

BEFORE THE HEARING PANEL

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

AND

IN THE MATTER of Proposed Plan Change 38: Strategic Directions

**STATEMENT OF EVIDENCE OF JOANNE LEWIS
ON BEHALF OF PUKAWA D2 TRUST AND PUKAWA D3 TRUST
9 August 2023**

Introduction

- 1 My name is Joanne Patricia Lewis, and I am a resource management consultant resident and practising predominantly in Taupo for almost 40 years. From Massey University I hold a Bachelor of Regional Planning (with First Class Honours), a Master of Philosophy (Regional Planning), and a Postgraduate Diploma in Social Sciences. I have been a full member of the New Zealand Planning Institute since 1988 from which time, up until 1995, I held the position of District Planner at Taupo District Council (TDC). Since 1995 I have been in private practice and in this capacity I have been involved in a wide range of resource management matters and I have also taught resource management part-time at Massey University (in the Department of Finance, Banking, and Property).
- 2 In my roles as a local authority planner and then a consultant planner I have had extensive experience in resource management planning in the Taupo District. Accordingly, I am very familiar with the Taupo District Plan (TDP) and its evolution. During this time also I have worked extensively throughout the District for a range of public and private sector clients and in particular have assisted many Maori land owners, trusts, and incorporations with land use planning matters.

Code of Conduct

- 3 I have read and am familiar with the Code of Conduct for Expert Witnesses in section 9 of the Environment Court Practice Note (2023). I have complied with, and will follow the Code when presenting evidence. I also confirm that the matters 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 expressed.

Scope of Evidence

- 4 This statement relates to the submissions provided by Pukawa D2 Trust and Pukawa D3 Trust ("The Trusts"). This evidence addresses:
 - (a) Chapter 2, Strategic Directions, Introductory section;
 - (b) Chapter 2, Section 2.1, Strategic Direction 1, "Tāngata Whenua"; and
 - (c) Chapter 2, Section 2.6, Strategic Direction 6 "Natural Environment Values".

Executive Summary

- 5 In summary, my evidence proposes that further amendments are appropriate (in addition to the amendments proposed in the s42a report) to respond to The Trusts' submissions. Along with several minor amendments to the PC38 text, the proposed amendments aim to achieve the outcomes below:

- clarify the status of the objectives and policies in “Chapter 2 Strategic Directions” and how they are to be used;
- make appropriate reference in Section 2.6 (“Natural Environment Values”) to the mechanism of biodiversity offsetting and associated net environmental gain.

Chapter 2, Strategic Directions, Introductory section

- 6 The Trusts’ submissions propose amendments to the introductory section of “Chapter 2 Strategic Directions” to provide greater clarity about the status of the directions and the objectives and policies contained in that new chapter.
- 7 The operative TDP Chapter 2 “Significant Resource Management Issues”, which the new “Strategic Directions” chapter would replace, does not include objectives and policies, instead each zone and district-wide section (including natural values section) of the TDP contains objectives and policies. Given that context, in my view as a practising planner, this introduction of an additional and over-arching set of objectives and policies would be assisted by clear guidance (in the text of the introductory section) as to the status and purpose of the new policy framework, including how it relates to the current policy framework which remains unchanged.
- 8 The Trusts’ submissions sought amendments to the wording of the introductory section to achieve that outcome in several ways, by including additional wording stating that:
- *“The order of the Strategic Directions reflects the status and importance of each Direction and its objectives and policies”* and that
 - *“The strategic directions must be considered in all resource consent application and plan changes”*.
- 9 Section 4.2.2 of the 42a report recommends that the Trusts’ submissions are rejected.
- 10 In my view, however, the introduction section could be improved to make it clear that the objectives and policies in the Strategic Directions chapter of the TDP are over-arching and have primacy over the objectives and policies in other parts of the TDP, and that these over-arching objectives and policies are to be used in all plan development and consenting processes. In my view, amendments to the introductory text providing that clarity would achieve the outcome sought by The Trusts in their submissions.
- 11 Accordingly, I propose that paragraphs 2 and 3 of the introduction part of Section 2.1 be amended as follows, and as shown in the “Amendments Version” of the PC38 text at Appendix 2 (with deleted words struck through and new words underlined):

The strategic directions are to be addressed (to the extent required by any relevant statute) in all plan development and resource consent processes. ~~will be particularly relevant for any future changes to the Plan and any significant~~

~~resource consent applications where there is a requirement to consider District Plan policy.~~

~~This chapter should be read as a whole and applied across the district and all zonings. The objectives and policies in this chapter are over-arching and where there is conflict, take primacy over objectives and policies in other parts of the Plan.— unless the provisions relate to a specific zoning or part of the District.~~

- 12 In relation to deletion of the words “*unless the provisions relate to a specific zoning or part of the District*”, I propose that those words are removed because their inclusion risks future potential confusion in my view. I agree with The Trusts’ submissions which state that “*it is not clear why a particular zoning would not be subject to overarching strategic directions*”.
- 13 A s32AA evaluation of the amended wording is provided at Appendix 1.

Chapter 2, Section 2.1, Strategic Direction 1 “Tāngata Whenua”

- 14 The Trusts’ submissions propose amendments to objectives and policies in Section “2.1 Strategic Direction 1 Tangata Whenua” to strengthen them, and better align them with the Natural and Built Environments Bill.
- 15 On balance I agree with the s42a report on The Trusts submission on the Tangata Whenua section of the Strategic Directions chapter, including where:
- at paragraph 65 of the s42a report it is asserted that the act of listening to mana whenua is inherent in the objective (2.1.2.1) of ensuring that the values, rights and interests of mana whenua are recognised and protected;
 - at paragraph 74 of the s42a report amendments and a regrouping of the policies in Section 2.1.3 (which the Trusts supported in their submissions) are proposed. I agree that the additional polices are appropriate and that the changed order and grouping of the text results in improved efficiency and coherency in terms of plan drafting.

Chapter 2, Section 2.6, Strategic Direction 6 “Natural Environment Values”

- 16 The Trusts’ submissions propose amendments to objectives and policies in Section “2.6 Strategic Direction 6, Natural Environment Values” to, among other matters, specifically reference and provide for environmental offsetting when appropriate.
- 17 On balance, and with the exceptions traversed in paragraphs 18 to 30 below, I agree with the s42a report on The Trusts submissions. In relation to the Trusts’ requested additional wording at the end of Objective 2.6.2.4 (“... *as well as using land to provide for their communities as Maori see appropriate*”), I consider that with the s42a amendments proposed to Policy 2.1.3.2b an acceptable balance is struck – ie that consideration is to be given to the aspirations, rights, and interests (including economic) of Maori

landowners, as well as to the extent of indigenous vegetation on Maori land which is sought to be protected.

18 The Trusts requested that Objectives 2.6.2.2 and 2.6.2.3, and Policy 2.6.3.1 be amended, and I agree for the reasons explained below.

19 The Trusts submissions proposed additional words to Objective 2.6.2.2 as follows (a s32AA evaluation of which is at Appendix 1):

“The protection of the natural values of areas of significant indigenous vegetation and significant habitats of indigenous fauna from the adverse effects of inappropriate development, including through offsetting to result in a net environmental gain.”

20 In my view the insertion of the words “*the natural values of*” appropriately focusses the objective on the natural values of the vegetation and habitats which it is proposed to protect from inappropriate development.

21 In my view it is appropriate to reference biodiversity offsetting and net environmental gain. That is partly because Policy 3i.2.2ii of the operative TDP (which is not proposed to be amended by this current suite of plan changes) seeks to: “*Enable and recognise activities that result in a Net Environmental*” as one of the means to achieve Objective 3i.2.2, “*Facilitate the long-term protection of areas of natural value in the Taupo District*”. The explanation section beneath that objective and associated policies explains that “*The concept of Net Environmental Gain recognises that in some instances, a level of disturbance to Significant Natural Areas can be balanced by other measures that may result in an overall increase in the level of protection for such Areas*”. The Trusts are involved in a significant project on their land which is reliant upon that policy approach.

22 Further, those principles of biodiversity offsetting and net environmental gain are now established through, and are consistent with, the National Policy Statement for Indigenous Biodiversity (“NPS-IB”) which came into effect on 4th August 2023. Specifically, section 1.6 of the NPS-IB defines biodiversity offsetting as:

“**biodiversity offset** means a measurable conservation outcome that meets the requirements in A in Appendix 3 and results from actions that are intended to:

(a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and

(b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.”

23 I note the comments made at paragraph 240 of the s42a report (which was prepared before the NPS-IB was in effect) which concludes that that the Trusts’ submissions on this matter be rejected. I consider that now that the NPS-IB is in effect, The Trusts’ proposed amendments should be accepted.

24 For those reasons I support the additional wording proposed by The Trusts to Objective 2.6.2.2.

25 The Trusts submissions proposed additional words to Objective 2.6.2.3 as follows (a s32AA evaluation of which is provided at Appendix 1):

“Activities which will lead to the enhancement of indigenous biodiversity values will be recognised and provided for, including activities used as an environmental offset.”

26 For the same reasons as set out in paragraphs 21 to 23, I agree with the additional words to Objective 2.6.2.3 as proposed by The Trusts’ submissions.

27 The Trusts’ submissions proposed amendments to Policy 2.6.3.1 as follows (a s32AA evaluation of which is provided at Appendix 1):

“Protect the natural values of areas of significant indigenous vegetation and significant habitats of indigenous fauna from land use and development activities that will have more than minor adverse effects on the ecological values that cannot be offset ~~and processes important to those areas.~~”

28 For the same reason set out in paragraph 20, I agree that the words “*the natural values*” should be added to the beginning of Policy 2.6.3.1. I note that the second part of the policy references ecological values (rather than physical ecological elements) and that is consistent with the approach sought in The Trusts’ submissions.

29 In my view the word “*adverse*” should be added as proposed by The Trusts submissions, because it is the “adverse” effects (not positive effects) of activities that protection is concerned with. In my view the words “*and processes important to those areas*” are unnecessary as effects on such processes are already captured with the consideration of effects on ecological values.

30 For the reasons set out in paragraphs 21 to 23 I agree with the additional words to Policy 2.6.3.1 about offsetting.

31 For completeness, I agree with the s42a report recommendation that the word “*subdivision*” be inserted before the words “*land use*” in Policy 2.6.3.1 and objective 2.6.2.5 (as sought by the Department of Conservation).

32 Finally, I notice that the list of matters of strategic direction (numbered 1 to 6 in the introductory part of Chapter 2) shows:

- The second, as “*2 Fresh Water Quality*” whereas the actual heading of that part of Chapter 2 is “*2.2 Freshwater Quality / Te Mana o te Wai*”;
- The last, as “*6 Natural Values and Landscapes*” whereas the heading of that part of Chapter 2 is “*2.6 Strategic Direction 6 Natural Environment Values*”.

33 I suggest that corrections, as provided for in clause 16(2) of the First Schedule of the RMA, be made to the list in the introduction section of Chapter 2 to align the headings. In the Amendments Version (Appendix 2) I have included those corrections.

Conclusion

34 For the reasons set out above, I conclude that the amendments to PC38 set out in Appendix 2 are appropriate to address the matters raised in the Trusts' submissions. Further, for the reasons set out in the s32AA evaluation (Appendix 1), I consider that the amendments proposed are effective and efficient, and more appropriate towards achieving the purpose of the RMA through PC38 to the TDP.

Joanne Lewis

9 August 2023

APPENDIX 1 s32AA EVALUATION

1 INTRODUCTION

For any proposed changes to PC38 provisions, an evaluation is required under s32AA of the RMA. The evaluation is required to be in accordance with s32 of the Act and contain a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that are anticipated from implementation of the proposal.

This evaluation report considers those matters below by:

- Considering if the changed objectives are a better way of achieving the purpose of the Act
- Considering if the changed provisions are the most appropriate way of achieving the objectives in terms of:
 - other reasonably practicable options for achieving those objectives.
 - the efficiency and effectiveness of the provisions for achieving the objectives (including considering benefits and costs of the amended provisions, and considering the risk of acting or not acting where there is uncertain or insufficient information about the provisions).

2 EVALUATION OF CHANGES TO OBJECTIVES

Proposed changes to Strategic Direction 6 – Natural Environment Values:

Objective 2.6.2.2:

The protection of **the natural values** of areas of significant indigenous vegetation and significant habitats of indigenous fauna from the adverse effects of inappropriate development, **including through offsetting to result in a net environmental gain.**

Objective 2.6.2.3:

Activities which will lead to the enhancement of indigenous biodiversity values will be recognised and provided for, **including activities used as an environmental offset.**

Are the changes to the objectives a better way of achieving the purpose of the Act ?

It is considered that the proposed changes to Objective 2.6.2.2 will result in that objective better achieving the purpose of the Act as:

- the first amendment focusses on the natural values proposed to be protected (consistent with wording in Objective 2.6.2.1);
- the second amendment reflects the NPS-IB which came into effect on 4th August 2023.

It is considered that the proposed change to Objective 2.6.2.3 will result in that objective better achieving the purpose of the Act as the amendment reflects the NPS-IB which came into effect on 4th August 2023.

3 EVALUATION OF CHANGES TO OTHER PROVISIONS

Changes proposed to PC38 provisions (other than objectives) are confined to changes to the introductory text of Chapter 2 Strategic Directions, and changes to the wording of policies.

Chapter 2 Strategic Directions - Proposed changes to introductory text

The strategic directions are **to be addressed (to the extent required by any relevant statute) in all plan development and resource consent processes. ~~will be particularly relevant for any future changes to the Plan and any significant resource consent applications where there is a requirement to consider District Plan policy.~~**

This chapter should be read as a whole and applied across the district and all zonings. ~~The objectives and policies in this chapter are over-arching and where there is conflict, take primacy over objectives and policies in other parts of the Plan. unless the provisions relate to a specific zoning or part of the District.~~

Are the changes above the most appropriate way of achieving the objectives ?

It is considered that the changes proposed to the wording of the introductory section will result in Plan text which is more appropriate as:

- it provides clear and unambiguous guidance on the status and use of the strategic directions objectives and policies (and therefore is a better option than the option of not amending the text);
- the amended wording is more efficient and effective as it removes uncertainty, and provides clear and unambiguous guidance;
- the improved wording reduces costs and risk associated with potential interpretation conflicts during implementation relating to future plan development and resource consent processes.

Proposed changes to Strategic Direction 6 – Natural Environment Values Policies

Policy 2.6.3.1

Protect ~~the natural values of~~ areas of significant indigenous vegetation and significant habitats of indigenous fauna from subdivision⁸¹, land use and development activities that will have more than minor ~~adverse~~ effects on the ecological values ~~that cannot be offset. and processes important to those areas.~~

Are the changes above the most appropriate way of achieving the objectives ?

It is considered that the changes proposed to Policy 2.6.3.1 will better achieve the relevant objectives. That is because the policy as amended will assist to give effect to Objectives 2.6.2.2 and 2.6.2.3 (as proposed to be amended). In this way the Policy as proposed to be amended:

- is more appropriate compared to the absence of the amendment;
 - is more efficient and effective as it provides increased clarity and is better aligned with the NPS-IB;
 - the improved wording reduces costs and risk associated with potential interpretation conflicts during implementation relating to future plan development and resource consent processes.
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APPENDIX 2 AMENDMENTS VERSION

Below are parts of PC38 (the version appended to the s42a report) with additional amendments as proposed in the evidence of Joanne Lewis. The additional amendments are shown in red (including new words, and strikeouts).

28 Chapter 2 Strategic Directions

The following chapter provides an outline of the key strategic and significant resource management matters for the Taupō District⁸. This chapter includes objectives and policies⁹ to guide decision making at a strategic level.

The strategic objectives set the direction for the District Plan and help to implement the Council's community outcomes. They are indicative of the matters which are important to the Taupō District community and reflect the intended outcomes to be achieved through the implementation of the District Plan.

The strategic directions ~~are to be addressed (to the extent required by any relevant statute) in all plan development and resource consent processes. will be particularly relevant for any future changes to the Plan and any significant resource consent applications where there is a requirement to consider District Plan policy.~~

This chapter should be read as a whole and applied across the district and all zonings. ~~The objectives and policies in this chapter are over-arching and where there is conflict, take primacy over objectives and policies in other parts of the Plan. unless the provisions relate to a specific zoning or part of the District.~~

This chapter does not include rules. Relevant rules can instead be found in the chapters under the District Wide and Area Specific headings of the Plan.

The key strategic or significant resource management matters ~~for the district,~~¹⁰ for the Taupō District are:

1. Tangata Whenua
2. Fresh Water Quality / Te Mana o te Wai
3. Urban Form and Development
4. Climate Change
5. Nationally And Regionally Significant Infrastructure
6. Natural Environment Values and Landscapes

(i)

(ii) 2.6 STRATEGIC DIRECTION 6 NATURAL ENVIRONMENT VALUES

The Taupō District is characterised by important landscapes and natural areas. These areas are a strong part of the identity to the district and are valued by landowners,⁷⁶ the local communities, including mana whenua. ~~and~~ Some of these areas also hold importance at a national level⁷⁷. As well as being an important part of the District's identity these areas also have a range of important social, cultural and environmental (including intrinsic) values.

The effects of human activities such as built development, vegetation clearance and land development can significantly alter the character of the environment resulting in the loss of these areas and their values. While parts of the District have been significantly modified by human activity, vast areas of the natural landscape remain.

These areas are on a range of public (reserve, forest and national parks) and private land. There is also a high proportion of these areas on Māori land throughout the District which can impact the ability of Māori landowners in undertaking development on their ancestral lands.⁷⁸

2.6.2 Objectives

1. Recognise the importance of the District's natural values and landscapes and their significance to the Taupō District's communities and identity.
2. The protection of **the natural values of** areas of significant indigenous vegetation and significant habitats of indigenous fauna from the adverse effects of inappropriate development, **including through offsetting to result in a net environmental gain.**
3. Activities which will lead to the enhancement of indigenous biodiversity values will be recognised and provided for, **including activities used as an environmental offset.**
4. Recognition of the extent of indigenous vegetation and habitat ~~under~~ on Māori land ~~tenure~~⁷⁹, and the need to provide for the important relationship of Māori and their culture and traditions with their ancestral lands and wāhi tapu.
5. The protection of outstanding landscape areas from inappropriate subdivision,⁸⁰ land use and development which may adversely affect their landscape attributes.
6. Recognition of the relationship of tangata whenua with the natural values of their ancestral lands, waterbodies, sites, cultural landscapes, and other natural taonga of significance.
7. The natural character of riparian margins are preserved, and enhanced where appropriate, and protected from inappropriate subdivision, use and development.

2.6.3 Policy

- ~~1. Protect **the natural values of** areas of significant indigenous vegetation and significant habitats of indigenous fauna from subdivision⁸¹, land use and development activities that will have more than minor **adverse** effects on the ecological values **that cannot be offset. and processes important to these areas.**~~
 2. Support and facilitate those activities which will lead to the long term protection and or enhancement of indigenous biodiversity values.
 3. Recognise and provide for tāngata whenua in their role as kaitiaki of the natural values on their lands and the wider district.
 4. Activities must recognise and maintain the attributes of identified outstanding natural features and landscapes and not have any more than minor adverse effects on them.
 5. Encourage the protection, enhancement and restoration of natural and landscape value areas, including by supporting opportunities for tangata whenua to exercise their customary responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing these areas.
 6. Recognise the contribution made by landowners to the protection and enhancement of areas of natural values and landscapes.
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