BEFORE HEARING COMMISSIONERS
IN TAUPŌ

UNDER THE	Resource Management Act 1991 ("**Act**")
IN THE MATTER OF	Proposed Plan Change 42 Rural Chapter - General Rural Environment and Rural Lifestyle Environment
AND IN THE MATTER OF	a submission seeking the rezoning of the site located at 387 Whakaroa Road to Rural Lifestyle Zone and associated relief
BETWEEN	**STEVE HAWKINS** Submitter
AND	**TAUPŌ DISTRICT COUNCIL** Planning authority

THIRD MEMORANDUM ON BEHALF OF STEVE HAWKINS

Before a Hearing Panel: Chairperson David McMahon, Commissioner Liz Burge, and Councillor Kevin Taylor.

INTRODUCTION

1. During the hearing of the Mr Hawkins' submission (submitter #74), the Panel requested the provision of certain additional information, being:

   (a) *Confirmation of the iwi and DOC consultation summarised verbally by Ms Blick (and to some extent Mr Hawkins) at the hearing*. This is provided by way of a supplementary statement of evidence of Ms Blick.

   (b) *Any update to the proposed Precinct Plan, following the discussion around certainty for certification*. A copy of the updated Precinct Plan accompanies this memorandum. Considerable thought was given to retaining more of the descriptive and guidance elements, but it was ultimately considered that the Precinct Plan should take a form that is more common with such documents (like Structure Plans), and only contain matters clearly capable of certification. While the current owner is soon to progress a formal resource consent application in parallel with (or catching up to) the plan change, on reflection, it is considered that the Precinct Plan should not include specific elevations and the like.

   (c) *Confirmation in writing of the proposed "implementation structure", in terms of management entity under any consent to*

ensure delivery of the outcomes anticipated in the Precinct Plan. I provide this below.

(d) *A simple "comparison table" showing the likely yield and activity status under different zoning provisions, including the preferred relief and the original relief.* I also provide this below, noting that it has had input from both Mr Cumming and Ms White.

The proposed implementation structure

2. As indicated at the hearing, the intention is for the individual rural lifestyle lots to be fee simple titles. The equestrian centre and the lodge will be on separate titles, together with the balance lot (which will contain or be held together with the wastewater disposal area lot).

3. Each owner of a rural lifestyle lot will be required through covenants to be a member of the Te Tuhi Estate Management Association (**EMA**) (or similar entity), and pay levies required by the Association. This is not uncommon, with an example given at the hearing of the Jacks Point Resident Owners Society. I note that their webpage states:

> Jack's Point is a unique community that owns it own parks, reserves, farmed open spaces, roads and water infrastructure. The Jack's Point Residents and Owners Association (**JPROA**) or the Residents Society, owns and manages many of these assets and facilities on behalf of its Members …

4. JPROA has a constitution and bylaws, and the power (enforceable by virtue of the covenant and Society Rules) to impose levies. The Te Tuhi EMA would operate in a similar way. It would be responsible for the maintenance and upkeep of the roads and other infrastructure, planting on the balance lot and, most likely, maintenance of planting on residents' properties, to ensure that mitigation planting remains in place, and areas of "low" planting that maintain views (including for other residents) do not grow out. Easements would give rights of access to the Te Tuhi EMA for that purpose, in addition to any rights granted under the covenants.

5. These are matters that are expected to be identified and tested at the consent stage as part of the discretionary consent process. They are inevitably critical for achieving the success of the project and ensuring integrated subdivision and development (which are also matters emphasised in the description of the Precinct proposed and the objective and policy proposed). Specific direction as to such mechanisms is not considered a requirement of the Precinct Plan, but inclusion of such requirements, at a high level, would not be opposed.

6. There is likely to be some "double up" between covenants, easements (ie the private property mechanisms) and consent notices (the public mechanism that can be imposed as conditions of subdivision) as part of the consent process, but there is nothing wrong with such a belts and braces approach (although care would need to be take to avoid inconsistent obligations).

The comparison table

7. The submitter, working with Mr Cumming and Ms White, has provided the following summary of development yield under the following scenarios ("notes" follow):

Scenario	Residential lots (subdivision)	Residential units	Lodge	Equestrian centre
A. General Rural Environment (as notified)	24 (controlled)	31 (assumes 30% minor residential units) (permitted)	DA	RDA
B. Rural Lifestyle Environment (as notified)	24 (controlled)	31 (assumes 30% minor residential units) (permitted)	DA	DA
C. Preferred Relief (Option 1)	112 (DA)	112 (DA)	DA	DA
D(1). Original Relief (RLE+DA) (Theoretical)	130 (DA) (assumes 30x4 ha lots and 100 x 2 ha lots)	162 (assumes 30% minor residential units) (permitted)	DA	DA
D(2). Original Relief (RLE+DA) (Initial practical assessment)	~80 (DA) (assumes ~30x4 ha lots and 50 x 2 ha lots)	~104 (assumes 30% minor residential units) (permitted)	DA	DA

8. Notes:

(a) In each case, other than Scenario C (preferred relief), there has been an assumption of a 30% take-up of minor residential units across the residential lots. The preferred relief does not allow minor residential units.

(b) In Scenario B, the yield does not increase despite the rezoning to Rural Lifestyle Environment, as subdivision below 10ha is non-complying because of the Outstanding Landscape Area overlay. Additional yield under the RLE zoning is only "unlocked" if the general application of Discretionary Activity status is found to be within scope and approved. As noted in the submitter's second memorandum, the second part of the submission is relied on for scope, particularly:

> … the proposed non-complying subdivision rules should only relate to land comprising class 1-3 soils"; and that: **"[f]or all other rural land a Discretionary status should apply"**.

(c) Two scenarios have been provided in respect of the original relief of RLE zoning together with DA status (if the latter is considered within scope). The first is a theoretical calculation which someone might do if interested in understanding what the "worst case" outcome from the submission might be. That does not take into account site constraints, and so the applicant (via Ms White) has undertaken a more practical assessment of what could be achieved. Using the same assumption as to the uptake of minor units the outcome is in the ballpark of what the preferred relief seeks (104 rural lifestyle units, compared to 112).

(d) In each case, the lodge activity is discretionary, so there is no "advantage" gained in terms of activity status sought.

(e) In respect of the equestrian centre, this has slightly more permissive activity status in the General Rural Zone scenario (A) of Restricted Discretionary, but then is otherwise DA. So the position under the preferred relief (and the original relief) is actually slightly more stringent than the notified status quo.

9. On a fair and workable approach (rather than a legal nicety), it is therefore considered that the original relief would have (if anyone had wished to try to work it out) signalled an increase in residential density of a similar extent to what is now sought in the preferred relief. There is also no advantage in the preferred relief in respect of the status of the lodge and equestrian centre.

10. In other words, it is the submitter's respectful position that the Panel can safely proceed to consider the preferred relief sought on its merits.

11. The submitter still maintains, if there is a jurisdictional issue with the preferred relied (ie the Precinct approach), that the "fall back" for consideration which must also be considered on its merits, is the "original relief" (ie RLE plus DA status for subdivision). That is considered less appropriate than the preferred relief, but still more appropriate than the GRE zoning as notified.

1 September 2023
James Gardner-Hopkins
Project Manager