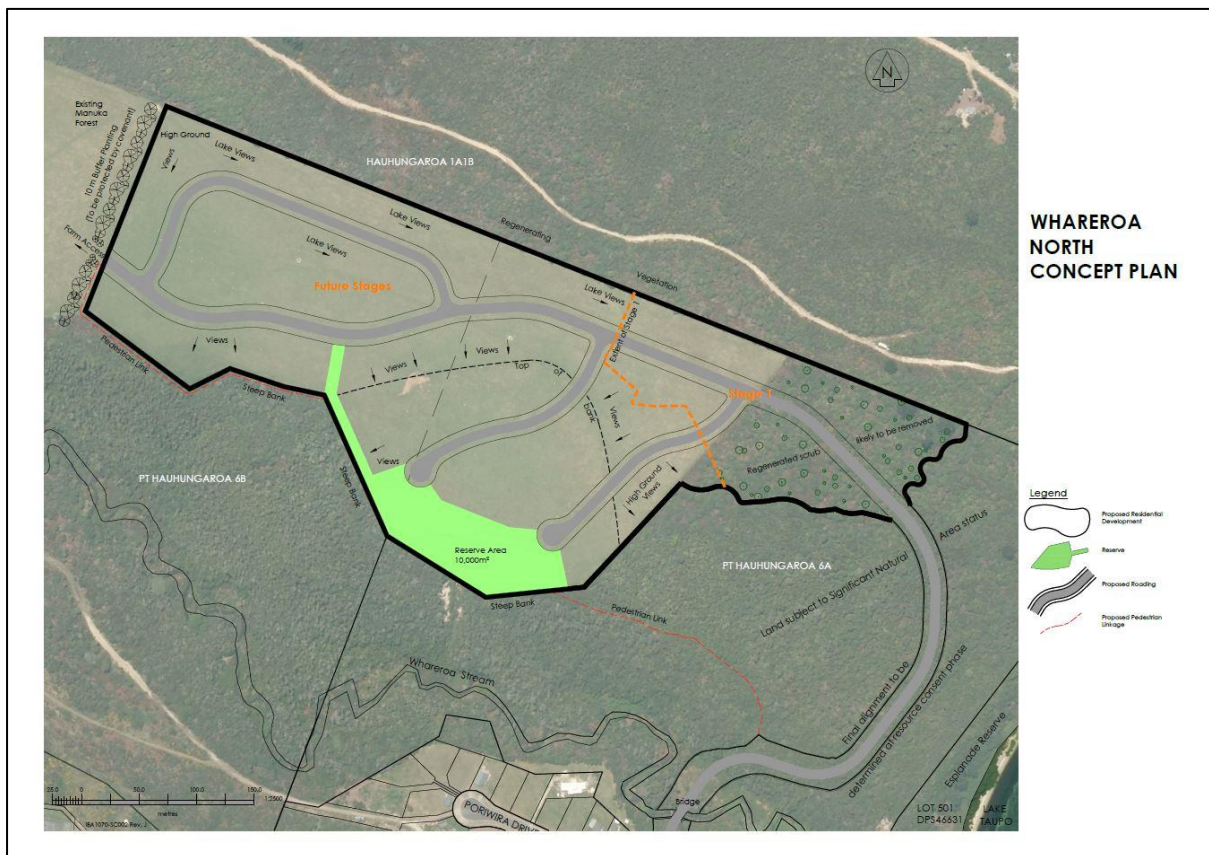


Figure 2: Whareroa North Concept Plan (Inserted District Plan: Appendix 8) – As Notified

56. On 6 April 2020, an amended package of provisions was received. These are narrowed to the Appendix 8: Whareroa North Outline Development Plan, and differ from the **Notified Provisions** as follows:
- 56.1 The Concept Plan has been amended (Figure 3), with the main changes including notations for stormwater reserves, areas of proposed indigenous vegetation planting (both within and outside the proposed rezoning area), and planting along the road access route (to be determined and consented).
- 56.2 Amendments to the 'Key Outcomes' Section – in relation to the following matters:
- (a) **Geotechnical Investigation:** The requirement for further Geotechnical investigations to be done during detailed design to size stormwater ponds.
  - (b) **Ecology:** Statements as to the removal of SNA vegetation and associated management, including provision of offset or compensation with regard to removal of vegetation associated with SNA062.
  - (c) **Landscape and visual absorption:** Statements as to the provision of additional controls (by way of consent notices on titles from subsequent subdivision) as to the height, reflectivity and retention of vegetation.
- 56.3 Amendments to Staging, including introduction of a 'Preliminary Stage' which seeks to address requirements for on-site geotechnical drilling, testing and investigation to inform subsequent design. This stage also identifies the need for additional resource consents to facilitate investigative works and associated vegetation clearance.
- 56.4 Amendments to the Stormwater Preliminary Conceptual design.
- 56.5 Insertion of a number of 'Anticipated Environmental Outcomes' categorised under the headings 'Village Character and Amenity' and 'Natural and Physical Environment'.



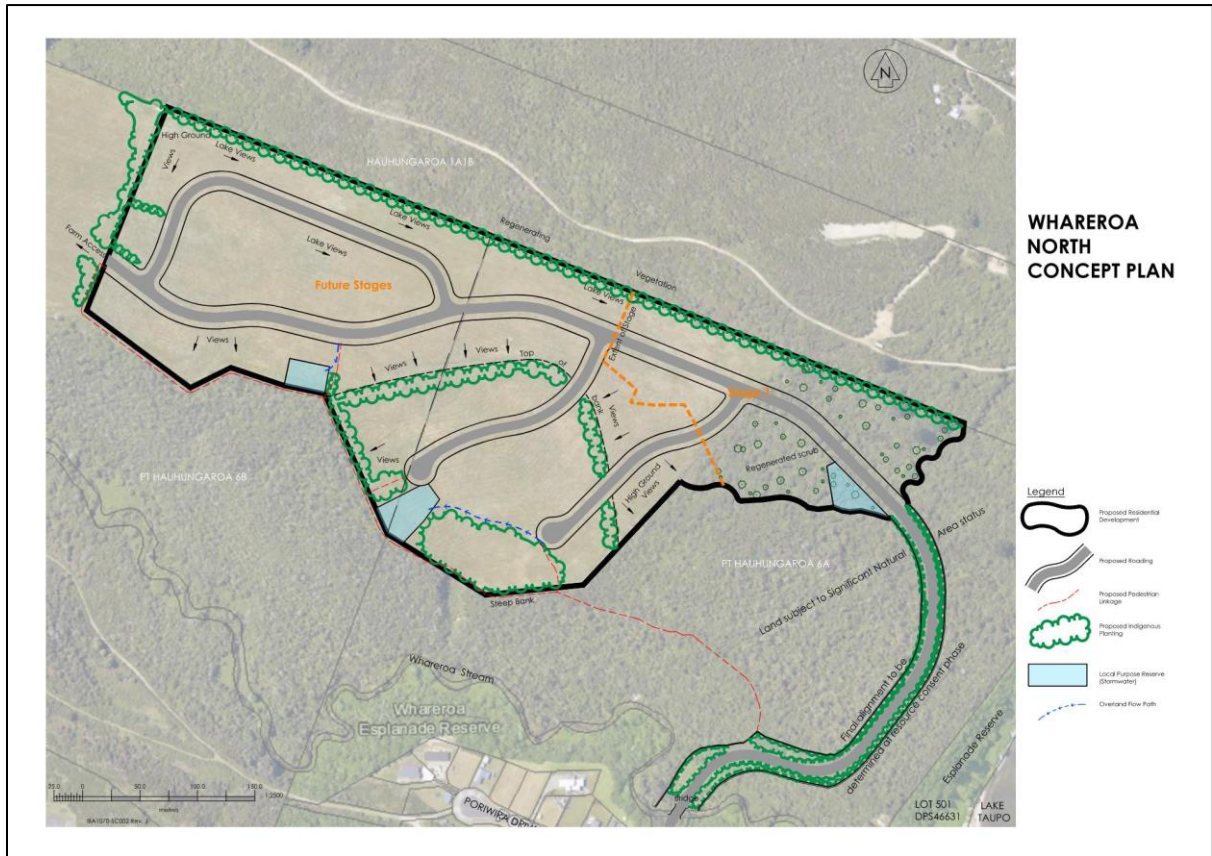


Figure 3: Whareroa North Concept Plan (Inserted District Plan: Appendix 8) – As amended.

57. A summary of the Plan Change is therefore:

- 57.1 A preliminary stage (as added through the Amended Provisions) facilitates required geotechnical investigations, including those associated with the provision of road access and vegetation clearance within SNA062.
- 57.2 Stage 1 would be deemed a **Discretionary activity**, as reliant on Bridge and Road access through ONL60.
- 57.3 Subsequent subdivision:
  - (i) Which is generally consistent with the ODP is **Controlled**; whereas
  - (j) Which is not generally consistent with the ODP, or within unserviced areas of the rezoned area would be deemed as **Restricted Discretionary Activities**<sup>16</sup> as a consequence of Rule 4a.3.4.
- 57.4 Unresolved matters relating to Geotechnical investigation, Ecology, or Landscape management are identified as being reliant on a Preliminary Stage (Amended Provisions) or acknowledged as requiring resource consents to provide for necessary testing (vegetation clearance within the SNA) or infrastructure (roading within the SNA / OLA).

<sup>16</sup> Rather than Discretionary as pursuant to Rule 4a.3.4

- 57.5 There are no Whareroa North specific land use rules introduced. Subsequent landform development is sought to be managed (**the Amended Provisions**) pursuant to consent orders on allotments regarding matters such as height, recessive colours or planting.
58. The Plan Change **does not**:
- (a) Amend or insert additional objectives in the District Plan.
  - (b) Amend any provisions within:
    - i. Section 3h – Landscape Values
    - ii. Section 3i – Natural Values
    - iii. Section 4e – District Wide Rules (including landscape values (4e.5) or Natural values (4e.6).
  - (c) Seek to enable, or otherwise limit anticipated occupation expressly to provide for Papakainga housing<sup>17</sup>.
  - (d) Extend to include:
    - i. the ‘anticipated’ provision for a bridge access across the Whareroa Stream and road access and pedestrian walkway connection from the Plan Change area to where Whareroa Road abuts Whareroa Stream.
    - ii. A 10m buffer planting strip (to be protected by covenant) as shown on the Concept Plan (Notified Provisions, absent in the Amended Provisions).
59. Therefore, the request is to be primarily assessed against the extent that it gives effect to/achieves existing objectives, and the relevant provisions of the RPS and NPS-UDC and NPS-FC.

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<sup>17</sup> E-mail Joanne Lewis (6 June 2019). Note: There is an expectation that Trustees envisage an area set aside for whanau who have expressed a desire to return and reconnect with land (Pers Comm Duncan McKenzie Whareroa Incorp dated 27 August).

## 4.0 STATUTORY CONSIDERATIONS

### 4.1 Relevant Case Law

60. The mandatory requirements in terms of establishing District Plan provisions has been well versed in case law, including *Long Bay-Okura Great Parks Society Incorporated vs North Shore City Council* (Decision A 078/2008), amended in the *High Country Rosehip Orchards Ltd and Ors v Mackenzie DC* ([2011] NZEnvC387) to reflect changes made by the Resource Management Amendment Act 2005, and also *Colonial Vineyard vs Marlborough District Council*<sup>18</sup>

#### A. General Requirements

1. A district plan should be designed to accord with and assist the territorial authority to *carry out* its functions so as to achieve, the purpose of the Act.
2. When preparing its district plan the territorial authority must *give effect* to any national policy statement or New Zealand Coastal Policy Statement.
3. When preparing its district plan the territorial authority shall:
  - a. *Have regard to* any proposed required policy statement;
  - b. *Give effect to* any operative regional policy statement;
  - c. *have regard to* the extent to which the plan needs to be consistent with the plans of adjacent territorial authorities.
4. The Supreme Court (referring the Environment Court in *Clevedon Cares vs Manukau City Council*) has stated that '*give effect to* is a strong directive, creating a firm obligation on those subject to it.

In relation to regional plans.

- a. the district plan must *not be inconsistent with* an operative regional plan for any matter specified in s30(1) [or a water conservation order]; and
  - b. *Must have regard to* any proposed regional plan on any matter of regional significance etc.;
5. When preparing its district plan the territorial authority must also;
    - a. *Have regard to* any relevant management plans and strategies under other Acts, and .... and to consistency with plans and proposed plans of adjacent territorial authorities;
    - b. *Take into account* any relevant planning document recognised by an iwi authority; and
    - c. *Not to have regard to* trade competition;
  6. The district plan must be prepared *in accordance* with any regulation and any direction given by the Minister for the Environment.
  7. The requirement that a district plan (change) must also state its objectives, policies and the rules (if any) and may state other matters.

#### B. Objectives (the section 32 test for objectives)

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<sup>18</sup> [204] NZEnvC, 55, at paragraph [17]

8. Each proposed objective in a district plan is *to be evaluated* to the extent to which it is the most appropriate way to achieve the purpose of the Act.
- C. Policies and methods (including rules / zone boundaries) (the section 32 test for policies and rules).
9. The policies are to *implement* the objectives, and the rules (if any) are to *implement* the policies.
  10. Each proposed policy or method (including each rule) is to be examined, as to whether it is the most appropriate method for achieving the objectives of the district plan by:
    - a. *Identifying* other reasonably practicable options for achieving the objectives:
    - b. *Assessing the efficiency and effectiveness* of the provisions in achieving the objectives, including:
      - i. Identifying, assessing and quantifying (where practicable) the benefits and costs of the environmental, social and cultural effects anticipated from the implementation of the provisions, including opportunities for economic growth and employment; and
      - ii. Assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
      - iii. If a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.
- D. Rules
11. In making a rule the territorial authority must *have regard to* the actual or potential effect of activities on the environment.
  12. There are special provisions for rules about contaminated land.
  13. There must be no blanket rules about felling of trees in any urban environment.
- E. Other statutes
14. Territorial authorities may be required to comply with other statutes.

## 4.2 Decision Making Framework

61. In accordance with the Schedule 1 process of the RMA, this report and the proposed recommendations have focused on those matters raised in the submissions and relief sought.
62. In some instances, in addressing the relief sought, additional amendments have been proposed – these are considered to be foreseeable or consequential to the Plan Change. The recommendations, pursuant to clause 10 of Schedule 1 are set out at the end of each submission topic in **Attachment C**. These matters have also been addressed, where relevant, by the respective Council experts.

## 5.0 SUBMISSIONS

### 5.1 Submissions and further submissions received

63. Seventeen notices of submission were lodged to PPC36 and no further submissions were received. There were approximately 72 decision points requested within the submissions.

### 5.2 Analysis of submissions received

64. Thirteen (13) submissions are in opposition to the Plan Change; three (3) are in support and one (1) is neutral.
65. The general issues contained in the decision points raised by submitters can be broadly categorised as follows:
- (a) Concern as to increased demand on infrastructure and associated costs on the community, and / or an absence of demand justifying additional rezoning in Whareroa.
  - (b) Concerns as to uncertainty of / absence of assessment, and associated environmental impacts (ecology and natural character) - specifically from roading and bridge access.
  - (c) Ecological and landscape impacts.
  - (d) Transport impacts including capacity and safety of the network.
  - (e) Increased loadings on wastewater and water supply.
  - (f) Geotechnical risk associated with the development, especially 'raw scarp area' and bridge access.
  - (g) General planning issues (prescriptiveness of provisions, use of 'generally' associated with the Outcome Development Plan)
  - (h) Support, as predicated on the Southern Settlements Structure Plan providing for growth.
66. The Ministry for Education (Sub No.15) has lodged a neutral submission. That submission raises issues as to safe transport routes and access to its school network, and identifies that the Ministry has not anticipated additional school age demand from the southern settlements, with Kuratau and Turangi Schools being limited in capacity.
67. Heritage New Zealand Pouhere Taonga (Sub No.16) has lodged a submission in opposition. The submission seeks additional Archaeological Assessment, as the current application is considered deficient in terms of an appropriate basis to support the Plan Change on Archaeological grounds.
68. The Waikato Regional Council (Sub No.17) has also submitted in opposition. The submission is predicated on the statement that the application is deficient in addressing excess supply outstripping demand, and thereby compromising the co-ordinated and strategic growth of Taupō District. The submission also opposes the Plan Change on the basis of:
- 66.1 The bridge and road access should be included within the Plan Change to provide for an integrated and coordinated consideration of all impacts associated with the proposal.
  - 66.2 Impacts associated with fragmentation or vegetation removal within the existing SNA and OLA; and
  - 66.3 Insufficient geotechnical assessment to determine whether rezoning is appropriate, particularly in relation to the geological 'bowl' feature.

67. **Appendix B** to this report categorises submissions in terms of matters raised as below, with Section 6 of this report considering the effects of these matters in greater detail based on the assessments provide by the Proponent and the reviews undertaken by Council Experts as appended to this report (**Attachments D – J**).

- (a) Support / Opposition or Neutral
- (b) Infrastructure (three waters) and Reserves
- (c) Transport
- (d) Archaeology and Cultural
- (e) Landscape
- (f) Ecology
- (g) Economics / Strategic land use and integrated urban land use patterns
- (h) Geotechnical and Hazards
- (i) Planning

## 6.0 ASSESSMENT OF EFFECTS

### 6.1 General

69. There are a range of potential positive and adverse effects associated with PPC36.
70. The following section addresses these effects. Where matters are largely uncontested or are not pivotal in terms of the statutory considerations outlined in Section 4, these matters are not laboured.
71. The remaining matters including economic effects, geotechnical investigation, landscape and ecology, as well as mechanics to secure the development outcomes intended by PPC36 are addressed in greater detail.

### 6.2 Existing Environment and baseline

72. The site is zoned Rural Environment. It is devoid of any structures and consists of grazing pasture.
73. Were access to be provided from the west, that is avoiding the adjoining notated SNA and OLA, one (1) rural lot of 10ha could be created as a **Controlled activity**<sup>19</sup>; Bonus lots could be generated between 1,500m<sup>2</sup> to 4ha not exceeding a maximum of 10 bonus lots at a ratio of 1:10ha of nominated SNA<sup>20</sup> as a **Discretionary activity**.
74. I am not aware of any unimplemented resource consents for the site.
75. There is no permitted baseline in terms of new residential allotments and associated development, and the existing environment offers no comparable scenario to the level of development proposed through PPC36.

### 6.3 Positive Effects

76. I consider that the positive effects that are not contested include:
  - 76.1 Increased self-determination for the Maori Incorporation, the Proprietors of Hauhungaroa No.6.
  - 76.2 Utilisation of existing 'expansion area' for treated wastewater disposal.
  - 76.3 Provision of additional residential market supply to existing stock within the District, or within the wider geospatial holiday home market.
77. There are also a number of contested positive effects, these are:
  - 77.1 The provision of additional supply and housing choice and typologies (where there exists an excess in capacity and choice).
  - 77.2 The generation of unique demand not currently provided for, resulting in increased net additional holiday home sales in the District (rather than a transfer from existing opportunities).

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<sup>19</sup> District Plan Rule 4b.3.1(i)

<sup>20</sup> District Plan Rule 4b.3.7

## 6.4 Infrastructure (Three Waters)

### *The Applicant's position*

78. The application was accompanied by the KeySolutions Limited Infrastructure Report (Appendix 3, dated 7 December 2017).
79. In terms of water supply, wastewater and stormwater, that report highlights that capacity in headworks is available and a collaborative approach to managing wastewater can overcome issues associated with the existing treatment facility and compliance with the respective Regional Council discharge consent.
80. The Report also notes that land for the treatment of wastewater, to the equivalent of 160 lots, has been provided by the landowners. This land is referred to as the 'expansion area' in the TDC Evidence of Mr Cordell.
81. The report is largely silent in terms of stormwater management.

### *The Council's position*

82. Mr Swindells has provided evidence in terms of **Water Supply**. He concurs<sup>21</sup> that the current water take consent at Whareroa has headroom sufficient to cater for additional growth associated with the Plan Change.
83. In terms of the water supply system infrastructure, Mr Swindells identifies that the current Whareroa water supply system is not capable of catering for the Plan Change, and plant capacity would need to increase by 80%, which represents substantial increases in plant capacity and associated costs<sup>22</sup>. These costs have not been evaluated in the Plan Change and would need to be met by the developer and coincide with the 2025 planned upgrade of the existing plant to meet NZ Drinking Water Standards<sup>23</sup>.
84. Mr Cordell has provided evidence in terms of **Wastewater**. The Whareroa wastewater treatment plant obtained a new discharge consent from WRC in 2019. That consent requires Council to cap total nitrogen (TN) load discharge to 446 kilograms of TN / year<sup>24</sup>.
85. As outlined in the evidence of Mr Cordell, the discharge consent would provide for the existing zoned (and fully developed) Whareroa Village of 202 dwellings, and an additional 24 of the 160 dwellings that would otherwise be enabled by the Plan Change.
86. This is inclusive of the additional irrigation land from HAUHUNGAORA 6 INCORPORATION, which is known as the 'expansion area'. I understand that the nitrogen credits from the 'retirement' of this block is equivalent to the additional discharge that will be generated by the fully developed Plan Change area - that is, 160 dwellings<sup>25</sup>.
87. I understand from the evidence of Mr Cordell, that the shortfall in capacity (in broad terms the nitrogen loading equivalent of 136 dwellings<sup>26</sup>) is not insurmountable, but is associated with an additional cost for this development, with the shortfall needing to be accounted for through either:
  - 87.1 Upgrading the existing Whareroa plant to improve nitrogen removal; or

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<sup>21</sup> TDC Swindells [18, 19]

<sup>22</sup> TDC Swindells [23]

<sup>23</sup> TDC Swindells [24]

<sup>24</sup> TDC Cordell [36]

<sup>25</sup> TDC Cordell [46]

<sup>26</sup> TDC Cordell [41]



- 87.2 The transfer of nitrogen credits from an existing allocated (and zoned) but undeveloped residential area already allocated to existing or zoned residential development in the wider district.
88. In addition, new reticulation infrastructure, including a new wastewater pump station and rising main would be required, which would need to be met at the developer's cost.
89. Lastly, in terms of **Stormwater**, Mr Stokes identifies that disposal of stormwater will need to comply with WRC guidelines, which can be verified and confirmed at subsequent subdivision consent. He identifies that the approach to splitting the area into sub-catchments to reduce the extent of drainage to the scarp basin is considered appropriate, as subject to Geotech confirmation. He does not consider runoff contamination from roading to be a material issue.
90. **In summary**, it is considered that development enabled by the Plan Change would be able to be supported by adequate (three water) infrastructure and would take account of the effective functioning of supporting and surrounding infrastructure<sup>27</sup>.
91. There are costs to be borne by the developer in terms of facilitating infrastructure to service the development, and wider maintenance (and potentially nitrogen offset) costs to be borne by the wider community<sup>28</sup>.
92. Both Mr Swindells and Mr Cordell state that they are unable to support the Plan Change without certainty as to the legal mechanism to ensure that services can span Whareroa Stream.
93. The residual contestable matter as to whether such development results in the efficient functioning of infrastructure<sup>29</sup> is discussed in the section relating to Strategic land use and integrated urban land use patterns.

## 6.5 Infrastructure (Recreation Reserves)

94. Mr Mourie has provided a consideration of the proposed Outline Development Plan and considers that the provision of reserves is appropriate, to be vested at time of subsequent subdivision consent. He supports the absence of formalised spaces, given the character and isolation of the Plan Change area.
95. Mr Mourie identifies concerns as to the imprecise nature of the linkages identified in the Outline Development Plan, and considers it appropriate that a higher degree of prescriptiveness in relation to widths, materiality of paths and the like is provided within the Applicant's evidence and inserted into provisions in the Plan.
96. Accordingly, I concur that subject to such further information, the Plan Change would achieve the provision of open space amenity to meet the needs of its community<sup>30</sup>.

## 6.6 Infrastructure (Transport)

### *The Applicant's position*

97. The KeySolutions Infrastructure Report identifies there is capacity in the wider transport network (intersection of Kuratau Road / SH32, Kuratau Hydro Road and Whareroa Road) to accommodate traffic generation enabled by the Plan Change. The Report identifies visibility

<sup>27</sup> District Plan Policy 3e.2.2(iv) and (v). 3e2.3 Objective, Policy 3e2.3(i)

<sup>28</sup> District Plan Policy 3e.2.4(i)

<sup>29</sup> District Plan Policy 3e.2.2(v)

<sup>30</sup> District Plan Policy 3e.2.3(iii)

issues associated with vegetation clearance within the road reserve at the intersection of Kuratau Road / SH32, with these to be resolved 'at the appropriate time'.

98. In terms of specific bridge and roading access to the Plan Change area from Whareroa Village, the Report identifies that several options were considered in terms of access to the Plan Change area. The Report refers to an Apex Consultants Report (2007)<sup>31</sup>, with direct routes extending from Whareroa Road resulting in trade-offs between connectivity, construction cost, earthworks and disturbance / indigenous vegetation removal. The Report identifies both that:
- "final alignment to be determined at resource consent phase"; and
  - "Obviously, pivotal to this access proceeding is the gaining of consent from the owner of the Whareroa Stream bed, the Waikato Regional Council, and the Taupō District Council as the future owner of the infrastructure. Discussion with these parties is ongoing".

#### *The Council's position*

99. The evidence from Mr Hansson identifies:

99.1 *Trip Generation* – Based on existing flows of 145 vehicles per day (**vpd**) on Kuratau Hydro Road, and assuming a 8-9% occupancy within dwellings enabled by the Plan Change, a total cumulative trip generation (Whareroa Village and Whareroa North) of some 309 vpd, or 31 vehicles at the peak hour, would be expected for typical generation<sup>32</sup>.

Seasonal peaks as associated with increased levels of occupancy would equate to 618vpd in terms of cumulative trip generation<sup>33</sup>.

99.2 *Capacity* – Kuratau Hydro Road and Whareroa Road are two lane sealed roads with a general seal width of 6 metres. The cross section comprises of 3m traffic lanes with a marked centre line. Mr Hansson advises that based on calculations and using the Waka Kotahi's Economic Evaluation manual, the capacity of the road with 13% Heavy Commercial Vehicles (HCV's), a seal width of 6m and 50/50 directional split, is 1,986 vph<sup>34</sup>.

99.3 Accordingly, Mr Hansson advises that even the holiday peak scenario of 618vpd (62vph) remains significantly lower than the theoretical road capacity of 1,986vph. He is of the view that there are no capacity issues with the wider network. Modelling of intersections is unnecessary given the likely associated delays and queue lengths. Accordingly, any effects on network efficiency are less than minor. I agree.

99.4 *Safety* – Mr Hansson has confirmed that the crash history is very low, and that SH32/ Kuratau Hydro Road does not appear to have any existing safety issues<sup>35</sup>. He concludes that projected crash rate at the SH32 / Kuratau Hydro Intersection is predicted to increase from 0.02 to 0.03 crashes per year, a predicted increase of 1 additional crash / 100 years<sup>36</sup>.

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<sup>31</sup> Appendix 2 to the KeySolutions Report (Appendix 3 to the Application). Supplementary Paper (2016)

<sup>32</sup> TDC. Hansson [8.2-8.6]

<sup>33</sup> TDC. Hansson [8.7 – 8.10]

<sup>34</sup> TDC. Hansson [8.12]

<sup>35</sup> TDC. Hansson [8.15 – 8.19]

<sup>36</sup> TDC. Hansson [8.19]

Mr Hansson advises<sup>37</sup> that sightlines could be improved at the SH32 / Kuratau Hydro Intersection and that the intersection should be upgraded to Waka Kotahi's Diagram E Treatment to further improve safety. I am of the view that these 'improvements' are not directly attributable to manage traffic generation enabled by the development or are within the mandate of the Proponents to resolve. Accordingly, these costs would be borne by the Council, but are not determinative.

- 99.5 *Vulnerable Road Users* – Mr Hansson considers that vulnerable road users are able to share the road and road reserve of both Kuratau Hydro Road and Whareroa Road without material effects on safety or efficiency<sup>38</sup>.
- 99.6 *Absence of certainty – legal mechanism* – Mr Hanson is of the view that modal connectivity between Whareroa Village and proposed Whareroa North is not certain. I share this concern that there is an absence of clarity in the Outline Development Plan as to the manner, width and treatment for the provision of such links. I am not of the view that there is sufficient certainty in the proposed plan change provisions to resolve these matters through subsequent subdivision / resource consents.
100. I agree with Mr Hansson<sup>39</sup> that there is no surety over the legal mechanism to ensure perpetual public access over Whareroa Stream. I consider this to be a fundamental unresolved problem with the Plan Change in terms of the provision of supporting (transport) infrastructure.
101. **In summary**, it is considered that there is agreement within the respective Transport evidence that the proposal can appropriately manage effects on the safe and efficient functioning of the existing road network, that is the wider transport network<sup>40</sup>.
102. There remains a fundamental unresolved issue, identified in both the KeySolutions Report and by Mr Hansson that there is no certainty in the provision of perpetual public access to the plan change area, and the legal basis specifically for connection across Whareroa Stream. Accordingly, the Plan Change does not manage effects of the functioning of the future road network (that is intra-Plan Change area) and cannot be stated to overcome the necessary issue as to how sufficient provision is made for legal and physical access.
103. This is not a matter that can be left to be addressed under s106(1)[A](c). The absence of legal certainty as to public access represents a significant 'cost' in terms of the proposal, as well as the Plan Change neither achieving District Plan **Objective 3f2.2.1, Policy 3e.2.2, Policy 3e.2.3** as these relate to the provision of effective functioning (transport) infrastructure, and WRPS **Policy 6.1** and **Policy 6.11(a)(v)** and **(b)** which seeks that subdivision, use and development of the built environment occur in a planned and co-ordinated manner, and that development is supported by infrastructure.

## 6.7 Cultural Effects

104. It is clear from the involvement of Tangata Whenua to date<sup>41</sup> that PPC36 is supported by Tangata Whenua. I understand that the Proponents have specifically ensured a high level of engagement with Ngāti Parekaawa and also considered and responded to matters related to stormwater and wastewater disposal based on discussions with Tūwharetoa Maori Trust Board.

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<sup>37</sup> TDC. Hansson. [8.20]

<sup>38</sup> TDC. Hansson. [8.22]

<sup>39</sup> TDC. Hansson. [8.26 – 8.27]

<sup>40</sup> District Plan. Policy 3e.2.3(iv).

<sup>41</sup> Appendix 1 (Milestones) and 9 (Consultation) to the Application. Section 3 of the Cultural Impact Assessment (Tina Porou, 2007) Appended to the Application.

105. It is acknowledged that Tūwharetoa Māori Trust Board is the owner of the bed of Lake Taupō on behalf of the Iwi and owner of the beds of many of the rivers and tributaries of Lake Taupō on behalf of ngā hapū o Ngāti Tūwharetoa. Ngāti Parekaawa is a hapū of Ngāti Tūwharetoa located on the western shores of Lake Taupō and whose ancestral marae is Poukura adjacent to the Plan Change area.
106. It is also understood that the Plan Change provides opportunities for mana whenua who have expressed a desire to return and reconnect with land, but does not extend to explicit provision of Papakainga.
107. These cultural effects of PPC36 are regarded as positive.
108. There remains the outstanding issue as to resolution<sup>42</sup> of the Whareroa Bridge span across Whareroa Stream. It is understood that Tūwharetoa Maori Trust Board holds title to the bed and airspace of Whareroa Stream. Whilst it is understood that there is an ongoing willingness between the Trust and the proponents to korero towards an outcome – one has not been forthcoming at the time of drafting this evidence. The Taupō District Council has sought to clarify this matter with the Proponents as far back as the initial clause 23(1) request for further information. Matter 6 of the letter dated 16 February 2018 states:

<i>Legal Position on Bridge Crossing</i>		
6	<i>Provide additional assessment on the legal requirements for the bridge to access Whareroa North to cross Whareroa Stream</i>	<p><i>It is identified in the Plan Change that physical and legal access to Whareroa North will be via a proposed bridge across the Whareroa Stream.</i></p> <p><i>Generally, once land has been developed which connects to existing Council services (i.e. water, wastewater and roading) those assets are vested in the Council at the time of subdivision. This is supported in Key Solutions assessment which identifies that “it is logical for all the new roading to ultimately transfer to public ownership and be operated and maintained along with the rest of the District roading network by the Taupō District Council”.</i></p> <p><i>As identified at Section 7.5.2 of the Plan Change, the bed of Whareroa Stream, over which the proposed bridge must cross, is held in ownership by the Tuwharetoa Maori Trust Board.</i></p> <p><i>The Council has concerns about securing the ‘right’ legal tenure for the bridge. The Council is opposed gaining a right to occupy that has an ongoing cost attached to it. Given the bridge appears to be the only feasible option into Whareroa North, the tenure options for the bridge need to be investigated further so sufficient provision has been made for long-term legal and physical access to the allotments to be created by the rezoning.</i></p>

<sup>42</sup> Letter from Tūwharetoa Maori Trust (Maria Nepia) dated 8 December 2017 – Matter 3 (Appendix 3, Application).

## 6.8 Archaeological Effects

### *The Applicant's position*

109. An Archaeological Assessment (Prince 2005) accompanied the Application – Figure 1 of the report identifies that the investigation area did not encompass the entire Proposed Plan Change area. In summary that assessment concludes:
- 109.1 The general area was used extensively by Maori restricted to the adjoining Whareroa Pa and settlement adjacent to the Whareroa Stream mouth.
- 109.2 Based on a site inspection (June 2005) no visible archaeological features were present, although inspection of the 'bush block' was limited.
110. The report identifies that:
- "as access is improved on the bush block it is recommended that an archaeologist re-inspect to determine whether any evidence of pre-European settlement exists"*<sup>43</sup>.
- Recommendations include the need for Archaeological investigation during site works, and an Archaeological Authority as required.
111. It is also noted that the Cultural Impact Assessment report identifies that there are no Waahi Tupuna sites *'at risk by either the Whareroa Bridge construction or the proposed subdivision...'*<sup>44</sup>.

### *The Council's position*

112. Mr Kenneth Philips has reviewed the material accompanying the Plan Change and identified a series of weaknesses and identifies that it is important to undertake a precautionary approach<sup>45</sup>:
113. He recommends that a new archaeological assessment be commissioned, and that regardless such an assessment should recommend an (Archaeological) Authority pursuant to s44a Pouhere Taonga Act 2014 be obtained to partly mitigate effects on possible subsurface archaeological sites during developments<sup>46</sup>.
114. I have considered the evidence of Mr Philips, and the Reports from both Ms Porou and Mr Prince.
115. I am of the view that the approaches are not far apart. Both Mr Prince and Mr Philips consider that additional assessment is necessary; where they differ is when this is undertaken, with the latter seeking an additional investigative report now; but both considering that an Archaeological Authority is required for subsequent development.
116. The further investigative work is predicated on the basis that the initial assessment is incomplete, and consequently should additional sites be discovered this would result in potentially amendments to the bridge, road access or Plan Change area. I note that the former would be subject to Discretionary Activity status resource consents, and the latter (being the Plan Change area) having been investigated by in the Reports by both Mr Prince (in part) and Ms Porou.
117. Should the Plan Change be approved, I am of the view that Archaeological effects can be appropriately managed. This would be achieved by inserting provisions in the 'Preliminary Stage' (*Amended Provisions*) for an Archaeological Authority pursuant to s44a Pouhere

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<sup>43</sup> Archaeological Assessment Accompanying the Application (Prince, 2005) [page 4]

<sup>44</sup> Section 9.4 of the Cultural Impact Assessment (Tina Porou, 2007) Appended to the Application.

<sup>45</sup> TDC. Philips [3.8]

<sup>46</sup> TDC. Philips [2.3, 5.2]

Taonga Act 2014 prior to any development to ensure any archaeological evidence is identified and recorded or protected.

118. The Proponent's Planning witness is requested to consider this matter.
119. Subject to such, I consider that the effects on potential Archaeological sites are appropriately accounted for and managed.

## 6.9 Ecological Effects

### *The Applicant's position*

120. The Council evidence of Mr Shaw [24] identifies the respective studies provided by the Proponent.
121. The Application<sup>47</sup> summarises these matters as:
- 121.1 The ecological assessment(s) reflect the SNA 062 status attributed to part of the Incorporation's land and adjoining Whareroa Stream.
- 121.2 Effects on ecological values arise from:
- Potential effects of the bridge / road access and associated works in the stream margin;
  - Vegetation removal required to provide access for road and services through the SNA; and
  - Potential edge effects from development of the future residential area.
- 121.3 These effects will be managed through the consenting process for the Road and Bridge, as subject to vegetation removal, earthworks and subdivision.
122. In addition, the **Amended Proposal** seeks to introduce matters relating to:
- *Manage the adverse effects of loss of indigenous vegetation, fauna and their habitats through best practice management and restoration methods. This includes:*
    - *careful timing of any indigenous vegetation removal from the SNA, wildlife relocations, habitat replacement and enhancement;*
    - *pest predator control;*
    - *dense buffer planting along new edges created by road through SNA062;*
    - *other restoration activities that follow the hierarchy of mitigation to avoid, remedy and mitigate;*
    - *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;*
    - *Legal protection in perpetuity of SNA vegetation and areas of offset planting.*
123. Overall, the Application considers that effects on indigenous vegetation and ecology to be appropriately 'avoided, remedied or mitigated'.

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<sup>47</sup> PPC36 Application. Section 8.4 Ecological Effects.

### *The Council's position*

124. Mr Shaw has provided a comprehensive consideration of the background information and Plan Change Application. It is also noted that this matter has been the subject of considerable further information requests by the Council.
125. The assessment concludes the following in terms of the ecological values of the site.
- 125.1 That area identified as Zone 2 (Bioreserches (2005 and 2019)) and referenced as 'Regenerated Scrub' in the Concept Plan is not notated as SNA062 in the Taupō District Plan. This area is considered to warrant identification as an SNA as subject to the criteria for determining 'significance of indigenous biodiversity' provided in the Waikato RPS (Section 11A WRPS), and therefore also constitutes a Section 6(c) matter in terms of the Act.
- 125.2 The indigenous vegetation associated with the Plan Change area is significant. In particular, any bridge spanning the Whareroa Stream and access road to the Plan Change area will transect, and hence require subdivision, earthworks and vegetation clearance of SNA 062.
- 125.3 The application identifies potential ecological effects. However, the assessment and associated plan provisions, and mechanism to manage ecological effects, are imprecise.
- 125.4 Concepts such as net environmental gain, legal and physical protection of the SNA, and indigenous planting are referred to in a rather imprecise manner, but specific assessment or provision is absent in the application and assessment. Considerable reliance is placed on subsequent resource consent processes.
- 125.5 Mr Shaw identifies that there is a real prospect that, even taking into account the proposition that the bridge / road access would be subject to subsequent resource consent(s) and a mitigation 'package', that net environmental gain, or even a 'balancing' of the impacts against the mitigation/offsets/compensation may not be provided<sup>48</sup>.
126. In **summary** I concur with Mr Shaw:
- 126.1 Overall, the assessment is insufficient to constitute a reasoned and comprehensive evaluation of anticipated effects on ecology, and the package by which these can be managed remains vague and imprecise. It is considered inappropriate to defer consideration of the actual or potential adverse effects on ecology from any proposed bridge and access connection through SNA 062 without providing some context and confidence as to whether such consents could indeed be obtained on a principled basis.
- 126.2 Zone 2 in the Bioreserches Report (2005 and 2019)) referenced as 'Regenerated Scrub' in the application is, based on evaluation against the relevant WRPS criteria, sufficiently significant to be considered within the forthcoming District Plan review as being added to SNA 062. This regenerating vegetation has no statutory notation within the operative District Plan, and it is acknowledged could be removed<sup>49</sup>. However, within the statutory consideration of the Plan Change, the significant adverse effects from the loss of this vegetation is clearly:
- (a) a cost in terms of the s32 assessment;

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<sup>48</sup> TDC. Shaw [64]

<sup>49</sup> Rule 4e.6.1 is applicable only to Significant Natural Areas.

- (b) not achieving District Plan **Objective 3i.2.2** and associated **Policy 3i.2.2(ii)**;
- (c) not giving effect to WRPS Policy 11.1 which seeks to maintain or enhance indigenous vegetation.

126.3 Accordingly, it is considered there remains a likely significant adverse effect on indigenous biodiversity from the Plan Change. This matter may not be insurmountable. There is a deficiency in terms of a comprehensive assessment and mitigation package, including whether amendments can be made to the concept plan to provide for and protect the 'emerging SNA'.

## 6.10 Landscape Effects

### *The Applicant's position*

127. The Application<sup>50</sup> is supported by Appendix 4 (Monzingo, Dec 2017) which sets out the visual and landscape context to the Plan Change. On 6 April 2020 additional montages and a visual 'flyover' of a potential access connection were received.
128. As with Ecological effects, further information has been sought from the applicant on the matter as outlined in the evidence of Ms Ryder for the Council.
129. The evidence of Ms Monzingo is that:
- 129.1 The existing plan provisions provide an appropriate regulatory structure to manage landscape effects.
  - 129.2 Effects are not of a scale or significance that the proposed Plan Change should be declined.
  - 129.3 Based on the SSSP, residential development at Whareroa North would appropriately achieve the purpose of the Act (presumably in landscape terms)<sup>51</sup>.
  - 129.4 The access road and bridge (as subject to vegetation clearance, geotechnical works, and associated structures) are subject to subsequent consenting regimes, and *'requirements which apply to activities in SNA's and OLAs (including earthworks, structures and vegetation clearance), are not altered or diminished by the Plan Change proposal'*<sup>52</sup>.
130. Ms Monzingo also identified that:
- "Limits on the reflectivity of exterior surfaces of buildings and fences would help to avoid, remedy or mitigate potential adverse landscape and visual effects arising from buildings and fences".*
131. Such regulatory control was not included in the Notified Provisions, but has been included in the Amended Provisions as follows:
- *Control of the following matters by Consent Notice on the titles of future residential allotments:*
    - *One (only) dwelling per lot and no further subdivision permitted;*
    - *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: Building height may also be controlled for viewshaft management purposes;*
    - *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%;*

<sup>50</sup> PPC36 Application. Section 8.3 Visual and Landscape Effects

<sup>51</sup> Application. Appendix 4. Monzingo [11.6].

<sup>52</sup> Application. Appendix 4. Monzingo [6.6-6.8, 11.5].



- *Limits on levels of exterior lighting to reduce effects of night-lighting as much as practicable (ie without compromising safety);*
- *Requirements to reduce window reflectivity by use of over-hanging eaves or low-reflectivity glass;*
- *Requirement that vegetation planted on residential allotments as part of subdivision construction is maintained in a healthy state in perpetuity (with any dead/ dying plants being replaced with the same species within the following planting season).*

### *The Council's position*

132. The landscape and visual effects of the proposal have been considered by Ms Ryder for Council.
133. Ms Ryder considers that the site has the potential to accommodate change<sup>53</sup>, but that the information provided in support of the Plan Change is insufficient in order to assess fundamental effects associated with the Plan Change request, in particular the Part 2, Section 6 matters as these relate to impacts (and mitigation) on identified Outstanding Natural Features and Landscape and Natural Character<sup>54</sup>.
134. The main findings of the assessment are summarised below:
- 129.1 An absence of assessment to address whether the landuse change is appropriate in terms of capacity for change; effects on the OLA associated with subsequent road corridor access assessment being insufficient to provide context that subsequent roading and public access could be provided; and specific site design measures.
- 129.2 There are different degrees of sensitivity, including areas of high sensitivity to change adjacent to the lake and ONL, areas to the west adjacent the existing rural land and areas adjacent the stream. Lower lying areas to the north-west are likely to have a lower sensitivity to change. The assessment and associated package of provisions does not differentiate or respond to these differences.
- 129.3 That the road connection and bridge should be appropriately integrated within, and assessed as part of the Plan Change, without which the visual effects associated with location, width, parameters around disturbance to the slope and vegetation cover there is no certainty whether effects can be suitably mitigated<sup>55</sup>.
- 129.4 There is considerable uncertainty as to the application of the imprecise site design measures (in the Amended Provisions) in terms of how these would be applied to subsequent subdivision / resource consents.
- "[52] For example the proposed indigenous planting around the periphery of the site provides a landscape buffer role. The parameters and function of this should be clarified and linked to the landscape outcomes sought, including at a minimum associated species, widths and planting densities. This should include scale, alignment and is it public or privately managed. At best there is considerable uncertainty in terms of the administration of these measures during any subsequent subdivision / resource consent process, with the degree by which the efficacy of such measures ranging from successfully mitigating effects, to not at all or even generating adverse effects".*
130. In **summary** my conclusions about Landscape effects are similar to those expressed in terms of Ecology. Overall, the assessment is insufficient to constitute a reasoned and comprehensive

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<sup>53</sup> TDC. Ryder [44]

<sup>54</sup> TDC. Ryder [18]

<sup>55</sup> TDC. Ryder [47]

evaluation of anticipated effects, and the package by which these can be managed. In the absence of such, the effects on landscape values and natural character are considered to be significant, and the Plan Change (and associated rezoning) would not represent the better, or more appropriate approach in achieving either Objective 3h.2.1 or 3h.2.3 in terms of the protection of Outstanding Landscape Areas or the enhancement of amenity values with Landscape Areas respectively.

## 6.11 Strategic land use and integrated urban land use patterns

135. The Waikato Regional Policy Statement through **Policy 6.1** seeks planned and coordinated subdivision, use and development, referencing the Development Principles in Section 6A which for new development includes such matters as:
- 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*
  - i. *promote a compact urban form, design and location....*
136. WRPS **Policy 6.3** seeks to coordinate growth and infrastructure to optimise the efficient and affordable provision of development and infrastructure. **Policy 6.11** recognises TD2050 as providing for the management of future growth, including by (v) ensuring that the staging of development is efficient.
137. The Taupō District Plan at Section 3e sets out provisions to ‘provide for and manage urban growth so as to achieve the sustainable management of the District’s natural and physical resources’ (Objective 3e.2).
138. The effects of land development on strategic land use and integrated land use patterns (both benefits and costs) therefore require consideration.

### *The Applicant’s position*

139. The Application identifies that the site has a long history in terms of being identified for growth in the original TD2050 Growth Strategy, subsequent Southern Settlement Structure Plan, and TD2050 refresh. Future demand for sections is identified in Section 2.2 of the Application, identifying that dwellings would appeal to prospective holiday home purchasers, provide housing choice and a unique offering.
140. In response to additional requests for information relating to demand the Applicant’s position is that:
- 140.1 Lewis Consultancy Ltd (Sept 2018): the objectives and policies of the National Policy Statement for Urban Development Capacity do not apply to Whareroa as it is not an ‘urban environment’.
  - 140.2 Lewis Consultancy Ltd (June 2019) / Stephen Sanderson, Bayleys (April 2019): Growth in section sales in Whareroa Village.
  - 140.3 NERA Review (March 2020) of Property Economics Report (Dec 2019), identified:
    - (a) There is always uncertainty in terms of forecasting demand, and that (based on a high growth forecast) the margin between supply and demand is smaller than that

identified by PEL. Regardless, the Proprietors would be subsuming investment costs in terms of bringing the area to market.

- (b) The development will provide benefits to property purchasers (supply, diversity and cost).
- (c) There would be greater community benefits in terms of employment and rates.

#### *The Council's position*

141. Mr Osborne has provided an evaluation of the potential costs and benefits with regard to the economic efficiency associated with the proposed rezoning.

142. He identifies that under the umbrella of the Act, there is a need to justify intervention in the residential housing market. He considers this to be the balancing exercise in order to redress the potential imbalance between community interests and individual interests<sup>56</sup>. Mr Osborne, puts this rationale as:

*“Councils restrict the spread of residential development to specific (and generally more intensive) zones because the cost of allowing dispersal are significant and are not considered by the market, such as increased infrastructure costs, reduced transport efficiencies, inefficient land use, reduction in competitiveness of commercial activity and opportunities, as well as reduced community amenity. These are factors that an individual participant in the market does not always consider, not just the impact of these costs on themselves but the cost of their decision on others.”*

143. I consider that these are the matters for consideration behind the WRPS and TDP policy provisions outlined above [135 - 138]. Essentially, in the absence of additional residential demand, an oversupply of zoned land leads to a transfer in investment with no resultant net increase in community enablement, but with a corresponding decrease in the efficient use and integration of infrastructure with development. This is usually a cost borne by the wider community, whereas any benefits (such as they are) are enjoyed by a small number of people.

144. Mr Osborne acknowledges that the growth projections identified in the updated TD2050(2018) are the medium growth projection series released by Statistics NZ and are more subdued than the original document (2006) resulting in some of the identified growth nodes being re-evaluated.

145. The refresh of TD2050 retained Whareroa North as a Growth Area, but also included the statement:

*“it (Whareroa) will need to be demonstrated that there is demand for this land and that costs to the community can be appropriately managed. Ultimately its future will be determined through the private plan change process”<sup>57</sup>.*

146. Mr Osborne considers that the observed low nominal population growth in subsequent years indicates that the District growth projections, for which the growth nodes were developed, were optimistic and unlikely to be realised<sup>58</sup>.

147. In terms of **growth** Mr Osborne identifies:

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<sup>56</sup> TDC. Osborne. [4.6]

<sup>57</sup> TD2050(2018) Section 4.7 Whareroa North

<sup>58</sup> TDC. Osborne. [5.8]

- 147.1 Under medium (NZ Statistics) projections, an additional 2,000 dwellings are required over the next 20 years, increasing to 2,850 when including demand for unoccupied (includes holiday homes) over the same period<sup>59</sup>.
- 147.2 Under a high projection these figures are 3,400 and 4,850 respectively<sup>60</sup>.
- 147.3 Residential growth (and therefore forecast demand) is primarily associated with the Taupō urban area. The Lake Taupō Bays Statistical Area 2 region (which includes Whareroa and other areas identified within the SSP) observed negative population growth, with a net decline of 40 people to 1,630 over the 6-year period (2013 – 2019)<sup>61</sup>.
- 147.4 Estimates of vacant/holiday home demand is considered 30% of total demand.
148. In terms of **supply** Mr Osborne identifies:
- 148.1 There is a total of 5,632 zoned vacant or developable lots in the Taupō District. Of these 815 lots are on sites currently developed, and 3,090 lots have water and wastewater services available at the adjacent road frontages<sup>62</sup>. These figures do not include potential future residential zones also contained in TD2050(2018)<sup>63</sup>.
- 148.2 In terms of Taupō lakeshore proximate to Whareroa, there are 198 vacant lots (or 598 including Turangi)<sup>64</sup>.
149. In terms of **supply / demand** balance:
- 149.1 Land supply of lots in zoned and developed areas exceeds projected demand levels – both at a District Level and the localised level proximate to the Plan Change area.
- 149.2 Even taking into account demand originating outside the district (the holiday home market) the excess of supply would still be sufficient to supply this additional 30% demand buffer.
- 149.3 Unique demand for holiday homes in the Plan Change location must also be considered in the context of both the low level of demand in this general location and additional capacity within competitive areas such as Omori and Kuratau<sup>65</sup>, as well as the 47 undeveloped allotments currently zoned within Whareroa Village.
150. The provision of excess supply above demand as enabled by PPC36 will provide additional capacity, resulting in the transfer of investment, and duplication of existing infrastructure capacity. These increase wider community costs associated with additional infrastructure maintenance, resulting in an increase in the inefficient integration of land use with infrastructure<sup>66</sup>.
151. Mr Osborne calculates these costs to be in the order of \$52,000 per annum towards maintaining the community assets at the proposed site regardless of potential demand, or uptake<sup>67</sup>. Total current cost for these deferred payments over a 30-year period is approximately \$660,000 to the Taupō community<sup>68</sup>.
152. Finally Mr Osborne concludes that, given the absence of current restrictions on capacity, the proposal is unlikely to result in a material reduction in residential housing stock price, with

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<sup>59</sup> TDC. Osborne [5.6]

<sup>60</sup> TDC. Osborne [5.7]

<sup>61</sup> TDC. Osborne [5.10]

<sup>62</sup> TDC. Osborne [6.1, 6.2, Table 1]

<sup>63</sup> TDC. Osborne [Table 2]

<sup>64</sup> TDC. Osborne [6.7]

<sup>65</sup> TDC. Osborne [6.12]

<sup>66</sup> District Plan. Policies 3e2.2(iv) and (v).

<sup>67</sup> TDC. Osborne [7.12]

<sup>68</sup> TDC. Osborne [7.14]

resultant benefits (employment and capital investment) simply being a transfer from elsewhere in the district<sup>69</sup>.

153. In **summary**, I concur with the evidence of Mr Osborne and consider that development enabled by PPC36 will have significant adverse effects on strategic land use and integrated land use patterns. In addition I consider that:

153.1 The NERA Report does not adequately assess infrastructure and transport externalities, with costs associated for such presumed to be accepted by the Proponents as their risk in the investment<sup>70</sup>.

153.2 The concept of 'competitive returns'<sup>71</sup> is not accepted as promoting economic efficient outcomes, especially in terms of determining community benefits or sustainable management.

153.3 This matter carries substantial weight, given the importance identified in both the relevant WRPS provisions and within Section 3e of the District relating to the importance of the managed approach to urban growth and development. These provisions, in my view, seek to 'provide for and manage urban growth' in a way and at a rate that seeks to support the existing efficient use and integration of infrastructure with development, supporting opportunities to develop existing urban capacity in preference to developing new areas.

## 6.12 Geotechnical Risk and Analysis

### *The Applicant's position*

154. The Applicant's evidence in this matter is set out in [1.3] of the Evidence of Ms Philips. It is understood that:

154.1 Geotechnical assessment and verification is predicated on desk top studies, site walkovers, and shallow investigative techniques.

154.2 The Applicant's position is that the site is suitable for residential zoning and that whilst additional investigations are necessary in terms of matters such as compressibility, geohazards (such as liquefaction) and settlement (particularly associated with the scarp) these can be undertaken subsequent to rezoning all at one time immediately prior to subdivision consenting.

154.3 A 'Preliminary' Stage has been inserted by the **Amended Provisions** seeking to introduce:

*"Site investigation work requiring resource consent/s will be necessary to inform detailed subdivision design based on the Whareroa North Concept Plan.*

*This will involve on-site geotechnical drilling, testing and investigation to inform detailed design. This includes within the vegetated escarpment (necessitating vegetation removal and tracking within SNA062 for access to and clearance of the geotechnical investigation sites). Note: Although preliminary geotechnical assessments undertaken as part of the Plan Change process determined that the site is generally suitable, detailed physical site investigation works will be undertaken after the Plan Change is operative (thereby avoiding intrusion into the SNA until necessary).*

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<sup>69</sup> TDC. Osborne [7.16]

<sup>70</sup> NERA. [4(a)]

<sup>71</sup> NERA. [17]

*Resource Consent/s will be sought to authorise these geotechnical investigations, including biodiversity offsetting for the associated loss of indigenous vegetation from SNA062”.*

*The Council’s position*

155. There appears to be no disagreement between the parties that such geotechnical assessments are appropriate to consider, and correspondingly remediate risk associated with facilitating residential development.
156. Ms Philips’s evidence identifies that many of the geo-hazards identified for the area represent potentially problematic, complex and costly engineering solutions to facilitate residential development<sup>72</sup>. The assessment of these hazards has not been provided to a degree that Ms Philips is able to provide guidance to the Commissioner Panel as to relative risk, what the potential effects are, and how these effects could be mitigated (and range of costs for doing so). Finally, without such investigation, Ms Philips is (rightly in my view) unable to advise if residential development is the more appropriate, or better than retention of a Rural Environment (zone) for the site<sup>73</sup>.
157. In **summary**, there remain unresolved risks and costs from zoning the Plan Change area to residential, without an adequate understanding of the severity of geotechnical risk associated with the long-term urban development that could arise from such a rezoning,
158. In my view, such geotechnical investigations and associated insights are not appropriate to defer until after a decision to rezone the land Residential, and then sought to be remedied through a ‘Preliminary Phase’. Accordingly, I consider as with Landscape and Ecology, that this matter can only be overcome through additional material provided in evidence by the Applicant.

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<sup>72</sup> TDC. Philips. [9.4]

<sup>73</sup> TDC. Philips. [9.5]

## 7.0 STATUTORY ASSESSMENT

### 7.1 Framework

159. The statutory and strategic framework applicable to the Plan Change is set out in Section 4 of this report. The Application at Section 6 also sets out these matters.

### 7.2 National Policy Statement (NPS)

160. A National Policy Statement prepared under the RMA establishes objectives and policies for matters of national significance relevant to achieving the purpose of the RMA. District and Regional Plans (and any changes thereto) must give effect to any relevant NPS(s).
161. The NPS that is applicable to PPC36 is the NPS for Freshwater Management (NPS-FM).
162. It is arguable as to the applicability of NPS for Urban Development Capacity (NPS-UDC).
163. The Ministry for the Environment is currently considering a proposed NPS for Urban Development, a NPS on Highly Productive Land, a 'Healthy Waterways Reform Package' including a new NPS for Freshwater Management and an NPS for Indigenous Biodiversity. These draft/proposed documents (as of 15 April 2020) are not yet in force and are not to be considered.

#### 7.2.1 NPS - UDC

164. The NPS-UDC is primarily an enabling document, and is tasked with facilitating opportunities and flexibility in terms of the supply of land for housing and business, but not at the expense of the integration of development and land use with infrastructure (**Objective OD1**) and co-ordinated and aligned planning decisions within (and across) local authority boundaries (**Objective OD2, PA4**).
165. The application of the NPS-UDC to the plan change is a challenging matter to resolve. The applicant (letter dated 3 October 2018, and letter dated 7 June 2019) seeks to rely on the principles in the NPS-UDC relating to choice, housing type and location, but identifies that the NPS-UDC is focussed on '*urban environments*' which does not extend to Whareroa.
166. In the absence of greater clarity, the NPS-UDC references:
- 166.1 the introductory statement to the Objectives applies the provisions to '*planning decisions that affect an urban environment*'- not a narrowed application of only urban environments; and
- 166.2 Policy PA4 relates to the 'effects of urban development' (and not an *urban environment*), albeit the introductory statement relates to '*any urban environment that is expected to experience growth*'.
167. There is therefore a reasoned argument either way as to whether the NPS-UDC provisions in relation to co-ordinated planning and decision making (including Objective Group D, PA4) apply to the Plan Change at all.
168. Regardless of application of the NPS-UDC, a merits-based consideration, and evidential consideration (in terms of the *Colonial Vineyard vs Marlborough District Council* tests) is required in terms of:
- 168.1 the efficient and effective use and integration of infrastructure with zoned residential capacity (including the Southern Settlements); and

- 168.2 the benefits and (opportunity, opex and capex) infrastructure costs associated with the Plan Change and a surplus of feasible residential land development against a backdrop of a subdued residential market forecast.
- 168.3 The proposal seeks to provide for ‘urban development’ as recognised by the Residential Environment (zone) as sought.
- 168.4 There is a consistent approach to urban growth management as expressed in the WRPS and District Plan and that contained within the NPS-UDC. I have concluded, based on the evidence of Mr Osborne that the proposed Plan Change is not the better or more appropriate to give effect to / achieve respectively the urban growth management objectives and policies of those subordinate statutory documents.

### 7.2.1 NPS - FM

169. The NPS-FM came into effect on 01 July 2011 and was updated on 01 August 2014 and August 2017.

170. It provides objectives and policies to manage freshwater and quality and quantity under the RMA. It is relevant to PPC36 because rezoning will enable additional nitrogen discharge through wastewater that could discharge to Lake Taupō.

171. The following objectives of the NPS-FM are applicable:

**Objective A1** *To safeguard:*

a) *the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water; and*

b) *the health of people and communities, as affected by contact with fresh water;*

*in sustainably managing the use and development of land, and of discharges of contaminants.*

**Objective A2** *The overall quality of fresh water within a freshwater management unit is maintained or improved while:*

a) *protecting the significant values of outstanding freshwater bodies;*

b) ...

c) *improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.*

**Objective B1** *To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the taking, using, damming, or diverting of fresh water.*

**Objective D1** *To provide for the involvement of iwi and hapū, and to ensure that tangata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to.*

172. In terms of **Objective B1**, the evidence of Mr Swindells identifies that the proposed development could be serviced within the existing water take consent<sup>74</sup>. Mr Cordell identifies in relation to **Objective A1**, and **A2(c)** that whilst there is a shortfall in terms of the consented nitrogen cap, this can be managed within the constraints imposed<sup>75</sup>.

173. Lastly, there has been considerable discussions between the Proponents, iwi and hapu as the respective requirements associated with freshwater quality associated with Lake Taupō. Given

<sup>74</sup> TDC. Swindells [18]

<sup>75</sup> TDC. Cordell [35(b)]



the above, it is not considered that the principles associated with those expectations are challenged further.

174. Accordingly, I consider that the proposed rezoning will ensure that Taupō District Council continues to give effect to the NPS-FM.

### 7.3 Waikato Regional Policy Statement (WRPS)

175. The WRPS was made operative in April 2016. It is therefore the more recent subordinate statutory document to the Resource Management Act 1991, compared to the Taupō District Plan which was made operative in September 2007.

#### 7.3.1 Indigenous Biodiversity

176. The following relevant provisions are set out as follows:

**Objective 3.19 Ecological Integrity and indigenous vegetation**

*The full range of ecosystem types, their extent and the indigenous biodiversity that those ecosystems can support exist in a healthy and functional state.*

**Policy 11.1 Maintain or Enhance indigenous biodiversity**

*Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on:*

- (a) working towards achieving no net loss of indigenous biodiversity at a regional scale;*
- (b) the continued functioning of ecological processes;*
- (c) the re-creation and restoration of habitats and connectivity between habitats;*
- (d) supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and significant habitats of indigenous fauna;*
- (e) providing ecosystem services;*
- (f) the health and wellbeing of the Waikato River and its catchment;*
- (g) contribution to natural character and amenity values;*
- (h) tāngata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment;*
- (i) managing the density, range and viability of indigenous flora and fauna; and*
- (j) the consideration and application of biodiversity offsets.*

Method 11.1.1 seeks that district plans should provide for indigenous vegetation when managing land use change.

Method 11.1.2 sets out adverse effects to indigenous biodiversity, including fragmentation, reduction and loss of buffering.

Method 11.1.3 seeks the management of effects from the loss or degradation of non-significant indigenous vegetation, including legal protection and offsets.

**Policy 11.2 Protect significant indigenous vegetation and significant habitats of indigenous fauna**

*Significant indigenous vegetation and the significant habitats of indigenous fauna shall be protected by ensuring the characteristics that contribute to its significance are not adversely affected to the extent that the significance of the vegetation or habitat is reduced.*

Method 11.2.3 states:

Where regional and district plans require an assessment of significant indigenous vegetation and the significant habitats of indigenous fauna that have not been identified by Waikato Regional Council as part of Method 11.2.1, the criteria in section 11A shall be used. The identification of the characteristics of any area will be undertaken prior to any modification of the area or site and will inform the decision-making process as to whether the proposed activity or modification is appropriate. The characteristics that have contributed to an area being significant should also be communicated to the relevant landowners and kept on record by the local authority.

177. Appendix 2 of the evidence of Mr Shaw contains the WRPS Criteria in Section 11A. He has reached the conclusion that for the purpose Policy 11.2 and the criteria in Section 11A that the 'regenerating scrub' identified as Zone 2<sup>76</sup> in the Bioresarches 2019 report is 'likely to trigger' the criteria and hence be significant in terms of Section 6c of the Act<sup>77</sup>.
178. The application identifies that some effort has been made to reduce impacts on indigenous vegetation, including pursuing Whareroa Future Growth Area 1 identified in the SSSP which removes the development area away from the existing SNA. The Plan Change does not extend to establishing the road connection through SNA062, although clearly this is intrinsically linked with the proposed rezoning. Lastly, the Amended Provisions refer to:
- dense buffer planting along new edges created by road through SNA062;
  - other restoration activities that follow the hierarchy of mitigation to avoid, remedy and mitigate;
  - 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;
  - Legal protection in perpetuity of SNA vegetation and areas of offset planting;
179. These matters however are imprecisely stated, as are the manner in which they would be imposed specifically in relation to the road connection and Whareroa Stream bridge.
180. The Methods associated with the WRPS establishes a hierarchy of avoidance, remediation, mitigation and then applying biodiversity offsets for residual adverse effects. The Plan Change does not establish clarity as to how these adverse effects on SNA062 are to be managed in accordance with that hierarchy.
181. In addition, Method 11.2.3 is clear that the decision-making process should be informed as to how the land use change would accommodate or manage the Section 6(c) importance ascribed to Zone 2 as contained in the evidence of Mr Shaw.
182. I consider that the Plan Change, in its current form would not give effect to the indigenous biodiversity provisions of the WRPS.

### **7.3.2 Landscape and Natural Character**

183. The following relevant provisions are set out as follows:

#### **Objective 3.20 Outstanding Natural Features and Landscapes**

*The values of outstanding natural features and landscapes are identified and protected from inappropriate subdivision, use and development.*

#### **Objective 3.21 Amenity**

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<sup>76</sup> TDC. Shaw [45]

<sup>77</sup> TDC. Shaw [67]

The qualities and characteristics of areas and features, valued for their contribution to amenity, are maintained or enhanced.

**Objective 3.21 Natural Character**

The natural character of ... lakes and rivers and their margins are protected from the adverse effects of inappropriate subdivision, use and development.

**Policy 12.1 Outstanding Natural Features and Landscapes**

Identified values and characteristics of outstanding natural features and landscapes (including seascapes) of regional or district significance are protected from adverse effects, including cumulative effects, arising from inappropriate subdivision, use and development.

Method 12.1.1 requires district plans to identify and provide for the protection of such features, including through “avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes, and if avoidance is not possible remedy or mitigate the adverse effects”.

**Policy 12.2 Preserve Natural Character**

Ensure that activities within the coastal environment, wetlands, and lakes and rivers and their margins are appropriate in relation to the level of natural character and:

- a. where natural character is pristine or outstanding, activities should avoid adverse effects on natural character;
- b. where natural elements/influences are dominant, activities should avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on natural character;
- c. where man-made elements/influences are dominant, it may be appropriate that activities result in further adverse effects on natural character, though opportunities to remedy or mitigate adverse effects should still be considered;
- d. promote the enhancement, restoration, and rehabilitation of the natural character of ... lakes and rivers and their margins; and
- e. regard is given to the functional necessity of activities being located in or near ... lakes, or rivers and their margins where no reasonably practicable alternative locations exist.

184. The policy framework provides a hierarchy to the management of landscape. Identified Outstanding Natural Landscapes and pristine or outstanding natural character are to be protected from the adverse effects of inappropriate subdivision and development; where natural elements are dominant, activities should avoid significant adverse effects and manage residual effects; and where man-made elements are dominant, further development may be able to be visually absorbed considering opportunities to manage effects. Features and characteristics which contribute to amenity values are to be maintained or enhanced.

185. This is consistent with the methodological approach identified in the evidence of Ms Ryder<sup>78</sup>, that is:

*“In order to address effects the method of assessment should identify the sensitivities, magnitude of change, the potential effect and measures to avoid, remedy and mitigate the identified effects. At this point the level of effect is not yet identified and in order to consider the landscape implications of the Plan Change, and their parameters these effects should be clearly articulated. Recommended measures identified in the assessment could be inserted as provisions for subsequent development to manage and monitor the level of effects as being acceptable, or better than the retention of the current Rural zoning”.*

186. Ms Ryder<sup>79</sup> also sets out, in terms of the policy hierarchy identified above, that:

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<sup>78</sup> TDC. Ryder [20]

<sup>79</sup> TDC. Ryder [14]

*“the site has different degrees of sensitivity, including areas of high sensitivity to change adjacent to the lake and identified Outstanding Landscape Area (OLA60), areas to the west adjacent the existing rural and areas adjacent the stream. Lower lying areas to the north west are likely to have a lower sensitivity to change and it would assist the response to the SSSP and TDP for the landscape assessment to demonstrate these differences. At this point in time this has not been provided”.*

187. The Plan Change is reliant on a subsequent resource consent to provide road connection, the alignment of which traverses OLA60. In addition, the Plan Change area takes its visual context based on the margins of the Lake, including the identified OLA60, and areas of regenerating native bush cover.
188. Collectively, as identified by Ms Ryder the proposed plan change area exhibits a high level of natural character. The extent to which development enabled by the Plan Change is able to be absorbed within the hierarchy set out in **Policy 12.1** and **Policy 12.2** as to primarily avoidance of effects on pristine / outstanding natural character and Outstanding Natural Landscapes, then subsequent management of adverse effects on natural character able to absorb change is, at best, uncertain.
189. The Plan Change in its current form would not give effect to the Landscape, Amenity and Natural Character provisions of the WRPS.

### **7.3.3 Geotechnical Risk**

190. Relevant provisions in relation to Geotechnical risk are set out as below:

**Policy 13.1 Natural Hazard Risk Management Approach**

*Natural hazard risks are managed using an integrated and holistic approach that:*

- (a) Ensures the risk from natural hazards does not exceed an acceptable level;*
- (b) ..*
- (c) Avoids the creation of new intolerable risk...*

**Policy 13.2 Manage Activities to reduce the risks from natural hazards**

*Subdivision, use and development are managed to reduce the risks from natural hazards to an acceptable or tolerable level including by:*

- (a) ensuring risk is assessed for proposed activities on land subject to natural hazards;*
- (b) reducing the risks associated with existing use and development where these risks are intolerable;*
- (c) avoiding intolerable risk in any new use or development in areas subject to natural hazards;*

In addition the development principles for **Section 6A ‘Development Principles’** requires new development:

- (h) be directed away from ... natural hazard areas.....*

191. As identified in Section 6.12 there does not appear to be a dispute between the Geotechnical experts as to the extent of geotechnical investigations necessary to determine risk and associated management.
192. The disagreement is that Ms Philips considers that the site has increased propensity for geotechnical risk and in conjunction with best practice that risk is identified prior to rezoning, and where possible remediation measures identified
193. The Proponent’s approach as included in the Amended Proposal is to include a ‘Preliminary Stage’ subsequent to the Residential rezoning being confirmed, when such investigative works would be undertaken.

194. I consider that the Proponents approach does not give effect to the relevant provisions in the WRPS. Both **Policy 13.1**, **Policy 13.2** and **Development Principle 6A(h)** seek a proactive approach, whereby development risk is to be ascertained prior to any statutory decision that zoning to increase intensification can take place.

#### **7.3.4 Historic and Cultural Heritage**

195. Based on the evidence of Mr Phillips and subject to confirmation from the Proponent that a requirement has been inserted for an Authority to be required from the Heritage New Zealand authority under the provisions of section 44a of the Pouhere Taonga Act 2014, I consider that the proposal would give effect to:

##### **Objective 3.18**

*Sites, structures, landscapes, areas or places of historic and cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the Waikato region's and New Zealand's history and culture.*

#### **7.3.5 Growth Management**

196. A careful consideration of these respective provisions is necessary, given the identification of the Plan Change area in terms of TD2050, and reference to the recognition of TD2050 within Policy 6.11.

##### **Objective 3.12 Built environment**

*Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:*

- a. *promoting positive indigenous biodiversity outcomes;*
- b. *preserving and protecting natural character, and protecting outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- c. *integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*
- d. *integrating land use and water planning, including to ensure that sufficient water is available to support future planned growth;*
- e. *...;*
- f. *...;*
- g. *minimising land use conflicts, including minimising potential for reverse sensitivity;*
- h. *...*

##### **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.*

Method 6.1.1 seeks that local authorities have regard to the principles in Section 6A when preparing, reviewing or changing ... district plans.

##### **Policy 6.3 Co-ordinating growth and infrastructure**

*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;
  - ii. maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure;
  - iii. protect investment in existing infrastructure; and
  - iv. **ensure new development does not occur until provision for appropriate infrastructure necessary to service the development is in place**;
- b. ...;
- c. the **efficient and effective functioning of infrastructure**, including transport corridors, is maintained, and the ability to maintain and upgrade that infrastructure is retained; and....

#### Policy 6.11 Implementing Taupō District 2050

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:
  - i. recognising the appropriateness of the urban growth areas **as an important resource** for providing for new urban land development and as the focus for future urban growth;
  - ii. ensuring patterns of future urban development are consistent with the strategic directions of Taupō District 2050, the identified urban growth areas, and any subsequently adopted structure plans;
  - iii. **avoiding urban development in the rural environment outside of the identified urban growth areas** to prevent a dispersed pattern of settlement and the resulting inefficiencies in managing resources;
  - iv. avoiding the cumulative effect that subdivision and consequent fragmented land ownership can have on the role of the urban growth areas in providing the supply of land for urban development;
  - v. **ensuring that staging of development in the urban growth areas** is efficient, consistent with and supported by adequate infrastructure; and
- b. ensures that urban development of an identified urban growth area occurs by way of a Taupō District 2050 structure plan process and associated plan change process.
- c. **acknowledges** that changes to the Taupō District Plan intended to implement Taupō District 2050 **must be considered on their merits under the RMA**.

(emphasis added)

197. For the sake of completeness, **Objective 3.27** was inserted (19 December 2018) as directed by the NPS- Urban Development Capacity into the WRPS to establish minimum housing targets for the 'Future Proof Area'. Taupō District was not included.

198. Considering these matters collectively:

198.1 There is no hierarchy established in **Policy 6.11(a) to (c)**.

198.2 In terms of **Policy 6.11(b)** Whareroa North is identified within TD2050(2006)<sup>80</sup> and is identified in the Council's Southern Settlement Structure Plan (2013).

198.3 The words 'give effect to' in s75(3) of the RMA require a purposive consideration of the Regional Policy Statement framework as a whole.

198.4 Whareroa North is identified as an urban growth area for the purpose of **Policy 6.11**. However, this does not automatically lead to the conclusion that the land should be

<sup>80</sup> TD2050 (2006) was the Council's approved Growth Strategy when the Plan Change Request was lodged in 2017. The TD2050 (2018) cannot be the document referred to in Policy 6.11 but forms a 'Management Plan prepared under other Acts' for the purpose of a merit assessment of the Proposal under s74(2)(b) of the RMA 1991.

rezoned residential at the present time, within the envelope of development current proposed, or indeed at all. The District Plan is a subordinate statutory instrument intended to achieve the purpose of the Act, with any rezoning request subject to the framework as set out in Section 4.1 of this report. This is made clear in **Policy 6.11(c)** that an identified Growth Area in TD2050 can still be refused or amended as subject to its merits when considered fully under the process set out in the First Schedule of the RMA 1991.

198.5 **Policy 6.11(a)(iii)** is expressed in directive terms. It seeks to 'avoid' urban development outside of the identified urban growth areas. It is intended to provide certainty as to where urban development might go, and to avoid incremental or ad hoc development.

198.6 **Policy 6.11(a)(i)** is expressed in that manner that it recognises urban growth areas as an *important resource* for providing for new urban land development. With clause (v) seeking that the staging of development (enabled) in urban development areas is done in a manner that is efficient and supported by adequate infrastructure.

199. I consider that the provisions allow for choice, by determination through rezoning, as to the nature, timing and sequencing of new development. Identified urban growth areas provide the resource as to the 'way and rate' in which urban development is to be undertaken. Any urban development of areas not identified as urban growth areas is to be strictly avoided.

200. The way and rate in which urban growth areas could be rezoned, is to therefore be determined by the extent to which such:

Matter (A) The manner in which the Plan Change gives effect to the respective RPS matters raised above (including those in the Development Principles (**Section 6A** and **Objective 3.12**) as well as Indigenous Biodiversity (Section 11), Landscapes (Section 12) and natural hazard risk (Section 13).

Matter (B) The manner in which the Plan Change ensures the appropriate provision and integration of supporting infrastructure (**Policy 6.3(a)(iv)**); and

(Matter C) The manner in which the Plan Change optimises (at a community level) the efficient functioning of infrastructure (**Policy 6.3(a)(i)** and **(c)**), as well as having regard to the need to support existing urban areas in preference to creating new ones and making use of opportunities for urban intensification to minimise urban greenfield development (**Policy 6.1(a)** and **Development Principles Section 6A (a)** and **(c)**).

#### *Matter (A) – Natural Values and Hazard risk*

201. I have concluded, based on the evidence of Mr Shaw, Ms Ryder and Ms Philips that the Plan Change in its present condition does not achieve the relevant provisions.

#### *Matter (B) – Integration and supporting Infrastructure*

202. Based on the Infrastructure evidence from Council witnesses, and the Transport evidence of Mr Hansson I have confidence that the appropriate supporting infrastructure can be established.

203. The fundamental outlier being legal provision for road and servicing connection across Whareroa Stream.

204. This remains a fundamental matter that cannot be left unresolved prior to rezoning. There are no assurances that necessary legal arrangements are able to be obtained with TMTB. Neither is it appropriate in my view to rely on the statutory barrier provided at Section 106(1)[A](c) that the Council could simply decline a subsequent subdivision consent which cannot provide 'sufficient

legal and physical access'; such an approach provides no confidence to either the Council or the Proponent as to efficacy of the area as a 'residential zone resource' or its associated infrastructure investment. Regardless, without a suitable legal instrument and confidence as to the road connection and bridge, the proposal does not provide for the appropriate provision and integration of supporting infrastructure (**Policy 6.3(a)(iv)**).

#### *Matter (C) – Urban Growth Management*

205. Based on the evidence of Mr Osborne the Plan Change proposal results in an oversupply of residentially zoned land. The resultant consequences are a transfer of investment and associated inefficiencies in terms of land use and infrastructure integration.
206. In summary, it is considered that the statutory effect of **Policy 6.11**, either read in isolation or within an overall broad judgement, does **not direct** all identified urban growth areas to be rezoned residential. I also consider that the Plan Change, as currently drafted does not overcome the concerns raised by the Council's witnesses. Accordingly, I consider that the Plan Change does not achieve the above Urban Growth provisions in the WRPS.

## 7.4 Taupō District Plan

### 7.4.1 Section 3e – Land Development

207. Section 3e of the Plan contains the strategic land development policy framework. The relevant provisions are contained in **Attachment K**. The Plan Change area is explicitly identified as an Urban Growth Area for the purpose of interpreting the provisions and Figure 3e.6.3.
208. At the risk of oversimplification, the relevant provisions seek to provide for and manage urban growth (**Objective 3e.2.1**) through recognising the appropriateness of Urban Growth Areas as a *resource* for planned and staged urban growth (of which Whareroa North is identified as such – Section 3e.6.3) and ensuring that any new urban development is predicated only by way of Structure Plan process and associated plan change (**Policy 3e.2.1, Objective 3e.2.1**).
209. The specific wording of Objective 3e.2.1 is as follows:

**Objective 3e.2.1** *Provide for and manage urban growth so as to achieve the sustainable management of the District's natural and physical resources.*

#### **POLICIES**

- i. *Recognise the appropriateness of Urban Growth Areas **as an important resource for providing for new urban land development** and as the focus for future urban growth.*
- ii. *Ensure patterns of future urban development are consistent with the identified Urban Growth Areas as described in Section 3e.6*
- iii. ***Prevent urban development in the rural environment outside of the identified Urban Growth Areas.***
- iv. *Avoid the cumulative effect that subdivision and consequent fragmented land ownership can have on the role of the Urban Growth Areas in providing the supply of land for urban development.*
- v. *Ensure that urban development of an identified Urban Growth Area occurs by way of a Taupō District Structure Plan Process and associated plan change process.*

(emphasis added)

210. The subdivision and development of Urban Growth Areas (**Policies 3e.2.2**) is to define the precise location, extent, form and staging of development by Structure Plan and associated plan change, and ensure that the planning and development of Urban Growth Areas adequately takes into account the efficient and effective functioning of supporting and surrounding infrastructure (**Objective 3e.2.3**).



211. In terms of supporting infrastructure, with respect to three waters, reserves and transport, I consider that the proposal would achieve respective provisions seeking sufficient capacity to support subsequent development. As identified in paragraph [202] this does not extend to certainty as to the legal mechanism to provide bridge and servicing connections across the Whareroa Stream.
212. Lastly, any development is to avoid degradation of the Lake and waterways (**Objective 3e.2.4**) and not detract from amenity values or the quality of the environment (**Objective 3e.2.5**). As outlined by both Mr Shaw and Ms Ryder the aims of **Objective 3e.2.5** may not be achieved.
213. The subordinate Policies to **Objective 3e.2.1** contemplate urban growth, as constrained to identified Urban Growth Areas to be rezoned at a rate or in a way that integrates with infrastructure, avoids or otherwise protects identified ONLs and SNAs, and overall is managed to achieve the sustainable management of the District's natural and physical resources.
214. For the reasons outlined in paragraph [206], it is considered that the Plan Change does not achieve **Objective 3.2.1**, **Objective 3e.2.3** as specific to confidence as a legal mechanism to ensure servicing across the Whareroa Stream, and **Objective 3e.2.5**.

#### 7.4.2 Section 3f – Traffic and Transport

215. The evidence of Mr Hansson identifies that the wider transport network is sufficient to cater for increased transport generation and demands associated with the Plan Change. It is considered that the proposal would achieve respective Objective 3f.2.1 and associated Policy 3f.2.1(i).

**Objective 3f.2.1** *The safe and efficient operation of the roading network, and movement of traffic, including cyclists and pedestrians within the District.*

**Policies (i)** *Ensure activities avoid, remedy or mitigate any adverse effects on the operation and function of the roading network, including the movement of traffic cyclists and pedestrians, as accordance with the Roding Hierarchy.*

#### 7.4.3 Section 3h – Landscape Values

216. The relevant Landscape Values provisions are appended (**Attachment K**).
217. As discussed, the proposed Road connection to service the site will need to transect OLA60. This is defined in the District Plan, Section 7. Schedule of Sites as:

*“One of the most scenic and undeveloped parts of Lake Taupō. Very high level of uniqueness and natural character.*

*Very high level of amenity and scenic qualities, characterised by sheer cliffs, native vegetation and small secluded bays.*

*Very high sense of place for Taupō communities as forming an 'untouched' wilderness experience only accessible by boat.*

*The southern coastal margin of the south western bays is noted in tourist brochures as a less busy and rural scenic drive along the western side of Lake Taupō. The lake margins include some highly valued rock climbing areas, such as Whanganui Bay.*

*Highly picturesque with pockets of native vegetation, shelter trees, and distinctive white pumice rocky outcrops”.*

218. **Objective 3h.2.1** seeks to protect Outstanding Natural Landscape Areas from inappropriate subdivision and development which may adversely affect the Landscape Attributes.
219. Associated Policies seek to ensure that subdivision and development is located and designed in a way that protects OLAs, with criteria (**Policy 3h.2.1**) providing those matters to be considered

in terms of managing the adverse effects on ONLs, including the suitability of the site for development, the extent of disturbance, and the effectiveness of mitigation.

220. It is considered that **Objective 3h.2.2** is not relevant to the proposal. These provisions relate to notated Amenity Landscape Areas none of which are proximate to, or relate to, the Plan Change area.
221. **Objective 3h.2.3** seeks to recognise and encourage the enhancement of Amenity Values within Landscape Area (as inclusive of OLA60). Associated Policies seek to ensure that good landscape design practice is applied to Subdivision design, Built Structures, Roads and Planting so as to ensure landscape values are able to absorb development in an appropriate manner. **Policy 3h.2.3(iii)** seeks to enable activities that result in a Net Environmental Gain for Landscape Areas.
222. As discussed with reference to the relevant Regional Council provisions, Ms Ryder is not of the view that the plan change request appropriately addresses the potential for adverse landscape effects and associated management, specifically in terms of the potential impacts on OLA60. She concludes that:
- “The assessment and application material needs to demonstrate that the proposed land use change can be successfully integrated, and potential adverse effects sufficiently mitigated”.*
223. Accordingly, I consider that retaining the Rural zoning better achieves or implements **Objective 3h.2.1** and associated Policies.
224. I also consider that the Proposal, in its current form, would not achieve **Objective 3h.2.3** and associated Policies. Whilst the Amended Provisions incorporate measures which seek to resolve a number of matters associated with **Policy 3h.2.3(i)**, these are too imprecise and uncertain. By way of example:
- *“Building height may also be controlled for viewshaft management purposes”* is meaningless without an understanding of relevant viewshafts and their purpose.
  - *“Requirements to reduce window reflectivity by use of over-hanging eaves or low-reflectivity glass”* without supporting measurable parameters.

#### **7.4.4 Section 3i – Natural Values**

225. The Plan Change area is not contained within notated SNA062. However, the road and bridge connections require vegetation clearance, subdivision and earthworks to provide functional public access – the Plan Change Application states that these will be subject to a subsequent resource consent.
226. Mr Shaw has identified that the Plan Change seeks to rezone and develop a vegetated area that warrants identification and protection as a Section 6(c) matter. This conclusion is relevant in terms of the application of **Objective 3i.2.2** and **Objective 3i.2.3**, but not **Objective 3i.2.1** which is applicable only to existing identified SNAs within the operative plan.
227. The relevant provisions are included in the Evidence of Mr Shaw (**Attachment F**).
228. **Objective 3i.2.1** seeks to protect Significant Natural Areas from more than minor adverse effects. However, the associated Policies are less directive, seeking that more than minor adverse effects on SNAs should be avoided, remedied or mitigated (**Policy 3i.2.1(i)**). **Policy 3i.2.1(ii)** establishes the criteria by which consideration of the scale, intensity, purpose, location and design of activities within Significant Natural Areas and associated effects can be determined.
229. I do not consider that these provisions are so directive that vegetation clearance within notated SNAs is to be avoided. The Plan clearly anticipates a management regime where clearance of

indigenous vegetation is to be considered on its merits. This is also expressed in the Explanation as follows:

*Vegetation clearance within Significant Natural Areas need to be assessed on a case by case basis to ensure that the effects on the Significant Natural Areas can be avoided, remedied or mitigated as appropriate. It is considered that vegetation clearance including erosion protection activities and the ongoing practical operational requirements of existing (and future enhancements to) hydro electric infrastructure may be undertaken in a manner that is appropriate in relation to the values of the Significant Natural Area in question.*

230. The evidence of Mr Shaw recognises this regime but, given the paucity of information as to the type and scale of adverse effects and how these will be overcome, his conclusion is that the Proposal, as it stands will not achieve (this Objective of) the District Plan. I agree.
231. **Objective 3i.2.2** seeks to facilitate the long-term protection of areas of natural value in the Taupō District. **Objective 3i.2.3**, seeks the enhancement of areas of natural value in the Taupō District. These provisions have substantial weight in terms of both the cumulative effects of the removal of indigenous vegetation associated with the proposal as a whole, but also in relation to that regenerating vegetation area Mr Shaw considers warrants consideration as a Section 6(c) matter. This is a matter that can be addressed further by the Applicant but, based on the advice of Mr Shaw, retention of the Rural zoning would better, or would more appropriately provide for these values.

#### **7.4.5 Section 3i – Natural Hazards**

232. The relevant provisions in the District Plan are:

**Objective 3i.2.1** *Protection of activities, development and life from the adverse effects of natural hazards.*

##### **Policies**

- i. Control the design and location of activities and development within identified natural hazard areas, or areas which have significant potential to be affected by a natural hazard, to avoid or mitigate the effects of the natural hazard.*
- ii. Manage the location, design, and type of new activities and development to avoid or mitigate the adverse effects of erosion, ground rupture and deformation, hot ground and land instability on development and the community.*

**Objective 3i.2.2** *Activities and development do not create, accelerate, displace, or increase the effects of a natural hazard.*

##### **Policies**

- i. Ensure that activities do not alter or change the nature of a natural hazard event, increase the intensity of a natural hazard event or increase the risk of the event occurring.*
  - ii. Ensure that activities and structures do not increase the risk to the community or the environment from the effects of natural hazards.*
  - iii. Ensure that where development occurs within areas subject to the effects of natural hazards, property owners and/or occupiers are informed of and manage the risk.*
  - iv. ....*
233. As discussed in relation to the similar provisions under the WRPS, the dispute between the respective Geotechnical witnesses relates to the timing as to when comprehensive risk analysis should be undertaken. It is my view, based on the Evidence of Ms Philips as to the potential for risk associated with land development at the site, that there should be a higher degree of confidence about geotechnical risk (and potential remediation) than present.

234. In my view it is inappropriate to rezone land for an urban purpose where the geotechnical risks associated with the land remain uncertain. Determining such risks is now a fundamental component of any urban rezoning investigation. The consequences of getting it wrong as seen in places like Dunedin (Abbotsford) and Christchurch (eastern suburbs) are high.
235. As with the WRPS provisions, the above seek to proactively understand and control development in 'areas which have significant potential to be affected by a natural hazard'. It is considered that such should not occur once rezoning has been provided.
236. Accordingly, the proposal does not adequately achieve **Objective 3I.2.1 and associated Policy 3I.2.1(i)**.

#### 7.4.6 Section 3a – Residential Environment

237. The Plan Change seeks the provision of a Residential Environment (zone). The relevant provisions are:

**Objective 3a.2.1** *The maintenance and enhancement of the character and amenity of the Residential Environment.*

##### POLICIES

- i. *Maintain and enhance the character and amenity of the Residential Environment by controlling the bulk, location and nature of activities, to ensure activities are consistent with a residential scale of development, including an appropriate density and level of environmental effects.*
- ii. ...
- viii. *Protect the character of the District's lake and river margins from buildings which are visually obtrusive and/or result in the loss of amenity of the foreshore area, by controlling the scale and location of structures.*
- ix. *Avoid, remedy or mitigate adverse effects of subdivision, use and development in the residential areas on cultural, historic, landscape and natural values, as identified through the provision of this Plan.*
- x. *Recognise the important role of reserves and their existing infrastructure and services (including those provided by commercial operators) in providing recreational opportunities for the community.*

238. It is considered that the Proposed Plan Change would appropriately recognise and provide for reserves (**Policy 3a.2.1(x)**), and through the application of the Residential zone provisions largely provide a coherent residential amenity (in terms of **Policy 3a.2.1(i)**). There remain concerns as to the imprecise nature of the Concept Plan provisions which seek to apply additional controls as to height, recessive colours and exterior lighting by way of consent notice.
239. In addition, as outlined in the evidence of Ms Ryder and Mr Shaw the proposal does not sufficiently address and respond to landscape and natural values present. Accordingly, whilst it is considered that a Residential Environment zone could achieve the above provisions, additional precision and assessment is required by the Applicant through evidence.

## 7.5 Other Management Plans and Strategies

240. Section 74 of the RMA requires regard to be had to management plans and strategies prepared under other Acts. In this regard, and as detailed in Section 3.3 of this Report these are:

240.1 Taupō District 2050 (2018 Refresh)

240.2 Southern Settlement Structure Plan (2013)

## 8.0 SECTION 32 / 32AA

241. The Application provides an overview Section 32 Report (Section 11 and Appendix 8). As can be seen from the assessment above, there remain matters in dispute.
242. Section 32AA requires a further evaluation of any changes that have been made to the proposal since the s32 evaluation report was completed. Given the recommendation to decline PPC36, I have not sought to amend provisions, and therefore there is no requirement to provide a S32AA analysis.
243. Given the matters of dispute, and that the PPC36 provisions now sought have been amended by the Proponent since Appendix 8 to the Application was provided, including those matters set out in paragraph [56.2] and amended as set out in paragraph [56.3], I have below provided a broad level s32 to assist the Panel.
244. This analysis will be further informed by the Applicant's exchange of evidence, and the ability of Council Experts to further resolve matters in terms of the rebuttal process and Joint Witness Conferencing.

## 8.1 Statutory Tests

245. A further assessment is required to be made by Council prior to making a decision on the Plan Change. Section 32 analysis is an evolving process and information presented in Hearing evidence also contributes to the Hearing Panel's deliberations.

*(1) An evaluation report required under this Act must—*

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
  - (i) identifying other reasonably practicable options for achieving the objectives; and*
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives;*

*and*

- (iii) summarising the reasons for deciding on the provisions; and*
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

*(2) An assessment under subsection (1)(b)(ii) must—*

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
  - (i) economic growth that are anticipated to be provided or reduced; and*
  - (ii) employment that are anticipated to be provided or reduced; and*
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

## 8.2 Broad level evaluation of PPC36

246. The Plan Change does not amend or insert any additional objectives in the District Plan. The request is therefore to be primarily assessed against the extent that it gives effect to/achieves existing operative objectives, and the relevant provisions of the WRPS and NPS-UDC and NPS-FW.
247. For the purpose of this assessment:
- Effectiveness* means how successful ‘the package of provisions associated with PPC36’ is in achieving the respective objectives of the existing operative objectives, and the relevant provisions of the WRPS and NPS-UDC and NPS-FW.
  - Efficiency* means whether the benefits of the ‘package of provisions associated with PPC36’ outweigh the costs, either immediately or over time.

Table 3: Broad Level Section 32 of PPC36

	Costs	Benefits
<b>Social</b>	Additional pressure on community (schools) and recreational facilities (not considered material).	<p>Reinforces the scale, critical mass and sense of community Whareroa.</p> <p>Improved use of existing recreational and social facilities (efficiency)</p> <p>Potential for higher levels of connectivity (physical, vehicle, pedestrian, cycle).</p> <p>Maintains distinction of urban boundary.</p> <p>Increases housing choice and types (where there is demonstrable unmet demand)</p> <p>Increased self-determination for the Maori Incorporation, the Proprietors of Hauhungaroa No.6.</p>
<b>Economic</b>	<p>Costs to be borne by the developer include: Uncertain economic costs associated with bridge and road connection assumed to be in the order of \$1.3million (and associated resource consents). Additional infrastructure and civil works associated with geotechnical risk assessment, wastewater, stormwater management and utility and reserve maintenance.</p> <p>Costs to be borne by the wider community are in the order of in the order of \$52,000 per annum.</p> <p>No surety over the legal mechanism to ensure perpetual public access over Whareroa Stream. Resultant challenge to the efficacy of the Plan Change for both the Proponents and wider Community.</p> <p>Economic growth – neutral: represents a transfer of demand from existing vacant zoned land.</p>	<p>Promotes the efficient use of existing transport infrastructure.</p> <p>Unlikely material reduction in residential housing stock price.</p>

	<p>Employment growth – neutral: represents a transfer of (construction) workforce from existing vacant zoned land.</p> <p>Decreases efficient use and integration of existing community wide infrastructure through dispersing demand.</p>	
<b>Environmental</b>	<p>Costs associated with geotechnical risk are unknown until 'Preliminary Stage' investigations are completed, as are potential remediation strategy.</p> <p>Approach to landscape currently results in significant costs to OLA, natural character and amenity values given uncertainty of approach and reliance on resource consent processes for earthworks, removal of indigenous vegetation, and retaining and bridge structures within SNA062 and OLA06. Management approach and potential for 'offsets' is not certain as to ability to absolve and manage adverse effects. Amended Provisions represent an improvement in terms of the ability to potential absorb development but require greater precision and application.</p> <p>Approach to indigenous biodiversity is as above, with significant costs to SNA and ecological values given uncertainty of approach. Amended Provisions retain development / clearance of regenerating scrub identified [Shaw] as being of significance.</p>	<p>Appropriate management of potential adverse effects on the values associated with three waters (drinking water, wastewater, stormwater management etc).</p> <p>Efficient use of existing transport infrastructure.</p> <p>Current provisions in the District Plan provide a managed approach to SNAs. There is no existing protection for the regenerating vegetation identified [Shaw] as warranting identification and protection.</p>
<b>Cultural</b>	<p>There are no anticipated cultural costs as a result of this policy.</p> <p>Heritage sites- Costs are not material as associated with Archaeological Authority.</p>	<p>Opportunities for Manawhenua who have expressed a desire to return and reconnect with land, but does not extend to explicit provision of Papakainga</p>
<b>Risk of Acting or not acting (s32)(c)</b>	<p>No surety over the legal mechanism to ensure perpetual public access over Whareroa Stream. Resultant challenge to the efficacy of the Plan Change for both the Proponents and wider Community.</p> <p>Extent of hazard risk due to insufficient geotechnical investigations remains unknown.</p> <p>Extent of full impacts and management approach to landscape and ecology remains unknown.</p>	
<b>Efficiency</b>	<p>Following the consideration of the costs and benefits of the package, it is considered that PPC36 has a <b>low level</b> of efficiency.</p> <p>The rezoning would result adverse effects on landscape character and indigenous biodiversity, specifically as these relate to the bridge and connection road through the SNA and OLA (these are considered by the Proponent to be subject to a separate resource consent process) that do not appear to have been fully considered as externalities by the Applicant.</p>	

## Effectiveness

The policy and its methods are not considered to be effective.

The Waikato Regional Policy Statement through **Policy 6.1** seeks planned and coordinated subdivision, use and development, referencing the Development Principles in Section 6A which for new development includes such matters as:

- a. *support existing urban areas in preference to creating new one;*
- c. *make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas*
- i. *promote a compact urban form, design and location....*

The *way and rate* in which urban growth areas could be rezoned, is to therefore be determined by the extent to which such:

- i. gives effect to the respective matters including Indigenous Biodiversity, Landscapes, and natural hazard risk.
- ii. Ensures the appropriate provision and integration of supporting infrastructure; and
- iii. Optimises (at a community level) the efficient functioning of infrastructure and *achieves the sustainable management of the District's natural and physical resource*

The Plan Change results in a transfer of investment in the residential housing sector with no resultant net increase in community enablement, but with a corresponding decrease in the effective integration of infrastructure with development. Based on the current level of assessment contained within the s42A report, the resultant impacts would not achieve the respective objectives for Landscape Values Natural Values.

## Alternatives

The alternative is the retention of the existing Rural zone. Given the imprecise nature of the Plan Change assessment, and especially given the backdrop of the subdued housing market demand and existing supply as outlined by Mr Osborne, such an approach is considered to better achieve the respective Objectives of the operative plan (and WRPS) in a more efficient and effective manner.

## Conclusion as to Appropriateness

Having regard to their efficiency and effectiveness, and taking into account the costs and benefits, it is concluded that proposed rezoning and associated package of provision is not the most appropriate to achieving the objectives.



## 9.0 PROVISIONS

248. The package of Plan Change provisions is referred to in paragraph [57].
249. There remains dispute as to the manner and resolution of issues relating to landscape, ecology and geotechnical investigation. The resolution of these matters has implications for the provisions as put forward by the Applicant, for example Mr Shaw's identification of the importance of the Zone 2 'regenerating scrub area'.
250. Given the above, and that the recommendation with the Section 42A report that the Plan Change be declined, it is inappropriate to proffer wholesale amendments to the package of provisions. However, if it assists the following observations are made:
- 250.1 The provision of a detailed Outline Development Plan to identify and respond to identified constraints and opportunities associated with the area is considered to be an appropriate planning mechanism.
  - 250.2 Associated provisions should be precise, coherent and measurable. That is, they should ensure that there is certainty to both developers, the Council and wider public as to outcomes. Provisions that are imprecise or use qualifiers such as '*generally*' in accordance with should be avoided.
  - 250.3 Mechanisms to implement outcomes should be certain and enforceable, reliance on Consent Notices to achieve the broad level aims set out in the Amended Provisions is considered uncertain in efficacy.
  - 250.4 The interplay of activity status should ensure that appropriate discretion is applied to consider the actual or potential adverse effects of subsequent activities. With regard to PPC36, it is considered that the outline development plan is not sufficiently detailed such that the respective activity status and current matters of discretion are appropriate, given:
    - (a) Development '*generally*' in accordance with such that use of the **controlled activity** status is sufficient to assess subdivision applications and apply relevant conditions to subsequent consent;
    - (b) Development '*not generally*' in accordance is a **restricted discretionary activities** where the matters of discretion in Rule 4a.3.3 are narrowed to matters of infrastructure capacity: Rule 4a.3.2 which does not extend to recognising the important environmental qualities of the site; nor matters extend to either 'the key outcomes' expressed in the Outline Development Plan.

## 10.0 PART II RMA

### 10.1 Section 8

251. Section 8 of the RMA requires that “all persons exercising functions and powers under it, in relation to managing the use, development and management of natural resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”.
252. The applicant has undertaken consultation with tangata whenua and the relevant iwi authority (TMTB) in a manner that is consistent with the requirements of section 8.
253. The consultation undertaken by the applicant has produced formal expressions of support dated 8 December 2017.
254. I am therefore satisfied that there is no impediment under Section 8 to approval of PPC36.

### 10.2 Section 7

255. The relevant Section 7 matters to which particular regard should be had are (a) kaitiakitanga, (b) the efficient use and development of natural and physical resources, (c) maintenance and enhancement of amenity values, and (f) maintenance and enhancement of the quality of the environment.
256. I am satisfied that the proposal represents the principle of kaitiakitanga or guardianship by the Incorporation. The project clearly has had a long gestation, and represents a substantial level of self-determination and economic aspiration for the Trust.
257. Based on the evidence of Mr Osborne, I do not consider that the proposal represents the efficient use and development of natural and physical resources for the District. The Plan Change results in a transfer of investment in the residential housing sector with no resultant net increase in community enablement, but with a corresponding decrease in the efficient use and integration with development. The rezoning would also result in associated environmental costs associated with adverse effects on landscape character and indigenous biodiversity that do not appear to have been considered as externalities by the Applicant.
258. Subsequently those impacts on amenity, landscape and indigenous biodiversity do not, without further evidence from the applicant, overcome conflicts derived from the Plan Change with the need to maintain amenity values nor maintain or enhance the quality of this environment.

### 10.3 Section 6

259. The relevant Section 6 matters that need to be recognised and provided for are:
- (a) *The preservation of the natural character of ... lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.*
  - (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
  - (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
  - (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
  - (f) *The protection of historic heritage from inappropriate subdivision, use, and development.*
  - (h) *The management of significant risks from natural hazards.*

260. I am satisfied that, subject to the imposition of an Archaeological Authority, the proposal will recognise and provide for the protection of historic heritage. Equally, whilst the proposal does not explicitly provide for Papakainga housing, the intent that some Manawhenua will be able to access and reconnect with the land carries some weight.
261. There remains considerable uncertainty with regards to the appropriateness of the proposal in relation to matters (a), (b), (c) and (h).
262. In terms of the latter there remains insufficient information before the Panel to determine whether significant risks from natural hazards can be managed. The Proponent instead have sought to insert a process stage, whereby information to ascertain hazard risk, and thereby potential remediation can be resolved, after the primary decision to rezone the land for increased occupation. As discussed, such an approach is not considered appropriate. It is recommended that this matter be resolved, and suitable evidence provided to the Panel prior to a decision on the outcome.
263. In terms of (a) and (b), Ms Ryder has identified that the site is able to accommodate 'appropriate' development. The evidence to date does demonstrate that the proposed land use change could be considered 'appropriate' given the absence of assessment and precision of development standards such that subsequent urbanisation could successfully integrated, and potential adverse effects on natural character or outstanding landscapes can be sufficiently avoided, remedied or mitigated.
264. Mr Shaw raises the same issues in terms of the potential road and bridge access in terms of adverse effects on SNA062. He has also identified that the Plan Change would directly impact an additional area of regenerating native vegetation which warrants recognition in terms of Section 6(c). The applicant may wish to specifically address this matter in evidence, including as necessary, amendments to the Outline Development Plan.

## 10.4 Section 5

265. The purpose of the RMA as set out in section 5(1) is to promote the sustainable management of natural and physical resources.

Sustainable Management is defined in the RMA as meaning :

*"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

*(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

*(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*

*(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

266. Approval of PPC36 in its current form would not be consistent with the purpose of the RMA.
267. There remains considerable uncertainty with regards to geotechnical suitability and risk at the site, and the impact and management package associated with natural values and landscape. Accordingly, it remains unknown as to whether:
- 267.1 adverse effects on the environment, and indigenous biodiversity and landscape values as natural resources can be avoided, remedied or mitigated; and
- 267.2 whether the resultant rezoning would provide for peoples' health and safety.

268. There remains a dispute as to whether the proposal would provide for appropriate housing opportunities and types within the district, or whether such would result in the transfer of investment and consequential inefficient use of existing infrastructure and zoned residential land. My view, based on the evidence of Mr Osborne, is that the Council can intervene in the housing market and rezone land resource 'in a way and at a rate' that better enables the community as a whole. It is acknowledged that that principle is enshrined in both WRPS Policy 6.11 and District Plan Objective 3e2.2 and associated Policy 3e.2.1.
269. Lastly the absence of an appropriate legal instrument ensuring public access and reticulated services in perpetuity across Whareroa Stream is considered a fundamental unresolved matter.

Matt Bonis

22 April 2020

## Attachment A            Qualifications and Experience

### Qualifications

I hold a Bachelor of Regional and Environmental Planning (Hons) gained from Massey University in 1995.

I have worked as a strategic planner and policy advisor for over 21 years.

My main areas of expertise are spatial planning, strategic policy development, strategic infrastructure development and business growth. I have worked extensively on these issues in both New Zealand and the United Kingdom.

### Experience

- Associate, (and Senior Planner) Planz Consultants, Christchurch, New Zealand April 2005 – Present
- Senior Planner, Strategy and Policy Christchurch City Council, Christchurch, New Zealand June 2000 – April 2005
- Community Resource Management Advisor, Christchurch Community Law Centre, Christchurch, New Zealand November 1999 – May 2000
- Planner Adams Hendry Planning Consultancy, Winchester, United Kingdom May 1998 – August 1999
- Policy Planner, District Planning New Plymouth District Council, New Plymouth, New Zealand December 1995 – March 1997

### Recent Experience in Plan Changes

- Implementation of the Christchurch International Airport Master Plan through Plan Change 84, and implementation of Designations, REPA, Protection Surfaces and Operational and Engine testing Contours through the replacement Christchurch District Plan. *Client: Christchurch International Airport, under the Resource Management Act 1991, Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 and Airport Authorities Act 1966.*
- Airport Planning, Designation and Appeals on Chapter 17 and Chapter 37 Queenstown Lakes District Plan. *Client: Queenstown Lakes District Council, under the Resource Management Act 1991.*
- Resolution of Business and Growth Policy Appeals to Change 6 Auckland Regional Council. *Client: Auckland Regional Council, under the RMA1991, LGA(A)A 2004.*
- Drafting provisions and preparation of evidence and attendance at Independent Hearings Panels on spatial business distribution for the Auckland Unitary Plan. *Client: Auckland Council, under the RMA1991, LGA(A)A 20*
- Drafting provisions and preparation of evidence and attendance at Hearings and Environment Court on Plan Changes 28 – 33 spatial business distribution for Taupo District. *Client: Taupo District Council, under the RMA1991.*

## Attachment B List of Submissions – Categorisation of Issues

Sub	Oppose / Support	Economics	Infrastructure	Ecology	Landscape	Archaeology	Geotech / Nat Hazards	Planning
1 R& D Ewen	Oppose		✓	✓ (water quality)				✓
2 E Lawton	Oppose		✓					✓
3 R Lawton	Oppose		✓					✓
4 S Sanderson	Oppose		✓ (access)					✓
5 M Stewart	Support							✓
6 D Drayton	Oppose		✓ (access)					✓ Mechanism
7 R&S Ewen	Oppose		✓ (access)				✓	✓
8 HDC McKenzie	Support							✓
9 I Sutcliffe	Oppose	✓ (Costs of dev)	✓ access / sewer	✓ assessment & mitigation	✓ assessment & mitigation		✓	✓
10 C Skipper	Oppose			✓	✓			✓
11 Ngati Parakaawa Trust	Support		✓ access				✓	✓
12 M Ewen	Oppose							✓
13 R&J Colman	Oppose	✓ supply, benefits and costs	✓ bridge and water	✓ trout	✓		✓	✓
14 MT Miller	Oppose	✓	✓ sewer	✓				✓
15 Ministry for Education	Neutral	✓ (consolidation of public resources)						✓
16 Heritage New Zealand	Neutral / Oppose					✓ Including mechanisms		✓
17 Waikato Regional Council	Oppose	✓ Coordination and appropriate land dev	✓ access (as part of plan change - scope)	✓ access	✓ access			✓

## Attachment K Taupō District Plan Provisions

### Section 3e Land Development

3e.2

Objectives and Policies

Objective

3e.2.1

Provide for and manage urban growth so as to achieve the sustainable management of the District's natural and physical resources.

Policies

- i. Recognise the appropriateness of Urban Growth Areas as an important resource for providing for new urban land development and as the focus for future urban growth.
- ii. Ensure patterns of future urban development are consistent with the identified Urban Growth Areas as described in {Link,5189,Section 3e.6}
- iii. Prevent urban development in the rural environment outside of the identified Urban Growth Areas.
- iv. Avoid the cumulative effect that subdivision and consequent fragmented land ownership can have on the role of the Urban Growth Areas in providing the supply of land for urban development.
- v. Ensure that urban development of an identified Urban Growth Area occurs by way of a Taupō District Structure Plan Process and associated plan change process.

#### EXPLANATION

The location of the Urban Growth Areas has been the result of a comprehensive process of evaluation carried out as part of developing the TD2050. This strategy was the result of a need to provide for greater direction in the integrated management of identified future growth and its associated effects.

TD2050 was developed from the strategic directions that provided a comprehensive picture as to how the Community and Council saw growth as being managed. These directions are;

- Outstanding Landscapes and Natural Areas,
- Settlement Patterns and Urban Form,
- Well Designed Places,
- Strong Communities,
- Tangata Whenua,
- Sustainable Economy,
- Integrating Landuse,
- Infrastructure and Funding,
- Transport Modes and Connections,
- Water Resources,
- Open Space Networks,
- Leadership, Partnership and Collaboration

By anchoring the location of urban growth areas the community is provided with certainty as to where future urban expansion will occur, and the management of resources is provided for in an efficient and sustainable manner in accordance with Part II of the Resource Management Act 1991.

Objective

Taupō District Plan

Proposed Plan Change 36: Whareroa S42A Report, 22 April, 2020  
North

### 3e.2.2

Ensure that the subdivision and development of Urban Growth Areas for new urban growth occurs by way of a comprehensive Taupō District Structure Plan Process and plan change.

#### Policies

- i. Define the precise location, extent, form and staging of development of Urban Growth Areas by way of the Taupō District Structure Plan Process and associated plan change process.
- ii. Ensure that the development framework for the Urban Growth Areas is determined by the Taupō District Structure Plan Process.
- iii. That a range of residential densities, location of rural residential opportunities and the staging of the development of the Urban Growth Areas shall be determined by the Taupō District Structure Plan Process.
- iv. Ensure that staging of development in the Urban Growth Areas is efficient, consistent with and supported by adequate infrastructure.
- v. Ensure that the planning and development of Urban Growth Areas adequately takes into account the efficient and effective functioning of supporting and surrounding infrastructure.

#### EXPLANATION

The Taupō District Structure Plan Process requires a comprehensive approach for preparing the framework for the development of an Urban Growth Area. As the Taupō District Structure Plan Process requirements complete the process for determining the extent of the Urban Growth Areas and need to incorporate specific assessment criteria, they have been specifically defined.

[3e.7](#) sets out matters to be addressed by the Taupō District Structure Plan Process, including the outcomes desired, the methods of implementation (including a high degree of technical feedback from Council), and matters to be considered.

The Taupō District Structure Plan Process has been developed to determine the extent and precise location of the Urban Growth Areas. The Taupō District Structure Plan Process is to be carried out in parallel with a District Plan change process. A District Plan change enables community involvement through consultation to address environmental issues and enables flexibility in the range of development form through the use of zoning. Further, this process provides a robust opportunity to consider wider environmental, social and economic effects.

The Taupō District Structure Plan Process is necessary to ensure the availability of land required within the Urban Growth Areas and to provide for and manage urban growth. The range of residential and rural residential densities must be determined by the Taupō District Structure Plan Process to avoid pre-emptive subdivision and development that may prematurely restrict the extent of the growth area.

Urban growth often requires the development of infrastructure systems to service new development. The development of Urban Growth Areas needs to take into account the increased pressure placed on this new and existing infrastructure.

#### Objective

### 3e.2.3

Ensure the maintenance of an appropriate and sufficient level of community infrastructure within existing serviced areas.

#### Policies

- i. Allow new activities and development to connect to existing water and wastewater infrastructure where there is adequate capacity to meet the needs of the development.
- ii. Avoid, remedy or mitigate any adverse effects of the disposal of stormwater on the receiving environment.
- iii. Ensure new activities and developments contribute to the provision and standard of reserves and open space amenity to meet the needs of the community including Esplanade Reserves in accordance with the provisions of the Act.
- 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.

#### explanation



There is a potential for new urban development and activities within existing serviced areas to exceed the design capacity of existing infrastructure and the network of resources. Assessments may be required to determine the extent of effect on design capacity and identify upgrading of community services where necessary.

The Plan is required to manage the effects of growth within existing urban areas. New activities and development increase the demand on existing community infrastructure including water and wastewater services, stormwater disposal, roading and the reserves network. The increased pressure on these systems and resources could, if not considered at the time of building or resource consent, result in ineffective and inefficient service for the community. The sustainable management of these physical resources is essential to the community and required for the continued development of the District.

Water and wastewater services are necessary for health, safety and operational purposes. New activities and development must have access to the provision of these services, whether it be publicly or privately owned infrastructure.

The disposal of stormwater from new activities and development has the potential to adversely affect the environment through the flooding of the allotment and neighbouring allotments. Stormwater infrastructure in the District is confined to systems designed to deal with runoff from roads. The exception is two areas within the Taupō Town Centre Environment where 50% and 100 % of stormwater generated on private property can be catered for within the system, and defined areas within the lakeshore settlements of Omori, Kuratau, Pukawa and Whareroa (as shown on the Planning Maps) which cater for roof water.

For the remainder of the District, on-site disposal of stormwater is a requirement of the Plan. This is possible due to the high pumice content of the District's soils which promotes excellent drainage for stormwater with the use of effective soak-hole design and construction. The use of on-site stormwater disposal will ensure that the limited stormwater infrastructure serving the roads and Town Centre Environment can continue to function.

As the disposal of stormwater is a discharge to the environment, the Regional Plan also includes rules with regard to stormwater. Therefore, developers will need to determine whether a resource consent is required from the Regional Council for this discharge prior to establishing the activity or development.

Open space, recreation facilities and the reserves network are currently provided for throughout the District to meet the needs of the Community. New development and activities can place increased pressure on these existing facilities when they increase the number of users of this resource. Establishment of new residential areas may require the provision of new neighbourhood reserves to meet the recreational needs of the increase in population. The construction of new residential and commercial accommodation units will need to contribute to the open space, recreation and reserve requirements of the District through the financial contributions provisions in [Section 5](#).

#### Objective

##### 3e.2.4

Avoid the degradation of Taupō District's lakes, waterways and aquifers from effluent and waste water resulting from land development.

#### Policies

- i. Implement integrated land management strategies in conjunction with Regional Authorities that will avoid, remedy or mitigate adverse environmental effects on Taupō District's lakes, waterways and aquifers.
- ii. Allotments that are not serviced by an off-site wastewater disposal system are to be of an adequate size to ensure that the proposed land use can operate and maintain appropriate on-site effluent and waste water treatment systems.

*Note: Resource consent approval may be required from the appropriate Regional Council to operate some effluent and wastewater systems, or to change some land use activities.*

#### Explanation

In assessing development proposals there is a clear duty to manage the effect of development upon the natural and physical resources in a sustainable way in accordance with Part II of the Resource Management Act 1991.

Concerns have been expressed regarding the degradation of water quality in Taupō District's lakes, waterways and aquifers. Algae blooms and a reduction in the clarity of Lake Taupō are perceived as evidence of such degradation. It is known that on-site effluent and waste water disposal systems can contribute to the degradation of Taupō District's lakes, waterways and aquifers.

New development could potentially increase the rate of contamination of Taupō District's lakes, waterways and aquifers. The preceding objective and policies express the community's desires in respect to these features, and gives notice that Council will be seeking improved practices for new land use activities. Although Council would much prefer to completely avoid the degradation of Taupō District's lakes, waterways and aquifers from effluent and waste water, it is acknowledged that any new development will generate some contaminants, even though

they may only be miniscule. However, it is appropriate to undertake mitigation measures against the problem. Conditions on consents can be imposed to require improved systems should an application proposal not satisfactorily address this matter.

#### Objective

##### 3e.2.5

Ensure land development does not detract from the amenity value or qualities of the local environment.

#### POLICIES

- i. Ensure that proposals for the subdivision and development of land assess the particular amenity values of the area including the physical characteristics of the land and avoids, remedies or mitigates any adverse effects.
- ii. Subdivision and subsequent development shall either maintain or enhance, but not detract from, the significance of features or areas of cultural, spiritual, historical, landscape or natural value, (as identified through the provisions of this Plan).
- iii. Enable the creation of allotments below any minimum allotment size identified as a controlled activity in this Plan for the exclusive purpose of providing or enhancing public or private access, or to exclusively accommodate a complying network utility activity and infrastructure.

#### Explanation

Subdivision and subsequent changes in land use will change the character of the surrounding environment, and may undermine the very amenity values enjoyed by those who choose to live there, or frequent the area. Significant changes to character and amenity usually occur incrementally, meaning that the cumulative impacts of gradual development become more noticeable over time. The intent of this objective and subsequent policies is to ensure that those changes maintain the quality and amenity of the environment at the very least.

The size of an allotment and the physical features encompassed by its boundaries are key determinants on how the land parcel can be used. The location of boundaries can either detract from, or maximize, both the amenity and utilitarian values of features and characteristics of a site. Such features may include, (but is not limited to) geological or topographical features, stands of indigenous flora, or historical and cultural features. Low impact design of subdivision proposals can maximize the positive aspects of the allotment for future land owners and the community.

The Act requires the setting aside of esplanade reserve or esplanade strips where land development occurs adjacent to water bodies, to avoid, remedy or mitigate the effects of the development, such as restricting public access. Land adjacent to the District's water bodies not already in esplanade reserve often has limited potential for development because of such things as inhospitable topography, multiple ownership issues or because it is in Conservation Estate. Due to these factors, the requirements contained in the Act for esplanade reserves and esplanade strips are reasonable, and it is not necessary to provide separate provisions in the Plan. Where the requirement for esplanade reserves and esplanade strips applies, a condition will be included on the land use or subdivision consent to this effect.

The fragmentation of land can also result in a reduction in the versatility of future development and the reduction of possible land use options for the newly created allotments. Therefore, the planning process must focus on assessing the existing or proposed activities on the land and the longer term implications on District growth of the subdivision of land, to ensure any potential adverse effect is avoided.

Allotments created for the sole purpose of public access or for accommodating complying network utility activities and infrastructure should be provided for as they represent a land use which is appropriate and necessary to the effective functioning of the Rural Environment. Complying network utility activities and infrastructure are those that are either permitted under this Plan or have obtained resource consent.

##### 3e.3

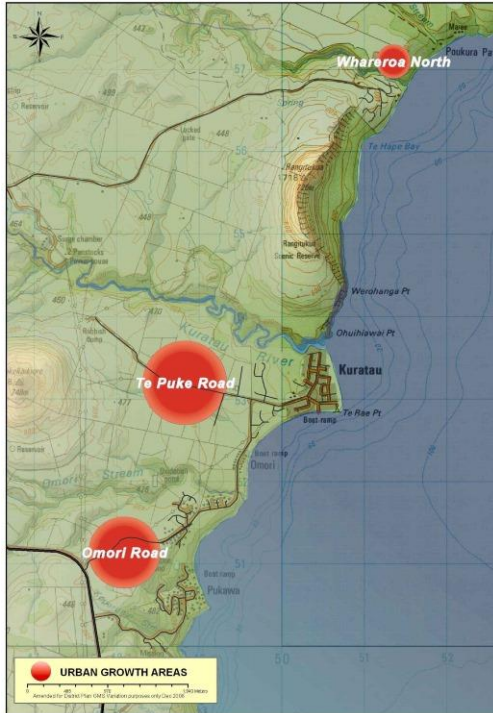
#### Methods

- i. Environmental assessment of activities which do not comply with performance standards through the resource consent process.
- ii. Conditions on resource consents such as the provision of water and wastewater services and the design and layout of roads.
- iii. Allocation of funds through the LTCCP processes.
- iv. Assessment of the servicing requirements through the Council's Asset Management Plans and Taupō District Structure Plan Process.

- v. Rules and policies within any relevant Regional Plan or Policy Statement including rules relating to stormwater discharges, the rate of take of groundwater and on-site effluent discharges.
- vi. Esplanade Reserve Provisions of the Act.
- vii. Identify in {Link,5189,Section 3e.6} of this Plan the areas of the rural environment suitable for future urban development.
- viii. Utilise the Taupō District Structure Plan Process described in [3e.7](#) of this plan to establish the boundaries of, and assess the development framework for, the Taupō Urban Growth Areas.
- ix. Use the plan change process in the Resource Management Act 1991 for implementing the Taupō District Structure Plan Process.
- x. The implementation of any Joint Management Agreement between Council and Iwi.

3e.6.3 SOUTH EASTERN AND WESTERN URBAN GROWTH AREAS

Description



The potential growth locations that were evaluated in the south west tend to focus in and around the existing settlements. With a strong focus on building on the existing infrastructure and urban development, both Whareroa and Omori have been identified as the preferred locations for residential growth in the next 20 years. In Omori growth is being promoted behind the existing settlement. This reflects concerns about the effects that continued lakeshore development might have on the landscape.

In contrast, future growth to the north of Whareroa will be located closer to the margin of Lake Taupō. Due to topographical constraints the future growth of Whareroa is necessarily directed northward over the Whareroa Stream rather than westward and away from the Lake.

Substantial opportunities exist along Te Puke Road to the west of the main urban area of Kuratau. With an already established land use pattern of low density residential development it is proposed to continue this theme over the coming 20 year period. This will build on the existing character and development in the wider area as well as meet a particular demand in the market place for low density residential development.

The area around Te Puke Road is favoured as the main location for low density residential growth because of the long term opportunities that are offered. Te Puke Road offers the option of a comprehensive approach facilitating the development of the appropriate infrastructure in a more orderly and cost effective manner.

## Section 3h Landscape

### 3h.2

#### Objective and Policies

#### OBJECTIVE

#### 3h.2.1

Protect Outstanding Landscape Areas from inappropriate subdivision, use, and development which may adversely affect the Landscape Attributes.

#### POLICIES

- i. Ensure subdivision, use, and development is located and designed in a way that protects the Landscape Attributes of Outstanding Landscape Areas.
- ii. Protect Outstanding Landscape Areas from more than minor adverse visual effects of earthworks, including more than minor visible scarring or more than minor adverse change to the natural landform or natural feature.
- iii. Avoid the erection of built structures that will have more than minor adverse visual effects on the Landscape Attributes of Outstanding Landscape Areas, or will result in cumulative adverse effects from increased built density.
- iv. Avoid subdivision that will result in the fragmentation of open space character leading to any cumulative adverse effects on Outstanding Landscape Areas.
- v. Where Significant Natural Areas are within Outstanding Landscape Areas, avoid, remedy, or mitigate more than minor adverse visual effects of Indigenous Vegetation Clearance on the Landscape Attributes of the Outstanding Landscape Area.
- vi. Remedy or mitigate potential adverse effects of subdivision, use, or development on the attributes of Outstanding Landscape Areas, giving consideration to:
  - a. The suitability of the site for the proposed subdivision, use or development.
  - b. Recognise specific site requirements for some uses or development.
  - c. The scale, location, design and nature of the subdivision, use or development, and whether it will be sympathetic with the Landscape Attributes of the Outstanding Landscape Area.
  - d. The ability to remedy or mitigate significant adverse effects.
  - e. The extent of any disturbance or modification to the Outstanding Landscape Area as a result of subdivision, use or development, including potential impacts of earthworks and the ability of earthworked areas to be rehabilitated.
  - f. The visual impact of Indigenous Vegetation Clearance within Significant Natural Areas on the Landscape Attributes, and the ability to revegetate cleared areas with appropriate indigenous species.
  - g. The effectiveness and appropriateness of proposed mitigation to address adverse landscape and visual effects of subdivision, use or development, including appropriateness of mitigating vegetation to screen or soften built structures, and ongoing maintenance of mitigation planting.

#### EXPLANATION

Outstanding Landscape Areas have been identified in the District Plan as those being important at a District Wide scale, and are shown on the Planning Maps as an overlay to the underlying Environment. It is important that the attributes of Outstanding Landscape Areas are protected from inappropriate subdivision, use and development. It is also noted that activities within Outstanding Landscape Areas can be appropriate where their effects are managed to protect the landscape's important attributes. The Council recognises that some landowners will desire, or need, to obtain an economic return from their land whilst protecting its landscape attributes. In such cases the Council will assess, through the resource consent process, the effects of activities within Outstanding Landscape Areas on their merits. There may be cases where it is preferable to develop small areas intensively, as is provided for in the rural cluster provisions, whilst protecting the important landscape attributes of Outstanding Landscape Areas as opposed to developing a larger part of the Outstanding Landscape Area to a relatively low intensity.

[Section 7.1](#) Schedule of Sites lists the key attributes that contribute to the significance of each Landscape Area.

The objective and policies focus on inappropriate activities that have more than minor adverse effects which may potentially diminish the Landscape Attributes. Guidance is provided in the policy to assess the effects of such activities, with measures to avoid, remedy, or mitigate more than minor adverse effects. In addition [Objective 3h.2.3](#) provides for enhancement where possible, of the Amenity Values associated with Outstanding Landscape Areas. The objectives and associated policies will assist decision-makers in the resource consent process, to ensure that development within these Areas is compatible with the character of the existing landscape.

Additional rules for Outstanding Landscape Areas are introduced into the District Plan. Many of the Outstanding Landscape Areas are already protected through other enactments, and it is evident that guardianship afforded by landowners in the past has enabled many of these landscapes and features to remain intact today. Therefore, rules relating to Outstanding Landscape Areas are aimed at the management of new activities that have the potential to degrade the qualities and attributes that make such landscapes outstanding. An assessment of landscape effects should consider the effects on, but not be limited to, the Landscape Attributes as defined in [section 7.1](#) of the Plan schedules, in addition to any other requirements associated with the underlying Environment and District Wide provisions.

The effectiveness of measures to avoid, mitigate or remedy any potential more than minor adverse effects within Outstanding Landscape Areas will differ on a case-by-case basis, as it is dependent on, but not limited to such factors as the amount of vegetation cover and visual prominence of the landscape feature within the larger landscape context. The proposed scale, intensity, design and location of a subdivision, use, or development, disruption and the extent to which the existing landscape patterns and character may be affected, will be assessed to determine the effect of the proposal on the Landscape Area. This will identify the landscape's ability to absorb the proposed change, and therefore identify any adverse visual or landscape effects. The location requirements of use and development will be considered where such activities rely on a particular locality for their operational requirements. Measures which may be effective in avoiding or mitigating potential adverse effects include, but are not limited to, rehabilitation of earthworked areas, the positioning of a building amongst existing vegetation or below the skyline, controlling the colour of a structure to blend with the landscape character, and controlling the intensity of an activity.

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## OBJECTIVE

### 3h.2.3

Recognise and encourage the enhancement of Amenity Values within Landscape Areas in the Taupō District.

## POLICIES

- i. Recognise and encourage subdivision, use or development that enhances Amenity Values within Landscape Areas in the Taupō District, by utilising, but not being limited to, the following principles:

### Subdivision Design

- a. Subdivision design that utilises the existing landform and landscape features and aligns new allotment boundaries to natural patterns.
- b. Where possible, existing vegetation is retained and protected, and vegetation patterns that reflect the natural landform are maintained.
- c. Fencing styles are designed to complement the existing character of the Landscape Area.

### Built Structures

- d. Built structures are located and designed in a way to integrate with the Landscape Attributes.
- e. Building materials utilise recessive colours and have low reflectance levels.
- f. Existing vegetation patterns are utilised to integrate buildings within the Landscape Area.

### Roads

- g. Roading layout is designed and located to minimise visual prominence, where possible by following topography, and minimising the number of vehicle accesses onto roads. Earthworks
- h. Earthworks are located to minimise disturbance of the natural form and character of the Landscape Area, by avoiding visually prominent locations.

- i. Where practical, earthworks or areas surrounding earthworks are vegetated to soften any abrupt changes in landform, or reduce visible 'scarring' of the landform.
    - Planting
  - j. New tree planting and vegetation patterns reflect the existing landscape character and natural patterns of the landscape.
  - k. Where possible, ecological corridors and ecosystems are restored.
  - l. Planting is used to help integrate buildings with the Landscape Area.
- ii. Encourage the utilisation of design guidelines that maintain and enhance Amenity Values within Landscape Areas in the Taupō District.
  - iii. Enable activities that result in a Net Environmental Gain for Landscape Areas in the Taupō District.

#### EXPLANATION

The objective and policies encouraging the maintenance and enhancement of Amenity Values in Landscape Areas will largely occur through voluntary methods, or will be implemented through the resource consent and Structure Planning process. It may be necessary for subdivision, use and development, which is subject to resource consent, to achieve a Net Environmental Gain. One of the ways in which this gain can be achieved is through the enhancement of Amenity and Natural Values. The use of the policy in this objective along with design guidelines for sensitive landscape design will assist in providing guidance as to how Amenity Values may be enhanced within Landscape Areas.

#### OBJECTIVE

### 3h.2.4

Acknowledge and encourage mechanisms that appropriately manage Landscape Areas in the Taupō District.

#### POLICIES

- i. Consider existing protection mechanisms where they provide an appropriate level of management of Landscape Areas.
- ii. Recognise existing efforts of landowners to manage Landscape Areas in the Taupō District.
- iii. Recognise the historical and current role of Maori in the long-term appropriate management of Landscape Areas in the Taupō District.
- iv. Encourage new efforts to manage Landscape Areas.

#### EXPLANATION

A number of the District's Landscape Areas already have a level of protection and appropriate management afforded to them through management plans prepared under various enactments. Such management plans should be taken into account when considering the effects of activities subject to resource consent, where they provide for appropriate management of landscape values.

Acknowledgement of existing appropriate management of Landscape Areas recognises the importance of landowners in looking after these areas. Many of the District's landscapes have high value due to the efforts landowners have undertaken in effectively maintaining or enhancing them. Many of the Landscape Areas lie within Maori land. It is important to acknowledge and consider the role that Maori have played in the management of such landscapes.

In addition there is the ability to provide for mechanisms to manage Landscape Areas, where these do not currently exist, through the resource consent process. The placement of resource consent conditions should take into consideration new and existing efforts by landowners or applicants to appropriately manage the values associated with the affected Landscape Area.

### 3h.3

#### Methods

- i. Identification of Outstanding Landscape Areas and Amenity Landscape Areas on the District Planning Maps, and as a Schedule to the District Plan with the key Landscape Attributes of each Landscape Area identified.
- ii. Provide for the protection of Outstanding Landscape Areas from inappropriate subdivision, use and development, by managing such activities through rules in the District Plan.
- iii. Assessment of effects on the Outstanding Landscape Areas and Amenity Landscape Areas where an activity is subject to resource consent.
- iv. Conditions on resource consents such as the reinstatement of vegetation on earthworked areas, or the use of specific colours and materials to assist in integrating built structures with the landscape, while considering new and existing efforts to appropriately manage Landscape Areas.
- v. Other provisions of the Plan including the Foreshore Protection Area and rules relating to Activities on the Surface of the Water, and the underlying Environment.
- vi. Education and the provision of information about the value of the landscape to the District's character and the need for developers and landowners to have particular regard to landscape values during the planning stage of a subdivision, use or development.
- vii. The utilisation of design guidelines to maintain and encourage enhancement of Landscape Areas.
- viii. Monitoring of Outstanding Landscape Areas and Amenity Landscape Areas to identify where unacceptable landscape, visual and amenity change is occurring, monitoring compliance with consent conditions and the effectiveness of objectives and policies of the District Plan.
- ix. Other legislation such as the National Parks Act 1980, Conservation Act 1987 and Reserves Act 1977.
- x. The implementation of any Joint Management Agreement between Council and Iwi.
- xi. Collaboration with groups that operate in the Taupō District with aligned Landscape Values management goals.



Dates where the Council has requested further information from the Whareroa Applicants:

- 13 July 2007 – feedback post workshop (this was when the applicant was doing SP and PC). Demand, landscape, ecological, Infrastructure issues all raised.
- 22 August 2017 (prelodgement) – email post meeting with the applicants re Council Officers reiterating the need for demand for residential and cost and benefits of rezoning more land.
- 16 Feb 2018 (post lodgement) – further info request. Focus around landscape assessment, Infrastructure assessment, stormwater management, land improvement area, legal position on bridge crossing, NPS and that Council to commission report on urban capacity.
- 3 August 2018 – clarification of further info request. Explanation on why Council is seeking to commission the urban capacity report.
- 29 Aug 2019 – Notes from meeting and site visit. Economic work was discussed, and that bridge ownership issue needed to be addressed.
- 13 Jan 2020 – Agenda distributed for meeting to discuss issues raised through submissions. Issues include access, Geotech, landscape methodology and bridge access.
- 14 Jan 2020 - Meeting notes distributed re issues raised during submissions. Nick clarified that it is Councils desire to have as many issues resolved as possible prior to the hearing.
- 28 Feb 2020 – email seeking clarification on what outstanding matters are still being addressed prior to 42a deadlines.
  - Reply from Joanne 2 March 2020 – responses will be through evidence or earlier if possible. Asked that I supply date for the s42a dates and then they would let us know what would be available.
- 16 March 2020 – Email asking what information will be supplied by 8 April in order to include in s42a report. Still see there being fundamental issues including bridge ownership. Our recommendation that these issues are resolved prior to the hearing.
  - Reply from Joan 18 March 2020 – making progress and where possible to supply info by 8 April they will do so. No indication of what or when.