

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 am employed as a consulting Senior Planner at Momentum Planning and Design Ltd, a planning and development, urban and landscape design consultancy based in Tauranga, Bay of Plenty.
2. I hold the qualifications of a Bachelor of Social Science majoring in Environmental Planning from the University of Waikato (2011), and a Masters of Planning Practice from the University of Auckland (2013).
3. I have worked as a professional planner for over eleven years, employed by territorial authorities, as well as private sector consultants, in New Zealand and the United Kingdom. My planning experience includes employment with Auckland and Wellington City Councils, the London Borough of Lewisham, WSP and Bloxam Burnett and Olliver, prior to my current role
4. I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association.

5. Momentum Planning and Design was engaged to prepare the plan change application in May 2021. I have been employed at Momentum Planning and Design since September 2021 and since that time have progressively assisted with the preparation of the plan change application Plan Change 95 Pencarrow Estate Pongakawa ('PC95').
6. I, in combination with Mr Richard Coles, prepared the private plan change application and further information provided following submissions and engagement with submitters and WBOPDC in April 2024¹, May 2024² and August 2024.³ I have read all submissions and Council's s 42A report.
7. I am familiar with the site and surroundings, having visited the site on numerous occasions as part of undertaking plan change assessment work, most recently in May 2024.

Code of Conduct for Expert Witnesses

8. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses, as contained in section 9 of the Environment Court's Practice Note 2023, and I agree to comply with it.
9. The data, information, facts and assumptions that I have considered in forming my opinions are set out in my evidence that follows. The reasons for the opinions expressed are also set out in the evidence that follows.
10. I confirm that the matters addressed in this brief of evidence are within my area of expertise, with the exception of where I confirm that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed in this

¹ 'Response to Submissions, Further Mitigation' MPAD letter and supporting package to WBOPDC, 15th April 2024;

² 'Plan Change 95 – Questions and s.42A Topics, NPS-UD 2020 Considerations' MPAD letter to WBOPDC, 13th May 2024;

³ 'Resumption of PC95 – Further Information, Pencarrow Estate Pongakawa' MPAD letter and supporting package to WBOPDC, 30th August 2024

brief of evidence. I have specified where my opinion is based on limited or partial information and I have identified any assumptions I have made in forming my opinions. Any opinions expressed are my own professional opinions unless where expressly referring to other expert opinions or assessments.

Scope of evidence

11. My planning evidence covers the following:
 - (a) Site and surrounds description overview;
 - (b) Overview of the purpose, objective and scope of the plan change
 - (c) Detailed section 32 analysis;
 - (d) Plan change pathway commentary
 - (e) Assessment of effects of the plan change;
 - (f) Assessment of the proposal in respect of the relevant statutory planning framework and provisions applying to the site;
 - (g) Responses to matters raised in submissions; and
 - (h) Responses to matters raised in Council's s 42A report.

My planning evidence has been prepared alongside planning evidence of Mr Richard Coles, Planner and Director of Momentum Planning and Design.⁴

Executive summary

12. PC 95 seeks to deliver housing, commercial land and social infrastructure to the existing residential settlement of Pongakawa at Arawa Road. The plan

⁴ Mr Coles' evidence covers the project inception from May 2021 and focuses on broad strategic context and considerations at that time including relevant provisions of the National Policy Statement for Urban Development (NPS-UD) and Bay of Plenty Regional Policy Statement (BOPRPS), early Resource Management Act 1991 ('RMA') s 32 analysis, hapu, iwi and stakeholder engagement evidence, and natural hazard considerations.

change is expected to yield approximately 120-130 dwellings, a local-scale commercial area accommodating the likes of a shop, café, early childcare centre and/or flexible space for health practitioners to visit Pongakawa, and new reserves and recreational infrastructure linking to Arawa Road. Transport and three-waters infrastructure improvements or upgrades will be delivered to the community as a result of the plan change.

13. The proposal therefore expands and consolidates the existing residential settlement of Pongakawa at Arawa Road.
14. Demand is expertly predicted to be in place for dwellings in Pongakawa, as evidence by economist Kevin Counsell and supported by local property developers. This being influenced by the conversion of over 1000ha of dry/dairy farmland to horticulture (kiwifruit orchards) since 2012, which have an accompanying higher intensity of permanent employees. Notwithstanding the spatial growth in orchards, volume of yield from orchards is also predicted to grow over the next five years by 56%, further driving employment opportunities on-orchard⁵.
15. The Arawa Road settlement, now and as modified by the proposal, is considered to be urban. This is due to consistency with numerous RMA planning document definitions of this term, which reflect the current NPS-UD. WBOPDC prefer a Statistics New Zealand definition which has been deliberately removed, to my understanding, from the NPS-UD since 2020 to enable more flexible and responsive planning decisions, and as a result more competitive land markets in urban environment markets suffering from housing shortage, where certain circumstances are met. These circumstances are set out in Policy UG 7A of the BOP RPS and are assessed to be met by PC95.

⁵ Page 4, Zespri Five Year Outlook 2023-2024.

16. The proposal is not precluded from occurring by way of inconsistency with the operative Smartgrowth Strategy 2024-2074 FDS applying to the sub-region. PC95 is not in a 'No'Go' area identified by that strategy, delivers on the 'Connected Centres' approach that is central to that strategy, and appears to contribute demand expected to be delivered by smaller settlements not spatially specified in the strategy which would not otherwise occur based on pace of subdivision and development in the same general location to-date.

17. The settlement at Arawa Road (east of Te Puke and Paengaroa) has been confirmed by independent economist Kevin Counsell to be part of the same housing market of the Te Puke and Paengaroa settlements, which inherently includes the planned future Eastern Centre development north and east of Paengaroa settlement. Te Puke on its own is an urban environment. Urban environments in WBOPDC suffer from a well-publicised housing shortage, currently short 2590 dwellings, which is predicted to grow to a shortage of 2700 dwellings once all targeted growth allocations across the urban environments of the District are exhausted. This information is sourced direct from HBA independent economist work that has informed the Smartgrowth Strategy 2024-2074 FDS for the Tauranga/Western Bay sub-region.

18. As such, there is a clear pathway to enabling and allowing the plan change, through satisfaction of relevant NPS-UD, BOP RPS, and NPS-HPL thresholds and policy requirements. WBOPDC's position to the contrary relying on a former definition of urban in inoperative planning documents, and seemingly an interpretation that a lack of contiguity with established urban environments means a piece of land is not part of an urban environment, is incorrect in my view. I draw this conclusion when considering the intent of the NPS-UD and focus within it on responsive planning, in certain circumstances which I believe are met in this instance.

19. The NPS-HPL enables allowing of loss of highly productive land where insufficiency of capacity of housing supply exists as determined under the NPS-UD, which is the case here.
20. The RMA s.32 assessment, supplemented by the NPS-HPL 3.6.1 assessment, is considered to reflect appropriate considerations of alternatives has been had in this instance. Infilling of Te Puke has been robustly enabled by the recent Plan Change 92, yet this does not resolve the predicted housing shortage. Infilling potential within Paengaroa, a smaller settlement, also appears to be limited. Expansion of these two urban areas has been expertly determined to have a more highly adverse effect on productive land in the district. I therefore support the fundamental s.32 finding by Mr Coles identifying a plan change to respond to this issue and best achieve the purpose of the RMA in this location.
21. The proposal has clear support from community stakeholders representing local schools, emergency services, economic development and local industry groups, and community associations with links to Pongakawa. Support is also provided from tangata whenua.
22. Opposition, primarily from Arawa Road settlement residents, is acknowledged. Adverse effects of concern have been sought to be addressed following submission and engagement processes. Adverse effects of the plan change can be appropriately mitigated whilst responding to the issue being addressed by the plan change, in my view. This is secured through proposed rules, on which there is substantial agreement between myself and Ms Mark. Bespoke rules addressing set-backs, building scale and reflectivity, and landscape screening requirements, have been included to address residential and rural amenity concerns. Proposed staged pre-requisites will ensure appropriate delivery of infrastructure, and improvements in infrastructure servicing the Arawa Road community (such as water, stormwater, and transport), prior to any development occurring.

23. I am therefore of the view that the plan change appropriately satisfies all relevant statutory and non-statutory planning requirements, and appropriately satisfies section 74 of the RMA.

Site and surrounds overview

24. The re-zoning of 10.03ha of land is proposed to occur across 1491 State Highway 2 (10.01ha, legally described as Lots 1-3 DP 79072, and Sections 48, 64, and 66 Block II Waihi South Survey District) and 53 Arawa Road (0.2ha, legally described as Lot 8 DP 77971), Pongakawa. The site and surrounding environment is described in considerable detail at section 2 of the PC95 report, and is not repeated here verbatim, rather briefly summarised.
25. The plan change site is a (generally) triangular tract of land bounded by Arawa Road itself or the rear boundaries of 19, 23, 25, 33, 37, 41 and 45 Arawa Road to the east/south-east; and 7 Arawa Road to the south, some 110m further south is the corridor of SH2 and the East Coast Main Trunk Railway. To the north and west are other parts of the farm within which the application site sits, which currently totals over 76ha. The farm at 1491 SH2 has legal frontage and access to both SH2 and Arawa Road. The residential settlement of Arawa Road, containing 66 dwellings east of Arawa Road and a further nine dwellings directly west of Arawa Road, is also immediately east of the PC95 site.
26. A segment of a modified watercourse (Puanene Stream) forms the north-western boundary of the PC95 site and a dividing feature within the farm. This watercourse has been historically straightened and channelised and operates as a primary drain within the farm.
27. The features described above are illustrated in **Figure 1** below.



Figure 1: The PC95 site context. The red boundary is the entirety of the land owned by the applicant; the dotted blue line is the PPC site (approximate – refer to **Appendix A** Structure Plan Drawings). The orange circles show the location of the primary dwelling, cow shed and effluent ponds, and secondary dwelling (west to east). The solid dark blue line is the modified Puanene Stream running through the site and connecting with the Wharere canal (dotted dark blue line). 53 Arawa Road is included in PC95.

28. The site therefore mostly comprises grazing dairy paddocks, complete with farm drainage networks, farm races, milking infrastructure, effluent and water management infrastructure, and 2x houses (1x dwelling occupied by the applicants, 1x dwelling occupied by farm workers) within the site as described above. This infrastructure is considered typical for dairy farming.
29. The following summary observations are made of the site:
- (a) The site soils are a mixture of Land Use Classes (LUC's) 2, 3, 4 and 7.⁶
 - (b) The site soils do not contain a contamination profile incompatible with the planned residential use⁷.

⁶ See pages 8-9 of report prepared by Joel Perry, LandVision Ltd, dated August 2024 submitted with 'Resumption of PC95 – Further Information, Pencarrow Estate Pongakawa' package to WBOPDC, 30th August 2024, confirmed in Evidence of Joel Perry.

⁷ See page 6, 'Detailed Site Investigation: Pencarrow Estate, 1491 State Highway 2, Pongakawa', being Appendix 3 of the PC95 report.

- (c) There are no archaeological sites known or identified within the PC95 site, however sub-surface un-recorded archaeological sites may be encountered in developing the land⁸.
 - (d) Due to land modification over time, the PC95 contains low terrestrial ecological values, with very small occurrences of indigenous vegetation found at the site, and no threatened or at-risk bird populations roosting, occupying or routinely passing the site. Indigenous fish likely traverse the modified Puanene Stream⁹.
30. The PC95 site is currently zoned Rural, as is all land west of Arawa Road. The land east of Arawa Road containing the Arawa Road residential settlement is zoned Residential.
31. The PC95 site is subject to mapped flood hazards in lower-lying gullies of the site¹⁰. It is not mapped with a higher risk profile to other forms of natural hazard.

Plan change purpose, objective and scope overview

32. PC95 has the purpose and objective of enabling the use of land for residential, commercial and social-infrastructure purposes to cater for growth occurring and expected to occur east of Te Puke.
33. The local area of Pongakawa has experienced considerable change in the last decade in terms of mass conversion of rural land from dairy or dry farming to horticultural land-use, exceeding 1000ha. Similarly, since 2021 development of the nearby Rangiora Business Park has been underway. As the rapid

⁸ See page 9, 'Archaeological Survey and Assessment of Effects – Proposed Residential Subdivision Development, Pt Lots 1 and 2 DPS 79072, Arawa Road Pongakawa' dated November 2021, being Appendix 4 of the PC95 report.

⁹ See Appendix 6 of PC95 report 'Assessment of Ecological Effects for Proposed Pencarrow Structure Plan Area at Pongakawa' prepared by Wildlands Consultants dated May 2022.

¹⁰ See section 7.6 of the PC95 report, and by extension Appendix 8 of that report 'Geotechnical Investigation Report for Plan Change - Pencarrow Estate 1491 State Highway 2, Pongakawa' prepared by CMW Geosciences dated February 2022. Also flooding information with Lysaght Consultants Engineering Servicing Report Revision 7 dated August 2024 submitted 30th August 2024.

expansion of horticultural land uses has commenced, the applicants have crystallised a long-held vision for part of their farm bordering Arawa Road to be used to consolidate the existing settlement at Arawa Road to deliver social and commercial amenities direct to the settlement, alongside housing to meet demand that has been regularly sought in the area from their experience of residing and being part of the Pongakawa community and seemingly only growing. This reflects engagement with Smartgrowth in 2020, and the likes of BOPRC, WBOPDC and Waka Kotahi NZTA in 2021, with this continuing through to 2022 prior to lodging the plan change application, as covered in the evidence of the applicants Kevin and Andrea Marsh and Mr Coles.

34. The demand for further housing in the area, within the same locality and market of Te Puke township, is also discussed in the evidence of economist Mr Counsell.
35. It is noted this is geographically within the Eastern Corridor of the Smartgrowth Strategy 2024-2074, which follows previous spatial planning work identifying growth pressure in this corridor alongside growth pressures generally in and around Tauranga city¹¹.
36. The scope of the plan change as it currently stands, including amendments made in responses to submissions received, is therefore to re-zone 10.03ha of land at 1491 State Highway 2, Pongakawa from Rural to a mixture of Residential and Commercial. A total of 9.66ha of land is proposed as Residential (which includes multiple reserve spaces, overland flowpath, and roading and utility corridors), with the remaining 0.37ha proposed as Commercial. This is expected to enable delivery of a maximum of 120-130 dwellings and a small commercial area accommodating a local shop/café/community health hub or flexible use space for community services. The proposed wastewater treatment system and disposal area north-east of

¹¹ Specifically the Urban Form and Transport Initiative 2020 which has preceded the current evolution of the Smartgrowth Future Development Strategy, being the genesis of the 'Connected Centres' approach being advanced as a spatial pattern for Tauranga and surrounding Western Bay areas.

areas to accommodate development would remain zoned Rural. See **Appendix A Structure Plan Drawings** illustrating the features of development to be enabled.

37. The residential land-use zoning has been split within the accompanying Pencarrow Estate Structure Plan into higher-density (Density A – 2.29ha) and lower-density (Density B – 4.75ha) housing areas, reflected by differing minimum lot sizes (350m² and 500m² respectively). This split was deliberately introduced in 2022 following engagement with senior executives of WBOPDC who advised lower lot sizes would be expected to be necessary to meet horticultural/business park market demand in the area.

38. PC95 has carefully considered other positive improvements to the community important to accompany the increased development to be enabled. Such improvements include:
 - (a) Upgrade of the SH2/Arawa Road intersection with a 70m (including exiting space) deceleration lane, and widening for turns into Arawa Road. The above being designed to reflect the recommendations of an NZTA Safe Systems Audit;
 - (b) Arawa Road geometry changes to slow speeds upon entry to the settlement, with widening further from the SH2 intersection to allow for on-street parking to meet WBOPDC expectations.
 - (c) A commercial area as the base of social infrastructure (shop opportunities, bus stop, playgrounds etc) is proposed directly west of Arawa Road and south of the internal road to service the PC95 site from Arawa Road. A footpath on the western side of Arawa Road fronting the commercial area is proposed for safe and convenient pedestrian access to the commercial area.
 - (d) A playground is proposed in the commercial-zoned area, intended to supplement any retail or hospitality offering, on land intended to be held by the applicant and privately developed.

- (e) A new bus stop servicing Pongakawa in a much safer manner than the SH2 bus stop location is also proposed in this area.
- (f) Three existing overland flowpaths (OLFP's) will be re-provided, having been comprehensively considered and sized to ensure conveyance of upstream floodwater in the 1 in 100-year event as adjusted for climate change out to 2130. This is discussed in the evidence of Mr Hight¹².
- (g) Site stormwater will discharge via reticulation to ground soakage in the events up to the 10-year storm event. The exceptions to this are stormwater to grassed yards, berms and roads which will always convey to the stormwater treatment wetland. Beyond the 10-year event, the road corridor complete with catchpits and piping will pipe stormwater to a dedicated swale through to a stormwater treatment wetland in the main reserve of PC95 along the north-western boundary. These features are totally separate from the overland flowpaths mentioned above to ensure independence and resilience of operations of each system. The PC95 stormwater system is sized to service the 100-year event as adjusted for climate change out to 2130¹³.
- (h) A three-stage-treatment, decentralised wastewater treatment system and land disposal field which is located along north-eastern margin of the PC95 area.
- (i) Potable and firefighting water supply is proposed to the site through one of two means: either an upgrade of the existing pipeline from Maniatutu Road along SH2 and into Arawa Road, or through a reservoir-based local solution.
- (j) Additional tree planting to boundaries and within the PC95 site, riparian planting to the Puanene Stream, and shelterbelt planting opposite the existing orchard at the north-eastern end of Arawa Road.
- (k) A stormwater/riparian reserve (north of existing farm access bridge over the Puanene Stream) is proposed containing stormwater

¹² See also with Lysaght Consultants Engineering Servicing Report Revision 7 dated August 2024 submitted 30th August 2024.

¹³ Ibid, and see evidence of Mr Hight for further discussion.

treatment wetland and swale infrastructure, riparian planting, and the 'main' OLFP (OLFP 2). Integrated with these features are paths and a 'village green' area at the southern end of the reserve intended to be a focal point of the reserve network and new walking links to be created, connecting to the planned Arawa Road recreational improvements and wider Arawa Road settlement.

- (l) South of the existing farm access bridge, following the remainder of the western and then southern boundaries of the PC95 site, is a landscape buffer area 4m wide (from top-of-bank) to be planted with native trees and riparian planting.
39. The above features are proposed to be secured and implemented prior to any lots or dwellings being created by way of staged pre-requisites specified within Chapter 12 of the District Plan. An up-to-date version of the proposed rules, reflecting changes made as a response to submissions and further engagement with WBOPDC, BOPRC and NZTA in particular, is attached as **Appendix B**.
40. Development to be enabled by the plan change is further proposed to be controlled as follows:
- (a) The outer areas of PC95 are 'lower density', with the 'higher density' contained to the centre of the site; and
 - (b) The areas bordering Arawa Road property (numbers 19, 23, 25, 33, 37, 41 and 45) boundaries are subject to a single-storey maximum permitted height restriction; and
 - (c) Areas bordering the rear boundary of the above properties are subject to a further yard restriction along the common boundary, restricting built form scale and size being (10m² or less, no higher than 2m permitted within 8m of boundary);
41. The above measures have been deliberately included, and revisited and amended in response to submissions in response to amenity considerations

traversing a Rural/Residential interface. These are secured by proposed rules within Chapters 12 and 13 of the District Plan, see **Appendix B**.

42. To minimise glare and contrast in long-views towards the site from surrounding rural properties, maximum roof reflectivity values have been set in respect of all resulting lots or development bordering the Rural zone, and regardless to apply to any development over one storey in height.

RMA Section 32 analysis

43. A detailed RMA section 32 analysis as required by Clause 22, Part 2, Schedule 1 of the RMA and further in accordance with section 74(1) of the RMA has been undertaken by Mr Coles and myself following Mr Coles' preceding s 32 work in respect of the plan change project. This is discussed at section 6 of the PC95 report and is therefore summarised rather than repeated here.
44. The s 32 analysis traverses the following considerations to test the objective of the proposal against the purpose of the RMA, and to test alternatives considered, and efficiency and effectiveness of proposed provisions, to achieve the objective as required by the same part of the RMA:
- (a) An examination of *“the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of this Act¹⁴; and”*
 - (b) An examination of *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 objectives¹⁵;*

¹⁴ Section 32(1)(a) of the RMA

¹⁵ Section 32(1)(b)

45. The PC95 report in November 2023 discusses the tension between the rural zoning, and market demand for housing in the area. Prior to the engagement of Mr Counsell, this tension was interrogated by way of reference to growth in the horticultural use of land in the area and corresponding higher intensity of employees, published independent economic Housing and Business Capacity Assessments ('HBA') citing a shortage of housing in the Western Bay of Plenty, and reviewing real estate trends in Pongakawa.
46. Independent economic investigations have however been carried out since the PC95 report s.32 analysis and are set out in the evidence of Mr Counsell. This evidence confirms:
- (a) there is a common or shared housing market encompassing Pongakawa, Paengaroa and Te Puke townships/settlements; and
 - (b) there is expected demand particular to Pongakawa expected to occur, in the order of 137-266 dwellings over the next five-ten years.
47. Relevant to this is the fact that the WBOPDC District is currently short 2590 dwellings, growing to 2700 in the long term once all identified growth allocations (in the short, medium and long terms out to 2054) are given effect to¹⁶. This supports the preceding section 32 work that has been undertaken observing the current planning framework not responding to demand¹⁷. This being in contrast to other theoretically available pathways to achieve the objective, such as through resource consents or waiting for a Council-led District Plan review¹⁸.
48. Geographic alternative options for undertaking a plan change to contribute to alleviating housing supply deficiency in the area was also undertaken as part of the s.32 analysis. This focused on tracts of existing residential-zoned land in

¹⁶ See page 153, Smartgrowth Strategy 2024-2074.

¹⁷ This seemingly made clear on page 153 of the Smartgrowth Strategy 2024-2074, that 'without significant intervention there will remain a lack of housing that meets peoples needs'. A plan change is an example of the most significant intervention available to achieve sufficient housing capacity as required by the NPS-UD.

¹⁸ See full consideration of options to achieve the objective within Table 1, Appendix 11 to PC95 document.

the near communities of Paengaroa, Pukehina, Maketu, as well as elsewhere in Pongakawa¹⁹. For reasons of combinations of further isolation and reduced accessibility, greater burden of hazards and constraints, and considerably reduced yield potential, Pukehina and Maketu existing residential zoned settlements were not preferred over the PC95 site.

49. Paengaroa was observed to have extremely limited infilling opportunity within the existing residential zone of the settlement. Further expansion (beyond that signalled long-term north of Paengaroa as part of a future 'Eastern Centre') incurring the loss of existing working orchards on Class 2 and 3 land was also not preferred as an alternative to achieving the objective, given the importance of primary production and specifically horticulture to the WBOPDC District and the Te Puke area specifically. For these reasons, rezoning within or expanding the settlement of Paengaroa was not considered preferable over the PC95 site.
50. Elsewhere in Pongakawa was observed to involve the consumption of working farmland unable to functionally connect and consolidate an existing residential settlement, with greater potential for adverse reverse sensitivity, land productivity effects, and also greater susceptibility to flooding hazards.
51. Te Puke township was initially excluded from s.32 alternative consideration. This is because Plan Change 92 seeking to add capacity to Te Puke township was reasonably progressed at the time of notification of PC95. The 2022 HBA informing that plan change and indicated that even with the expected capacity to be enabled in Te Puke, a shortage for Western Bay of Plenty was still predicted, with a recommendation that (as at December 2022) *"there is an urgent need to investigate future growth areas in Te Puke and the Eastern*

¹⁹ See full consideration of geographical plan change options to achieve the objective within Table 2, Appendix 11 to PC95 document.

*Corridor to assist in addressing the identified medium and longer-term shortfall that will arise from 2025 onwards*²⁰.

52. This has however been revisited particularly in the evidence of Mr Perry in satisfying alternatives consideration under the NPS-HPL, with alternatives of expansions of the Te Puke planned urban area and the existing Paengaroa urban area being considered²¹.
53. The 2022 independent economic assertion of a shortfall from 2025 onwards has been confirmed in the 2024 HBA incorporated into the Smartgrowth Strategy 2024 for greater Tauranga/Western Bay of Plenty, being the Future Development Strategy (FDS) required to be prepared under the NPS-UD. This cites a current shortage of 2590 dwellings as at 2024 (up from 2482 as at December 2022 i.e. an increase in shortfall by 108 dwellings) and growing to 2700 over 30 years once all identified growth allocations are given effect to as traversed above. The evidence of Mr Counsell's makes clear that some of this demand is expected to accrue in Pongakawa, with 266 dwellings identified over the 10-year medium term.
54. As such, I maintain the position advanced at section 6 of the PC95 report of appropriate satisfaction of s 32 of the RMA. I am of the opinion that the objective reflected by PC95 is the most appropriate way to achieve the purpose of the RMA in responding to demand for housing in the area and is the appropriate location and practicable option for enabling supply quickly. The proposed provisions are suitably efficient and effective to achieve this objective, in my opinion.

Plan change pathways – NPS-UD and NPS-HPL

²⁰ *Housing and Business Capacity Assessment 2022*, jointly prepared by TCC, WBOPDC and BOPRC (December 2022), page 25

²¹ Consideration of these further alternatives is detailed in the 'Resumption of PC95 – Further Information, Pencarrow Estate Pongakawa' MPAD letter and supporting package to WBOPDC, 30th August 2024

55. Two linked 'pathways' of primary importance to enabling the plan change exist under the NPS-UD, and the NPS-HPL. The detail of how the plan change meets these pathways is presented below, whilst fundamental strategic consideration of these pathways from the inception of the plan change is presented in the evidence of Mr Coles.
56. The NPS-HPL, at section 3.6, sets national strategic direction through a prescribed set of specific circumstances where urban rezoning resulting in a loss of highly productive land is enabled. As the PC95 site contains highly productive land (HPL – LUC 2 and 3), this section is engaged by the proposal.
57. Clause 3.6(1)(a) makes clear that a Tier 1 authority (which WBOPDC is), may only allow an urban rezoning of HPL if there is a requirement *to provide sufficient development capacity to meet demand for housing or business land to give effect to the NPS-UD*. In other words, urban re-zoning of HPL is only entertained if the zone change responds to insufficiency of housing (or business land) supply as determined under the NPS-UD, to my understanding.
58. I now address how PC95 delivers urban rezoning in response to an insufficiency in housing supply as determined under the NPS-UD.

Applicability of the NPS-UD

59. Clause 1.3 of the NPS-UD concerns the application of the NPS-UD, which is stipulated as follows:
- (1) *This National Policy Statement applies to:*
- (a) *all local authorities that have all or part of an urban environment within their district or region (ie, tier 1, 2 and 3 local authorities); and*
 - (b) *planning decisions by any local authority that affect an urban environment.*

(2) *However, some objectives, policies, and provisions in Parts 3 and 4 apply only to tier 1, 2, or 3 local authorities*

60. WBOPDC is confirmed as a Tier 1 authority due to the relationship of the district with the greater Tauranga urban environment²².
61. Plan Change 92 giving effect to the NPS-UD to increase housing supply in the Western Bay of Plenty, has considered this question further. This process has confirmed that Ōmokoroa and Te Puke are themselves urban environments irrespective of the relationship with greater Tauranga, due to having or likely to have individual housing and labour markets of at least 10,000 people²³.

Urban Environment

62. The first limb of the scope of applicability of the NPS-UD is clearly met for PC95 as WBOPDC is a Tier 1 territorial authority containing urban environments. The second limb requires consideration of whether or not the planning decision in question is one that affects an urban environment. An urban environment in turn is defined by the NPS-UD as any area of land (regardless of size or local authority or statistical boundaries) that:
- a. *Is, or is intended to be, predominantly urban in character; and*
 - b. *Is, or is intended to be, part of a housing and labour market of at least 10,000 people.*
63. It is my opinion that the Arawa Road residential settlement is urban in character, because it meets:
- numerous definitions in BOPRC²⁴ RMA planning documents;
 - the definition of ‘urban’ in the Smartgrowth Strategy 2024-2074 FDS²⁵, and

²² See Appendix to NPS-UD – Tier 1 and Tier 2 Urban Environments and Local Authorities.

²³ See commentary at paragraph 3.30-3.33, ‘Recommendation Report of the Independent Hearing Panel: Plan Change 92, Western Bay of Plenty District Council’, dated 25th January 2024; see also discussion at page 4 ‘Plan Change 92 – Section 42A Report - Omokoroa and Te Puke, Enabling Housing Supply and Other Supporting – General Matters’, dated 11th August 2023.

²⁴ See page 212, BOPRPS definition of urban activity; See page 22, BOPRC Regional Natural Resources Plan definition of ‘urban area or settlement’

²⁵ See page 181, Smartgrowth Strategy 2024-2074

- the definition of 'urban', as a description of zoning within the NPS-HPL strategic planning document;

The above documents being highly relevant to the plan change.

64. The expert evidence of Mr Counsell confirms the location of the existing settlement and PC95 site within the same locality and housing market as Te Puke (and Paengaroa). The labour/employment connections between Te Puke township and the smaller settlements and outlying districts of Paengaroa and Pongakawa are strong in that Pongakawa horticultural and farming activities supports numerous businesses/employers such as packhouses, post-harvest facilities, meatworks etc. in and around Te Puke. Similarly, Te Puke currently provides the main closest service centre and accommodation base for employment opportunities in Pongakawa.
65. Adopting Mr Counsell's advice, I therefore remain of the opinion that the land is intended to be predominantly urban in character (expanding, consolidating and enhancing the existing Arawa Road residential settlement), and is part of a housing and labour market of over 10,000 people. It is therefore my assessment that the planning decision to be determined is one that affects an urban environment which in turn is subject to the NPS-UD.
66. Being within the same market as Te Puke would inherently mean being within the same market as the planned future Eastern Centre adjacent to Paengaroa and immediately east of the Rangiora Business Park. This future centre is forecast in the FDS, in the long term and beyond, to have up to 8000 dwellings. This is in conjunction with the existing population of Paengaroa settlement, and working population of Rangiora Business Park (4000 employees expected), reflecting a planned urban environment with a housing and labour market alone exceeding 10,000 people. This future centre is only 5 minutes drive and less than 6km west of the PC95 site.

Insufficiency of Development Capacity

67. Repeated independent economic HBA analysis (commissioned by Smartgrowth) for the greater Tauranga/Western Bay urban environments, most recently updated and reflected in the Smartgrowth Strategy 2024-2074 (finalised and published July 2024), confirms an insufficiency of housing supply in Western Bay of Plenty and within Tauranga City. Housing supply is currently short 2590 dwellings and is estimated to increase to 2700 across the WBOPDC District alone over the next 30 years once all identified growth allocations are given effect to²⁶. This independent work has been further supplemented by a separate independent economic investigation by Mr Counsell which confirms part of this demand is expected to arise particularly to Pongakawa, estimating between 137-266 dwellings to be demanded over the next five-ten years.
68. No other plan changes are live to deliver residential land to meet this precise demand. Consenting history for rural-lifestyle subdivision in the area to absorb this demand has not been of a pace to do so in recent years to suggest rural/lifestyle opportunities alone will meet this demand²⁷.

Conclusion – NPS-UD and NPS-HPL Pathways

69. For the reasons discussed above, it is my opinion that PC95 would be contributing housing supply in the same market as Te Puke where insufficiency of supply in the relevant urban environment has been determined under the NPS-UD. Therefore the proposal is subject to the provisions of the NPS-UD due to affecting an urban environment, which is suffering from a housing shortage. It similarly passes the first test under clause 3.6.1(a) of the NPS-HPL providing an opening to allowing the plan change acknowledging it may incur a loss of highly productive land. Further assessment against 3.6 of the NPS-HPL is provided below.

²⁶ See page 153, Smartgrowth Strategy 2024-2074.

²⁷ Page 102, Smartgrowth Strategy 2024-2074 reveals 52 'rural lifestyle' sections have been created in the Pongakawa area between 2018-2023. This is comparatively high within the rural areas of the district, reflecting the desire for living in this location and exceeded only north of Tauranga city at Minden and Aongatete. However this equates to less than 11 new titles/year which even if continued will not meet predicted demand in the 10-year period as estimated by Mr Counsell.

Statutory planning framework assessment

70. The relevant statutory framework applying to a plan change, and documents to have regard to when undertaking a plan change is, set out primarily within s 74 of the RMA. The relevant parts of the RMA, and relevant strategic documents, are identified at section 4 of the PC95 report, and PC95's consistency with these are assessed at section 9 of the PC95 report. These assessments are not repeated verbatim here but rather summarised.
71. Since the time of completing the PC95 report, Plan Change 6 to the BOPRPS has been completed²⁸. This plan change has been undertaken by BOPRC to give effect to requirement of the NPS-UD. The BOPRPS is therefore considered only as amended by Plan Change 6, rather than as at the time of the PC95 report considering the previous operative and Plan Change 6 versions of the BOPRPS.
72. Some submissions have raised the issue of the consistency of PC95 with the BOPRPS, the NPS-UD and FDS, and the NPS-HPL,. These are therefore the focus of this assessment summary.

Bay of Plenty Regional Policy Statement

73. The most pertinent objectives and policies of the BOPRPS are considered to be those applying to 'urban and rural growth management'²⁹. Management of such growth is framed within the BOPRPS as concerning: avoiding uncoordinated and poorly connected and designed growth³⁰; avoiding inefficient and low-density development and increased greenhouse gas emissions; responding to the fact that a shortage of developable land for housing results in reduced housing choice and increased prices³¹; avoiding

²⁸ Formally amended following commissioner recommendations and BOPRC resolution to adopt, from 12th February 2024.

²⁹ Chapter 2.8, BOP RPS

³⁰ 2.8.1(1) and 2.8.1(4), BOP RPS

³¹ 2.8.1(2), BOP RPS

compromising the productivity of rural land³²; managing effects on natural features; and managing reverse sensitivity, integration of land-use and infrastructure, and effects of intensive urban development.

74. A summary of my assessment against the pertinent objectives and policies of the BOPRPS is presented at **Appendix C** to this evidence. This responds particularly to pertinent objectives and policies raised in the BOPRC submission on the plan change.
75. I consider there are three key issues from the BOPRPS to be considered: responding to housing shortage; quality of unanticipated development responding to this shortage (primarily covered by Policy UG 7A); and corresponding loss of productive land (primarily covered by Policy UG 18B).
76. The intent of the RPS in managing these tensions, in my opinion, is to provide for unanticipated urban growth where strategic criteria are met, and that it is only on this basis that any quantum of productive land could be reduced (as supported by meeting the NPS-HPL).
77. Policy UG 7A sets the strategic criteria to be met to 'add significantly to development capacity'. This has been re-assessed most recently addressed in information supplied to Council dated 30th August 2024. I consider PC95 meets Policy UG 7A as:
- (a) PC95 contributes to alleviating a shortage that exists right now in the district, and to meet demand expected in Pongakawa alone over the next 5-10 years (137-266 dwellings, as per the evidence of Mr Counsell).
 - (b) Over 5ha of residential land would be delivered which can in turn deliver 120-130 dwellings.

³² 2.8.1(3), BOP RPS

- (c) The residential land is located close to employment, transport links, and improved community and recreational services.
 - (d) The housing supply and associated infrastructure would be fully developer funded without affecting any investments into development elsewhere.
78. I therefore maintain my view that Policy UG 7A is met and significant development capacity would be added from PC95.
79. Objective 26 directs the productive potential of the regions rural land resource is sustained and the growth and efficient operation of rural production activities are provided for. The plan change seeks to deliver housing and amenities to better respond to increased employment demand attached to spatial and productivity growth of horticultural land uses in the rural environment, with an small and insignificant loss of productive land as confirmed by Mr Perry. Policy UG 18B then sets out how productive rural land is to be protected, save for certain circumstances, one being where urban development satisfies Policy UG7A, which has been demonstrated above.
80. Alternatives for adding to development capacity in terms of impacts to productive land have been considered in the evidence of Mr Perry, which confirms more adverse outcomes should expansion of Te Puke or Paengaroa settlements/towns occur.
81. I therefore maintain my opinion that the proposal is consistent with the overall strategic direction of the BOPRPS in this context particularly as concerns the provision for unanticipated urban development affecting urban environments suffering from housing shortage as identified through the HBA process as is the case here.

National Policy Statement for Urban Development

82. As traversed above, the site and proposal is subject to the provisions of the NPS-UD.
83. Consistency with the objectives and policies of the NPS-UD has been considered at section 9.2.1 of the PC95 report. I confirm no material changes to the opinions expressed in terms of consistency with the relevant objectives and policies.
84. In summary, it is my opinion that:
- (a) The proposal will improve and deliver an area of well-functioning urban environment at Arawa Road, delivering housing choice and diversity to the area, and improved accessibility to the local job market and social infrastructure (shop, community services, reserves, active and public transport connections). This is particularly consistent with Objective 1, Objective 3, and Policy 1 of the NPS-UD; and
 - (b) PC95 would introduce further housing supply, options and competition in a market suffering from insufficient housing capacity now and through to the long term, as previously discussed in this evidence. This is particularly consistent with Objective 2 and Policy 2.
 - (c) Enabling PC95 would be responsive in that it supplies significant development capacity to an under-supplied market suffering from housing shortage that will not affect infrastructure planning and funding decisions elsewhere (will be entirely developer funded). It would also be a strategically appropriate intervention in that it adheres to the 'Connected Centres' approach of the FDS for the Tauranga/Western Bay sub region. Objective 6 and Policy 8 of the NPS-UD are considered to be met. This is discussed further in respect of the Future Development Strategy below.

85. For the same reasons as discussed at section 9.2.1 of the PC95 report, I remain of the view the proposal is clearly consistent with the NPS-UD and in particular the direction for responsive planning and providing for unanticipated development where important criteria are met (as is the case here against the criteria within the BOPRPS).

Future Development Strategy – Smartgrowth Strategy 2024-2074

86. The FDS above is the FDS required to be produced under the NPS-UD. It has the purpose of³³:
- (a) promoting long-term strategic planning by setting out how a local authority intends to:
 - (i) achieve well functioning urban environments in existing and future urban areas, and
 - (ii) provide at least sufficient development capacity over the next 30 years to meet expected demand, and
 - (b) assist the integration of planning decisions under the RMA with infrastructure planning and funding decision.
87. The FDS is required to, amongst other requirements, identify broad locations in which development capacity will be provided over the long term³⁴. The FDS must be informed by, amongst other things, the most applicable HBA³⁵.
88. It should be firstly noted that the FDS is a tool to assist in achieve the purpose of the NPS-UD that shall be had regard to when preparing or changing RMA documents³⁶. The objectives and policies of the NPS-UD in their own right i.e. as distinct from implementation clauses, only refer to the FDS in relation to taking into account the principles of the Treaty of Waitangi (Objective 5 and Policy 9).

³³ See section 3.13, NPS-UD.

³⁴ Clause 3.13(2)(a), NPS-UD.

³⁵ Clause 3.14(1)(a), NPS-UD.

³⁶ Clause 3.17(1)(a), NPS-UD

89. I infer this as deliberate from the current NPS-UD objective and policy drafters to provide for the flexibility and responsiveness of the planning system sought to be enabled in response to the core issues to which the NPS-UD seeks to address: adequacy and by extension affordability of supply of housing and business land and development; competition within land markets; and productivity and functional quality of urban environments³⁷. As worked through in Part 3: Implementation of the NPS-UD, the first item on the list of things local authorities must do to give effect to the objectives and policies of the NPS-UD (subpart 1) is the provision of sufficient development capacity (for housing, in existing and new urban areas) in the short-long terms³⁸. When insufficient development capacity exists, a local authority must consider “*other options for increasing development capacity and otherwise enabling development*”³⁹. The next item on the list is therefore understandably responsive planning concerning unanticipated or out of sequence development.
90. The FDS itself acknowledges, responding to 2024 HBA data, that “*a housing supply insufficiency has been determined for the sub-region in the short, medium and long term (next 30 years)*” and “*without significant intervention there will remain a lack of housing that meets peoples needs, in particular limited delivery of housing that is affordable for low and middle income households.*”⁴⁰ This is supplemented by the evidence of Mr Counsell pointing to an expected shortage in the Pongakawa area specifically, against the larger-scale HBA assessment referred to in the FDS.
91. As such, it appears apparent that responsive planning intervention is called for to enable unanticipated housing stock to come to market. This would be expected in accordance with the Connected Centres principles central to the

³⁷ Drawing on explanatory information within the NPS-UD 2020: Introductory Guide, published by MfE 2020

³⁸ Clause 3.2(1), NPS-UD

³⁹ Clause 3.7(1)(c), NPS-UD.

⁴⁰ Page 153, Smartgrowth Strategy 2024-2074 (FDS).

FDS, and meeting the BOPRPS criteria for ‘adding significantly to development capacity’, both of which are assessed to be met in my opinion.

92. It is further my opinion that whilst the FDS does not spatially define Pongakawa, the proposed development of the Arawa Road centre would conform to the Connected Centres principles, as well as the intent of the FDS for some growth demand to be met in undefined rural areas and small settlements⁴¹. The proposal would be consistent with the FDS in my opinion when accounting for the fact it recognises insufficient housing supply has been identified, and the plan change site is within the market of Te Puke or alternatively Paengaroa/Rangiuru being existing or planned urban environments.

National Policy Statement – Highly Productive Land

93. The PC95 site has an NZ Land Use Capability (‘LUC’) Classification of Class 2 as mapped by the NZ Land Resource Inventory. This means it is highly productive land under the NPS-HPL. Further land use capability mapping has revealed the site to be a combination of LUC’s 2, 3, 4 and 7, as traversed in the evidence of Mr Perry.
94. The NPS-HPL seeks to restrict urban rezoning of highly productive land to where specific circumstances apply as detailed within clause 3.6 of the NPS-HPL. I note that the ‘restrict’ approach was deliberately used in drafting the NPS-UD to signal enablement where insufficient housing supply is being responded to by a rezoning plan change proposal, such as is the case here. This is in contrast to the more stringent ‘avoid’ approach, which is utilised in respect of attempts to subdivide HPL for rural-lifestyle uses⁴².

⁴¹ Smartgrowth Strategy 2024-2074, page 152 – 500 dwellings anticipated across short-long terms.

⁴² Page 41, NPS-HPL Guide to Implementation, published by MfE March 2023.

95. There are three applicable tests or circumstances to be satisfied to in turn satisfy 3.6 of the NPS-HPL and be 'allowed' urban rezoning of HPL sites. These are as follows, as detailed under 3.6.1:

(a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and

Comment: It is the applicant's position, based on the expert economic advice of Mr Counsell, that the PC95 site is within the same market as Te Puke, which has unequivocally been determined to be an urban environment by WBOPDC, and as such is part of the District's urban environment subject to identified insufficiency of housing supply. The most recent HBA covering WBOPDC urban environments demonstrates insufficiency of housing supply right now in the order of 2590 dwellings, growing to 2700 in the long term (once expected allocations within nominated growth areas in the FDS are utilised). Mr Counsell has further identified demand specific to Pongakawa, in the order of 137-266 dwellings expected to be demanded over the next five-ten years. As such, having had regard to HBA and FDS outputs under the NPS-UD, it is my opinion further urban rezoning in WBOPDC such as PC 95 is required to provide sufficient development capacity to meet demand for housing land so as to give effect to the current NPS-UD. Therefore clause 3.6(1)(a) is assessed to be satisfied.

(b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and

Comment: Reasonably practicable and feasible options for providing at least sufficient development capacity in the same locality and market whilst achieving a well-functioning urban environment have been considered within this plan change process. This has been done with due regard to the range of

reasonably practicable options prescribed by clause 3.6(2). Noting this is required by the NPS-UD in the short through long terms, and the extent of the 'same market' has been expertly defined by Mr Counsell as being restricted to Te Puke, Paengaroa, future Eastern Centre near Paengaroa, and the Pongakawa residential settlement at Arawa Road existing or planned urban areas. These options are summarised below:

1. *Infill potential to Te Puke.* This has been robustly explored through recent Plan Change 92 with intensification enabled across the entire existing Te Puke urban area and in residential zoned outlying areas not yet developed. Notwithstanding, sufficient development capacity is not enabled as per the HBA and FDS analysis and conclusions discussed above, as such this alone is inadequate.
2. *Infill potential to existing Paengaroa settlement.* The existing residential zone and settlement of Paengaroa appears to have limited and constrained intensification and infill potential in our view. This is due to the current zone and settlement having been mostly subdivided down to 500-850m² sections and over time developed with housing and incidental buildings across most lots. Delivering comparable yield (within the confines of the existing settlement) would require acquisition and demolition of dwellings, and loss of productive land – all land within Paengaroa is classified as LUC 2 and 3 land. Expansion of the Paengaroa settlement as part of the future Eastern Centre development would materially increase housing supply, however this is at best long-term only, with the FDS predicting no contribution of dwellings to market until post-2034.
3. *Expansion of Te Puke or Paengaroa further.* This has been expertly considered in terms of impacts to productive land by Mr Perry, who advises that such expansion would be more highly adverse to productivity of land in comparison to the proposal.

96. Further consideration of this second test in respect of qualifiers and requirements set out at clause 3.6(2) have been traversed more detail in the

evidence of Mr Perry and in further response information provided to WBOPDC in August 2024 which is not repeated here⁴³.

97. The final test to be satisfied under clause 3.6.1 of the NPS-HPL is 3.6.1(c), which states:
- (c) the environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*
98. An assessment of costs and benefits, drawing on technical expertise where necessary, against the four wellbeing identified and considering tangible and intangible values, is presented at **Appendix C** of this evidence. Financial quantification of tangible and intangible benefits, such as provision of housing stock in an under-supplied market, improving access to employment opportunities and reduction in vehicle kilometres travelled, reduced greenhouse gas emissions etc, is quantified by Mr Counsell at \$8m over a 20-year period. Over the same period, a loss of \$513,000 of primary production from the dairy farm is calculated.
99. The assessment presented at **Appendix C** is considered to clearly demonstrate cultural, social and environmental benefits of the plan change would outweigh costs. Whilst the gap is likely to be more narrow when accounting for property value impacts, considering tangible and intangible economic benefits, these are still assessed to outweigh costs.
100. For the above reasons, I maintain my overall assessment position to-date that the proposal satisfies all three tests within Clause 3.6(1)(c) of the NPS-HPL.

⁴³ Resumption of PC95 – Further Information, Pencarrow Estate Pongakawa’ MPAD letter and supporting package to WBOPDC, 30th August 2024

Assessment of plan change effects

101. A comprehensive assessment of potential effects of the plan change has been presented in the PC95 report and further information responses to date, covering:

- Contamination exposure;
- Archaeological, heritage and cultural effects;
- Ecological and hydrological effects;
- Infrastructure servicing and capacity effects;
- Rural productivity and reverse sensitivity effects;
- Geotechnical stability effects and site suitability;
- Natural hazard risks and effects;
- Rural and residential character and amenity, and recreation effects;
- Traffic effects; and
- Temporary earthworks and construction effects.

102. The s.42A report has been reviewed and, with the exception of the effects listed below, there is common ground that the effects can be mitigated by the proposal so as to be acceptable in this context. Effects of outstanding consideration are:

- Flood risks and flooding effects.
- Water supply infrastructure effects;
- Wastewater infrastructure effects; and
- Stormwater effects;

The effects above as framed in the s.42A report are considered below.

103. For completeness, issues discussed in the s.42A report concerning settlement pattern and highly productive land appear to be matters of policy interpretation and satisfaction rather than corresponding to concerns with effects, and as such are dealt with in direct response to the s.42A later in this evidence.

Flood risks and flooding effects

104. Topic 4 of the s.42A report highlights uncertainty over the potential for future households west of Overland Flowpath 1 (OLFP 1) to evacuate during flooding events. This issue has been resolved by transferring OLFP 1 west to abut the western boundary of the PC95 site. This ensures future dwellings in this location will have access unfettered by an OLFP to the public roading network to evacuate as may be required. See revised Structure Plan drawings at **Appendix 2** confirming this, and also similar discussion in the evidence of Mr Hight⁴⁴.

Water supply and infrastructure effects

105. Topic 6 of the s.42A report concludes WBOPDC's opinion that insufficient proof of suitability and reliability of a reservoir solution can support the intended development of the site.
106. I note the expert advice of WBOPDC engineers and the applicant's engineer Mr Hight opining that the pipe upgrade is preferred over the reservoir solution when considering pressure distribution and volatility, firefighting capacity, and general resilience. Mr Hight has concurred with WBOPDC in this regard, and therefore I adopt this expertise and agree with Ms Mark as to suggested changes requiring only the water pipe upgrade solution is delivered as the structure plan requisite for water supply to the plan change areas and future subdivisions within it.

Wastewater infrastructure effects

107. Topic 7 of the s.42A report discusses a lack of confidence that an on-site effluent treatment (OSET) wastewater scheme is viable in this area, due to groundwater levels and flood risks. This concern being held despite WBOPDC's

⁴⁴ See 'Section 42A Report' section of evidence of Mr Daniel Hight.

own acknowledgement that the proposed supplier, Innoflow Wastewater Specialists, provide arguably the best products on the market for this purpose. This concern also being held despite evidence being provided to WBOPDC that at both summer and winter, groundwater levels have been determined through test excavations to be approximately 1.5 metres below the ground level of the wastewater field location (600mm being required by BOPRC when consenting OSET systems). And WBOPDC's own conservative flood modelling indicating the proposed wastewater field is substantially elevated above the 1 in 100 year event (as adjusted for climate change out to 2130 – clearance above the 1 in 20 year event being required by BOPRC when consenting OSET systems).

108. For clarity, the proposed OSET system is the 'Communities' Prelos (pressurised liquid-only sewer) community system. The particulars of this system are detailed further in the evidence of Ms Brown, in turn relying on supplied information from Innoflow. In summary it is a three-stage treatment system combining individual-lot processing tanks as primary treatment; a more complex advanced secondary combining anoxic and aeration-based treatments; and tertiary UV treatment prior to discharge to land via shallow drip-irrigation field. As stated in the plan change application, it is understood to be the same system or extremely similar system that has been installed at Ongare Point in the WBOPDC i.e. is something WBOPDC is familiar with, one of the reasons this supplier and design was approached by the applicants and Mr Coles.
109. To address this issue of confidence of viability, geotechnical engineers and wastewater field experts CMW Geosciences have been engaged to address this matter specifically, see the evidence of Ms Kirstin Brown who is a BOPRC-approved OSET expert. This evidence provides expert opinion of the proposal with respect to BOPRC OSET consenting requirements and by extension compliance with AS/NZ Standard 1547:2012 – On-site domestic wastewater management.

110. This evidence confirms the following:
- (a) The soil type found at the proposed wastewater location is able to accommodate treated effluent at a loading rate of 4mm or 4 litres per square metre;
 - (b) A field with such soil properties is therefore expected to be required at a size of 3.5ha to service the specified system⁴⁵;
 - (c) This size field is provided to service the plan change;
 - (d) The field is between 1.2-2 metres above the groundwater table as ascertained in summer and winter investigations (1.2m when using more sensitive CPT data). Given the drip irrigation lines are typically installed no deeper than 200mm, there is at minimum 1m of vertical clearance to the groundwater table, whereas 600mm is required with BOPRC OSET consenting to ensure appropriate effluent plume (inclusive of remaining nutrients) separation from the water table.
 - (e) The field maintains a distance of least 20m from the Puanene Stream, which is the appropriate distance as specified in relation to a watercourse under AS/NZ 1547:2012.
111. The matter of flood risk to the wastewater location field is covered in the evidence of Mr Hight. This evidence confirms that the site of the proposed wastewater field is largely out of the 100-year floodplain, whereas the 20-year floodplain is the floodplain of concern in BOPRC OSET consenting.
112. The above expert evidence of Ms Brown and Mr Hight, responding to a specified design proposed by Innoflow, is considered to provide proportionate and adequate confidence at this plan-change stage that the proposed wastewater treatment and disposal location is viable from an engineering point of view. Noting that the specifics of such a scheme have to actually go

⁴⁵ Based on maximum peak discharge of 140,000 litres/day across up to 130 dwellings and a small commercial area, as advised by Innoflow and referred to in the evidence of Ms Brown.

through the BOPRC OSET consenting process following the plan change and once detailed design is complete.

113. WBOPDC also discuss an issue of financial efficiency upon vesting and maintenance of the wastewater assets with WBOPDC, pointing out that maintenance of the proposed system would cost future PC95 ratepayers \$533/year against the Te Puke average of \$340/year⁴⁶. This seems to lose sight of the fact that the infrastructure provision would be solely funded by the developer of PC95, whereas providing a new network in Te Puke to accommodate intensification would likely be a more complex exercise. It also does not detract from the fact that cost-neutrality can be achieved and efficiencies gained in terms of a de-centralised yet robust and reticulated solution delivered. As explored in the evidence of Ms Brown, this could at Council's discretion (and subject to BOPRC OSET) be expanded to service the rest of the Arawa Road Pongakawa residential community.
114. For the reasons discussed above, and with due regard to the evidence of Ms Brown and Mr Hight, I maintain an opinion that the proposed wastewater infrastructure proposed would not create adverse environmental impacts that cannot be appropriately mitigated in accordance with established practice and consent requirements. Similarly the risk of flooding affecting the integrity of the wastewater system is considered to be suitably lowered.

Stormwater Effects

115. Topic 8 of the s.42A report discusses concerns with the several matters relating to stormwater, with links to groundwater and flooding concerns⁴⁷. These in turn have been comprehensively addressed in the evidence of Mr Hight, which follows previous comprehensive reporting on the same subjects.

⁴⁶ Paragraph 14.43, s.42A report.

⁴⁷ See paragraph 15.24, s.42A report.

116. On the matter of a stormwater management plan, it is contended proportionate information tantamount to a concept stormwater management plan has been provided in reporting and evidence of Mr Hight. The stormwater management design, complete with treatment train and extended detention of stormwater, has been formed to ensure compliance with BOPRC Stormwater Management Guidelines, in a manner completely independent of servicing up-stream overland/floodwater flows. These in turn have been conservatively calculated and appropriately provided for across three OLFP's adhering closely to current topography and OLFP patterns.
117. On the matter of cumulative impacts of additional stormwater to be generated and changes in flood risk, as traversed by Mr Hight a total of 16 storms have been modelled by Lysaght engineers and their downstream effects ascertained. In all bar one event there is a modelled reduction in downstream flooding effects as affected by site stormwater discharge. To quote Mr Hight, *"the exception is the 24-hour 10-year storm, where an additional 200m³ is predicted to be discharged (or an additional approximate 10% in that storm). On balance, the modelling suggests an improvement in the volume of runoff that will be sent to the Little Waihi Drainage Scheme...numerical volume displacement calculations suggest an imperceptible effect will arise (section 4 of the Lysaght servicing report, revision 7)"*.
118. In light of the above, and the responses of Mr Hight to the s.42A stormwater concerns, I maintain my opinion from the PC95 report that stormwater and flooding effects attributable to the proposal would be acceptable.

Positive effects

119. For the reasons traversed above, and noting effects not in contention, adverse environmental effects attributable to the plan change are able to be mitigated through the Structure Plan design, restrictions and corresponding rules and development pre-requisites so as to be acceptable, in my opinion.

120. Having considered the proposal and relevant technical expertise produced, the proposal would also have considerable positive effects in my opinion, such as:
- Provision of dwellings to a market suffering from insufficient supply, at a range of price points, centred on an existing urban area servicing the surrounding rural community;
 - Increasing housing proximity close to the state highway transport corridor and providing higher accessibility to horticultural/industrial employment opportunities nearby, being supply not otherwise going to be delivered in the short-medium terms.
 - Improved social infrastructure (recreation routes and reserves, convenience/shop facilities, much safer bus stop, potentially medical or similar community facilities);
 - Improved safety of SH2/Arawa Road intersection and the operation of Arawa Road itself;
 - Improved resilience of water supply to Arawa Road;
 - Potential for improved quality and resilience of a new reticulated wastewater management scheme that could service the entire Arawa Road area instead of just the PC95 development;
 - Net improvements in terms of downstream flood risk, and stormwater quality being discharged from the site;
 - Considerable additions of native terrestrial and aquatic habitat to the site and Puanene Stream, including riparia improvements.
121. I maintain my opinion from previous PC95 assessment that balancing the positive effects described above with the adverse effects associated with urbanisation of the land, the environmental effects overall are considered to be more than minor when accounting for the scale of change, however certainly acceptable in my view.

Submissions on the plan change

122. A complete review submissions received was undertaken following the submission and further submissions periods across late 2023/early 2024. This lead to a submitter meeting held 21st March 2024 to further discuss and understand submitter concerns with the proposal.
123. In response to submitter concerns, a range of actions were undertaken and changes to proposed rules and the scope of development to be enabled were presented to WBOPDC in April 2024. I am of the opinion the substance of submission concerns, including those of BOPRC and Waka Kotahi NZTA. have been proportionally responded to as follows:
- (a) Increased yard setbacks to rear boundary of Arawa Road properties;
 - (b) Amended SH2 intersection and Arawa Road geometry.
 - (c) Sensitivity testing of trip generation and adequacy of traffic management solutions. This followed safety auditing of the proposed SH2/Arawa Road intersection and elicited further engagement with Waka Kotahi confirming agreement with proposed intersection geometry.
 - (d) Added footpaths to Arawa Road;
 - (e) Improved riparian planting, other landscaping within the site, and increased reserve sizes associated with securing riparian improvements;
 - (f) Refinements to overland flowpaths in terms of sizing and location to respond to flooding and evacuation concerns;
 - (g) Further illustration of stormwater management measures able to be delivered, further discussed in detail in the evidence of Mr Hight.
 - (h) Further investigation into, and revisiting of design, of the wastewater disposal field as relevant to flood risks against pluvial and groundwater
 - (i) sources of flooding, in response to submission points.

Section 42A report

124. I have reviewed the s.42A report prepared by Ms Abi Mark and published 11th October 2024.
125. Noting the addressing of effects in contention above, two key areas of differing planning assessment relate to consistency of the plan change with strategic settlement pattern direction (within the NPS-UD and FDS), satisfaction of BOP RPS provisions, and satisfaction of pertinent clauses of the NPS-HPL. This is therefore the focus of my assessment at this point of my evidence. I have drawn what I consider the key points of these two issues into the assessments below. Other points of clarification in response to the s.42A report are provided following these assessments.
126. For completeness, I have provided my explanation of why I assess the plan change to benefit from eligible pathways for a plan change at this site, with respect to the applicable pathways under the NPS-UD and NPS-HPL under 'plan change pathways' above. The below commentary is made with respect to s.42A assessment on the same subjects.

Settlement Pattern – Consistency with NPS-UD

127. The s.42A report essentially contends that the proposal is not provided for pursuant to the NPS-UD and the relevant FDS (Smartgrowth Strategy 2024-2074) which have important roles to play in terms of planned settlement pattern. This is of elevated importance in this context due to the link to allowing the plan change in respect of productive land considerations under the NPS-HPL being linked to addressing.
128. It should be noted that Tauranga/Western Bay sub-region HBA and FDS work has been done on a sub-regional basis centred on Tauranga, covering urban

areas of Tauranga City and Western Bay of Plenty⁴⁸. HBA exercises since 2021 have been repeatedly found, with increasing margins, to be suffering from a shortfall of supply to meet expected demand for housing. As at 2024, for the sub-region this stands as a live shortage of 2590 dwellings in WBOPDC urban areas, and between 4950-5950 dwellings in Tauranga City.

129. WBOPDC firstly contend that PC95 would not occur in an 'urban' area⁴⁹, and therefore does not meet the definition of an 'urban environment'. My reasons for a differing position are set out earlier in this evidence under 'plan change pathways'. WBOPDC hinge their position by way of preference of a Statistics New Zealand definition of rural and urban, whereas the assessment of Mr Coles and myself instead focuses on local and relevant national RMA planning document definitions of the same term.

130. I question the reliance on this definition and suggest it is being mis-applied or given inappropriate weight. I acknowledge the definition referred to by Ms Mark was once included in predecessor documents to what is now the NPS-UD, specifically the NPS on Urban Development Capacity published 2016. I note however that the NPS-UD was a new strategic planning policy document published 2020, with improved responsiveness and competitiveness of land markets a central tenet to the changes⁵⁰. As such, I consider it likely a deliberate change in construct and omission of definition to give effect to the change in direction heralded by amendments in 2020. The relevant local (BOP RPS, BOP Regional Natural Resources Plan, and Smartgrowth Strategy) and national (NPS-HPL) planning documents have now been updated to give effect to the NPS-UD. Against this context, I contend that the definitions cited by Mr Coles and myself are more apt than the now dated and (planning) contextually un-aligned Statistics NZ definition referred to by Ms Mark.

⁴⁸ See page 6, Housing Development Capacity Assessment for Tauranga and Western Bay of Plenty, prepared by Phizacklea Consulting for Smartgrowth, August 2021; page 3, Housing and Business Capacity Assessment 2022 Summary, prepared by Phizacklea Consulting for Smartgrowth

⁴⁹ See paragraphs 9.41-9.46, and 9.51-9.69, s.42A report.

⁵⁰ See commentary at page 6, An Introductory Guide to the NPS-UD 2020, published by MfE

131. Ms Mark then repeats an assessment, against the PC95 report at the time of notification and in considering further information provided, that the site is not part of a housing and labour market of 10,000 people⁵¹ or ‘intended to be urban’. This latter point, understood to be made as the PC95 site is farmland adjoining the Arawa Road settlement, is considered moot based on the finding that the Arawa Road residential settlement itself is currently urban and certainly would be as expanded and consolidated as proposed.
132. On the issue of whether or not the PC95 site is part of a housing and labour market of at least 10,000 people, I have considered the differing evidence of economists Mr Counsell and Mr Colegrave of Insight Economics. Mr Counsell has relied on on-going economic investigations into geographic boundaries of markets in informing his opinion that the PC95 site is in the same market as Te Puke, in response to the idea this exercise is ‘dated’ as suggested by Mr Colegraves. Mr Colegraves also appears to disagree with reliance on the rationale for market determination in the case of Plan Change 73 south of Auckland concerning the market relationship of several disparate urban settlements in rural surrounds (Waiku, Kingseat, Glenbrook, Clarks Beach, and (primary centre) Pukekohe) due to these being in the same ‘functional urban area’ whereas Te Puke and Pongakawa are not. This again is pivoting towards Statistics NZ language and concepts which were distinctly moved away from in amending the NPS-UD to be more responsive.
133. Mr Counsell has clearly addressed critical observations of economic reporting to-date by Insight Economics, addressing points such as:
- School zone factors (one factor amongst multiple);
 - Access to amenities and employment opportunities, noting strong similarities in employment profiles across Te Puke and Pongakawa;
 - A prominent labour relationship between Te Puke (East and West), Rangioru and Pongakawa locations and employees; and

⁵¹ Paragraph 9.73, s.42A report.

- A clear analysis of the non-spurious, high correlation of price trends across Te Puke and Pongakawa. This is comparison to an Insight Economists dismissal of this suggestion by proving correlation between Auckland and Gore housing markets.
134. For the reasons covered above, I rely on the expert evidence of Mr Counsell and the finding that the PC95 site and Arawa Road settlement is within the same market as Te Puke which itself has a population exceeding 10,000 people.
135. Ms Mark then states her view that “affecting” or “contributing” to an urban environment “from afar” i.e. in a manner strictly detached from urban land, would be incorrect consideration of NPS-UD policies. This is something I strongly contend. If Ms Marks interpretation is to be taken as correct and the NPS-UD seeks to only allow expansion of existing towns over 10,000 people into directly adjoining areas, a much more user-friendly definition of ‘urban environment’ could have been drafted into the NPS-UD. This would have simply said as such and removed the reference to any subjectivity of the expanse of a housing and labour ‘market’, altogether.
136. Such an interpretation has seemingly has been proven an incorrect approach where a common market exists, for example in the case of Plan Change 73 south of Auckland. Urban settlements in rural surrounds of Waiku, Kingseat, Glenbrook, Clarks Beach, and (primary centre) Pukekohe, all of which are geographically disparate and span an area of 20km horizontally east of the motorway (and somewhere in the order of 8-10km+ between individual settlements themselves) were found to be in the same market. This possibly points to the precise reason the definition was crafted the way it was – to ensure robust consideration of urban areas collectively, and development capacity within them.
137. Similarly, if the above interpretation is in fact the correct way to apply the NPS-UD, this inherently stalls successful realisation of ‘unanticipated’ or ‘out of

sequence' developments (to which the responsive planning direction applies). Objective 6 specifically refers to urban development decisions "affecting" urban environments, not "next to" or "adjoining", and Policy 8 giving effect to this objective is similarly constructed. If urban environment was intended to be interpreted as presented by Ms Mark, these objective and policy outcomes and the responsive intent of the NPS-UD as amended in 2020 seem to be effectively redundant and somewhat futile.

138. I therefore maintain my position as expressed in previous PC95 reporting that:
- (a) The Pongakawa Arawa Road settlement is urban, and the PC95 proposal consolidating and expanding the settlement would deliver an urban area; which
 - (b) Is part of (linked by common market as defined by Mr Counsell) the Te Puke urban area, and by extension the intervening Paengaroa urban area, with housing and labour market and population exceeding 10,000 people and as such is part of an urban environment as defined by the NPS. It is reiterated that there is a second 'planned' urban environment in the intervening location, comprising Rangiora Business Park, the future Eastern centre, and existing Paengaroa settlement, which is closer again to the PC95 site/Pongakawa residential area; and
 - (c) Whilst strictly unanticipated (not spatially planned for growth), the proposal meets the relevant criteria for 'significantly adding to development capacity' in an area suffering from housing shortage in the short-long terms, as set by the BOP RPS (Policy UG 7A). This in turn is subject to the responsive planning direction of the NPS-UD.

BOP RPS Policy Consistency

139. Following on from the above discussion and position, I maintain my position that the proposal satisfies BOP RPS Policy UG 7A, concerning unanticipated or out of sequence developments in locations forming part of an urban environment.

140. Policy UG 14B may be relevant in the instance of a finding that the proposal is not part of an urban environment, notwithstanding the evidence of Mr Counsell responding to Council's feedback on this matter maintaining it is part of the Te Puke housing market. This seeks to restrict growth of urban activities outside of urban environments unless it is demonstrated sound resource management principles are achieved, including a) efficient development and use of the finite land resource and b) providing for the efficient, planned and coordinated use and development of infrastructure. I further note this provision is subject to appeal, with appeals seeking to tone down the language from 'restrict' to 'manage'⁵².
141. I disagree with Ms Marks characterisation⁵³ of the first limb being met, purporting our view, by '*reducing the amount of farmland lost*' and the analogy that '*any land could be developed for housing outside of an urban environment if a landowner simply agreed to use less of their land*'. The assessment to date against UG 14B is that the proposal is an efficient use of the finite land resource as less than 10ha of productive land would be lost to create housing supply and the base of a community located in a market suffering from housing shortage, and provide social and commercial amenities, close to growing employment sources of horticulture and industry and the important corridor of SH2. Adjacent to/consolidating an already urban settlement therefore minimising productivity and reverse sensitivity effects to any other greenfield location.
142. Ms Mark seems to premise inconsistency with the second limb on the fact that there is no reticulated wastewater network servicing Arawa Road⁵⁴. This is based on explanatory text to the policy stating "for the avoidance of doubt, this does not apply to development in villages and settlements that do not have reticulated water and wastewater services". One word would have

⁵² Notice of Appeal – Urban TaskForce, page 12 (of PDF)

⁵³ Paragraph 9.110. s/42A report.

⁵⁴ Paragraph 9.119, s.42A report.

rendered Ms Mark's assessment beyond approach, being 'currently'. The text does not say "this does not apply to development in villages and settlements that do not **currently** have reticulated water and wastewater services". Settlements develop over time and add infrastructure to better service communities, whether growth is stagnant, incremental or rapid – consider the introduction of reticulated infrastructure in Maketu, Ongare Point, and Arawa Road itself with reticulated water in the early 2000's prior to the Penelope Place subdivision.

Settlement Pattern – Consistency with Smartgrowth FDS

143. I agree with WBOPDC that the site, and the Pongakawa residential area at Arawa Road, is not labelled, delineated or spatially provided for as a place of targeted growth by the FDS.
144. Ms Mark implies the FDS allocation of 500 dwellings of growth to 'Rural, Lifestyle and Small Settlement' locations does not apply to the Arawa Road small settlement because a) it is not urban (addressed above) and b) it is not subject to spatial delineation indicating future growth within the FDS.
145. Ms Mark further says (of the relevance/reliance on the 500-share of dwelling growth) that *"this does not make sense as the FDS does not identify any small settlements for expansion. Instead, the reason for identifying the ability of these existing locations to add 500 dwellings is to assist in understanding what capacity would still be needed to be provided elsewhere"*.
146. This is flawed in my view for the following reasons:
- (a) The FDS openly acknowledges it does not provide sufficient capacity required;
 - (b) It is clear that section and dwelling growth trends in Pongakawa will not keep up with expected demand (as calculated by Mr Counsell's) –

Pongakawa delivered 52 lots between 2018-2023⁵⁵, a rate of 10 lots per year. A rate of 28 lots/year would be needed in the area to keep pace with demand as calculated by Mr Counsell.

- (c) This is the unique but highly relevant instance within the FDS (outlying small settlements/rural areas with the potential to provide supply) not stipulating exactly where every iota of dwelling development will be located.
- (d) There is no recognition of the FDS incorporating a 'responsive planning' principle of ensuring responsivity and agility of the FDS settlement pattern (whilst ensuring the Connected Centres approach is not compromised)⁵⁶.

147. For the reasons discussed above I maintain my opinion that whilst the FDS does not spatially define Pongakawa, the proposed development of the Arawa Road centre would conform to the Connected Centres principles, as well as the intent of the FDS for some growth demand to be met in undefined rural areas and small settlements⁵⁷. The proposal would be consistent with the FDS in my opinion when accounting for the fact it recognises insufficient housing supply has been identified, and the plan change site is within the market of Te Puke or alternatively Paengaroa/Rangiuru being existing or planned urban environments.

Consistency with Section 3.6.1 of the NPS-HPL

148. WBOPDC detail in Topic 2 their reasons for finding that the three tests within Clause 3.6.1(a) needing satisfaction to allow the plan change with respect to highly productive land loss are not met. These are responded to below⁵⁸.

⁵⁵ Page 102, Smartgrowth Strategy 2024-2074.

⁵⁶ Page 163, Ibid.

⁵⁷ Smartgrowth Strategy 2024-2074, page 152 – 500 dwellings anticipated across short-long terms.

⁵⁸ Refer to paragraph 10.50 summarising this assessment, s.42A report.

149. *Clause 3.6(1)(a) - is not achieved by the Plan Change, it is not part of or wholly an urban environment, it is not required to provide sufficient development capacity to give effect to the NPS-UD.*

Comment: The position outlined above is not the case based on the expert evidence of Mr Counsell confirming the site and Pongakawa residential settlement at Arawa Road is part of two (existing and planned) urban environments – Te Puke, and a closer Paengaroa/Rangiuru Business Park/Future Eastern Centre, if Te Puke is determined to be excluded from the larger market. As such, I maintain 3.6.1(a) is satisfied as the proposal delivers housing to urban environments with insufficient housing supply.

150. *Clause 3.6(1)(b) – while further information has been provided to clearly define the locality and market for this clause it is not agreed that this has been done correctly. Pongakawa and Te Puke are not part of the same locality and market, therefore the applicant’s analysis of there being no other reasonably practicable and feasible options is flawed. It is also not agreed that comparison of paddock level analysis of the LUC classification with regional level LUC classifications is correct.*

Comment: The issue of locality and market has been traversed above, I rely on the expert evidence of Mr Counsell clearly illustrating this position. The matter of comparison of paddock-scale data to desktop data has been considered in the evidence of Mr Perry, who upholds a conclusion that the loss of PC95 would be less adverse from a land productivity perspective in comparison to other reasonably practicable and feasible expansion options in the same locality and market.

151. *Clause 3.6(1)(c) – The analysis of how this clause has been met is inadequate, robust analysis of economic costs and benefits and specifics around costs and benefits both tangible and intangible across the four wellbeing’s has not been provided.*

Comment: A revised analysis clearly considering cost and benefits (tangible and intangible) as relevant to the four wellbeings as required by this clause, is included with this evidence at **Appendix D**. This demonstrates a clear outweighing of benefits against costs in my view having regard to all wellbeings. A degree of financial quantification of this has been undertaken by Mr Counsell's suggesting less than \$600,000 of profit from farming the land would be foregone against benefits of \$8 million to the community over a twenty year period.

152. For the reasons discussed above, and elsewhere in this evidence concerning 3.6 of the NPS-UPL, I maintain disagreement with Ms Mark on this matter and am of the opinion Clause 3.6.1(a)-(c) are satisfied so as to allow the plan change in respect of the highly productive soil to be removed from use within the PC95 site.

Proposed Rule Amendments

153. I have reviewed proposed amendments to rules since notification as detailed in the s.42A report. These are very similar to the amended rule set provided to WBOPDC in April 2024 reflecting amendments to the proposal in responses to submissions.
154. The only material change I identify from that previous rule set is a lack of dual options for water supply included in stage pre-requisites concerning water supply. The proposed rule requires a pipe upgrade along SH2, with no flexibility for reliance on a reservoir solution. I have addressed above the engineering assessments of this reflecting superior performance and resilience, and as such agree with Ms Mark on this proposed wording change.

155. There are some incorrect references to stage numbers in the rules as notified with the s.42A report however this can be readily addressed in final editing of proposed rules.

Other s 42A Comments

156. There are some mis-representations in the s 42A report in my view I wish to clarify:
- (a) The lack of a submission on Plan Change 92 does not preclude the finding that other urban areas in the same market as Te Puke affect that urban environment. I therefore question the relevance of the mention of this at paragraph 9.21.
 - (b) I consider the discussion of 'urban environment', at paragraphs 9.22 and then again at 9.41, and conflation of a separate description of rural amenity values, mis-placed. The description of rural amenity values has been extracted from a discussion of effects upon the amenity of rural properties, and placed into a context of whether or not the site is urban or part of an urban environment.
 - (c) Paragraph 9.68 discusses an incorrect calculation of density. Ms Mark's assessment only considers the existing Arawa Road settlement, not in conjunction with the proposed development, where overall the relevant density of one dwelling per 1000m² would be achieved.

Conclusion

157. Plan Change 95 would deliver dwellings and social infrastructure provision to a location where demand is predicted, within a market that has been independently determined to be part of WBOPDC urban areas suffering from a housing shortage to the tune of 2590 dwellings right now. This only grows to 2700 dwellings of shortage once all targeted growth allocations in the district are exhausted.

158. This growth in demand for dwellings is reinforced by numerous submitters 'on the ground' in the wider Te Puke area and their support of the application. Not least from substantial conversion of dry/dairy farming land to horticultural land east of Te Puke in recent years. Over 1000ha has been converted in this location since 2012. Pongakawa is central to this growth in orchards, which are also predicted to increase in output by 56%.
159. I am of the view the Arawa Road settlement to be consolidated and expanded is urban, part of an urban environment (suffering from housing shortage) due to its relationship with Te Puke and Paengaroa, and therefore is entertained by the provisions of the NPS-UD as a location for unanticipated growth.
160. This is supported by consistency with relevant BOP RPS policy relating to unanticipated development affecting urban environments, even if 'from afar' or detached, a point on which I disagree with the WBOPDC s.42 assessment on.
161. The loss of productive land accompanying the plan change has been expertly determined to be insignificant, and the least-cost to productivity in the District. Reasonably practicable and feasible alternatives such as expansion of Te Puke or Paengaroa settlements have been expertly determined to be more highly adverse.
162. The plan change proposal, as secured through proposed wording, would ensure appropriate mitigation of adverse environmental, social, economic and cultural effects, with support from tangata whenua being received for the project.
163. For the reasons as traversed in this evidence, I am therefore of that statutory (s. 32 and s. 74) and relevant non-statutory planning considerations are appropriately addressed and satisfied by the proposal.

Vincent Murphy
24th October 2024

Appendix A – Structure Plan Drawings

Appendix B – Proposed Rules

Appendix C – Statutory Framework Assessment Table (BOP RPS)

Appendix D – NPS Clause 3.6.1(c) Costs and Benefits Assessment Table