

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Private Plan Change 95 Pencarrow Estate
Pongakawa to the Western Bay of Plenty
District Plan

**STATEMENT OF EVIDENCE OF VINCENT MURPHY (PLANNING)
ON BEHALF OF KEVIN AND ANDREA MARSH**

Introduction

1. My name is Vincent John Murphy. I confirm my qualifications and experience as set out in my statement of evidence dated 24 October 2024.
1. I also confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses, as contained in the Environment Court's Practice Note 2023. I confirm that this evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
2. My reply evidence addresses statements made in the evidence of Lucy Holden (Planning - BOPRC), Sue Southerwood (Stormwater – BOPRC), Hamish Dean (Ecology – BOPRC), Waka Kotahi New Zealand Transport Agency, and Mike Maassen.

Evidence of Lucy Holden

3. Ms Holden introduces her opinion on settlement pattern¹ agreeing with the s.42A officer Ms Mark that the proposal is not consistent with strategic documents and legislation that direct future growth within the WBOPDC District. I have responded to the same position advanced by Ms Mark and do not repeat it verbatim here, and rather respond to particular points made by Ms Holden.
4. Ms Holden states the Arawa Road settlement is not urban². The reasoning for this is not provided, apart from an opinion that *“the urban development directions [of strategic planning documents – NPS-UD, FDS and BOP RPS], seek to promote and up and out approach to established cities and towns rather than pockets of settlements some distance from those towns and cities”*. Mr Coles and I in previous evidence have traversed planning definitions relating to urban produced by BOPRC.
5. All strategic documents cited by Ms Holden stem from the NPS-UD. If the intention of the NPS-UD was to direct growth strictly ‘up and out’ from established town and cities, the NPS-UD definition of urban environment would have been crafted to reflect that and there is no need for any interrogation of the market in which a particular urban area is located. The flexibility for responsive planning, and clear direction to consider unanticipated developments (where development capacity is not provided) need not have been included (as all development would simply be anticipated in, or contiguous/adjointing to, existing towns and cities).
6. This however would have considerably diminished the potential for providing sufficiency of development capacity, against the deliberately changing but deliberate context at the time of being more responsive to get closer to

¹ Evidence of Lucy Holden, paragraph 9

² Ibid, paragraph 10.

adequate development capacity. This is made by clear by the NPS-UD implementation clause 3.2 (provision of sufficient development capacity for housing), which applies to existing and new urban areas. As distinct from existing urban environments. This is further supported by clause 3.8 of the NPS-UD requiring particular regard to be had to development capacity to be added.

7. I therefore disagree with Ms Holden's opinion on whether or not the settlement and PC95 site is urban, and the site being part of an urban environment (due to common market with what has been independently determined to be an urban environment).
8. I disagree with Ms Holden that PC95 will not support multi-modal transport and deliver on live-work-play principles. Regardless of how it is calculated, critical mass of population will be added to the settlement which is already serviced by a bus route into Te Puke and Tauranga. The same mass will support recent Council investment into a playground at Arawa Road, and a planned cycleway to Arawa Road from Pukehina. This occurring with a spot-zoning for Commercial use at the centre of the village where a range of uses such as a shop, early childcare or medical facilities are provided for by the relevant zone provisions.
9. I otherwise defer commentary on public transport considerations as raised by Ms Holden to the reply evidence of Ms Coles.
10. Ms Holden echoes the opinion of Ms Mark³ that the development capacity to be added, is not needed in this location or manner. I find this paradoxical as:
 - (a) The NPS-UD has been deliberately constructed (with embedded checks and balances) to be responsive to opportunities to address housing supply deficiencies;

³ Evidence of Lucy Holden, paragraph 18.

- (b) The NPS-UD deliberately does not apply only to existing urban areas extents or land contiguous with existing urban areas;
 - (c) The FDS produced as required by the NPS-UD makes clearly evident – all projected supply over 30 years for the sub-region will not meet projected demand, with further interventions required to do so; and
 - (d) The same document establishes a set of principles sought to be achieved in spatial development for the sub-region, whilst being agile and responsive, and scoping plan changes as an option to bridge the shortfall.
11. As such, I disagree with Ms Holden that the proposal is contrary to the NPS-UD and the FDS.
12. Regarding the NPS-HPL, there is no explanation by Ms Holden⁴ as to why her view is that the proposal does not meet the high bar thresholds set at section 3.6 of the NPS-HPL, in her opinion. As such, I do not consider this further, other than to say my previous evidences assesses in particular 3.6(1) thresholds and 3.6(2) qualifiers, with due regard to expert economic and productive land relevant evidence.
13. Ms Holden cites Plan Change 92 providing additional capacity in Te Puke. This is not disputed however it is clear to my mind this additional capacity does not provide sufficient development capacity to the Te Puke market, now or any time across the 30-year scenarios called for by the NPS-UD.
14. Ms Holden, considering the advice of ecologist Hamish Dean, seeks 8m riparian buffers in all locations. This is accepted and has been reflected in revised Structure Plan drawings (attached). The split between reserve and non-reserve areas is maintained given security concerns to the remnant farm directly opposite – upon ceasing of dairy milking in the current location, opposite the

⁴ See evidence of Lucy Holden, paragraph 21.

landscape buffer area (as opposed to reserve) are the remnant storage and ancillary farm buildings.

15. The proposed changes to stormwater rules are acceptable in-principle, subject to exact wording agreement with WBOPDC officers.

Evidence of Susan Southerwood and Hamish Dean

16. I believe the above responds to the buffer dimension matter raised by Mr Dean. The reply evidence of Mr Hight responds to the evidence and outstanding questions of Ms Southerwood appropriately in my view.

Evidence of NZTA Waka Kotahi

17. The evidence of Waka Kotahi confirms comfort with the operation of the proposed intersection, however suggests different geometry. The reply evidence of Ms Harrison confirms this is conceptually feasible within the SH2 corridor. I do not see any need to amend structure plan rules to secure this outcome due to the further approval process entrenched in the rule framework with Waka Kotahi.

Evidence of Mike Maasen

18. I defer to the reply evidence of Mr Coles on this matter, noting rates and financial efficiency of the proposed wastewater system are discussed in that reply.

Vincent Murphy

12 November 2024