

**BEFORE THE INDEPENDENT HEARINGS PANEL APPOINTED BY THE
WESTERN BAY OF PLENTY DISTRICT COUNCIL**

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

AND

IN THE MATTER of Proposed Private Plan Change
95 to the Western Bay of Plenty
District Plan First Review –
Pencarrow Estate, Pongakawa

**STATEMENT OF EVIDENCE IN REPLY OF ABIGAIL LOUISE MARK ON
BEHALF OF WESTERN BAY OF PLENTY DISTRICT COUNCIL
(PLANNING)**

22 November 2024

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INTRODUCTION

1. My name is Abigail Louise Mark.
2. My qualifications and experience are detailed at page 3 of the Introduction section of the Section 42A Report for Private Plan Change 95 (PPC95) dated 11 October 2024 (the **Section 42A report**).
3. As also recorded in the Section 42A report, I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023 and I agree to comply with it. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where I state I am relying on the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from my expressed opinion.

SCOPE OF RESPONSE STATEMENT

4. I prepared the Section 42A report. This reply statement formalises the right of reply that I presented verbally to the Panel at the hearing on 14 November 2024.
5. This statement responds to new information provided from the Applicant and the evidence circulated on behalf of the submitters (both in writing and at the hearing on 13 and 14 November) as it relates to the topics that I addressed in the Section 42A report.
6. For completeness I record that I have reviewed the following statements of evidence provided by the Applicant in response to the Section 42A report:
 - (a) Kevin and Andrea Marsh - Statement of Evidence - Applicant
 - (b) Richard Coles - Statement of Evidence - Planning
 - (c) Peter Cooney - Statement of Evidence - Developer
 - (d) David Hamilton - Statement of Evidence - Developer
 - (e) Craig Haggio - Statement of Evidence - Pongakawa School

- (f) Sue Matthews - Statement of Evidence - Paengaroa Community Association
 - (g) Kirsty Garrett - Statement of Evidence - Cycleways
 - (h) Joel Perry - Statement of Evidence - Land Productivity
 - (i) Daniel Hight - Statement of Evidence - Stormwater/Infrastructure
 - (j) Kirsten Brown - Statement of Evidence - Wastewater
 - (k) Bruce Harrison - Statement of Evidence - Traffic
 - (l) Kevin Counsell - Statement of Evidence - Economics
 - (m) Vincent Murphy - Statement of Evidence – Planning
7. I have reviewed the following statements of evidence provided by the submitters:
- (a) Neville and Jill Marsh (Submitter 11)
 - (b) Michael Maassen (Submitter 12)
 - (c) Mark Boyle (Submitter 13)
 - (d) Waka Kotahi / NZTA (Submitter 26)
 - (e) BOP Regional Council (Submitter 27) - Hamish Dean - Ecology Evidence
 - (f) BOP Regional Council (Submitter 27) - Lucy Holden - Planner Evidence
 - (g) BOP Regional Council (Submitter 27) - Sue Southerwood - Stormwater Evidence
 - (h) Paul Hickson (Submitter 30)
 - (i) Scott Adams (Submitter 32)
 - (j) Robyne Cooper (Further Submitter 41)
8. I have reviewed the following reply evidence:

- (a) Vincent Murphy - Reply Evidence - Planning
- (b) Richard Coles - Reply Evidence - Planning
- (c) Bruce Harrison - Reply Evidence - Traffic
- (d) Daniel Hight - Reply Evidence - Engineering, Flooding, Natural Hazards
- (e) Kirsten Brown - Reply Evidence - Wastewater

9. I cover the following topics in this statement:

- (a) Topic 1 – Whole of Plan Change
- (b) Topic 2 – Settlement Pattern
- (c) Topic 3 – Highly Productive Land
- (d) Topic 4 – Natural Hazards
- (e) Topic 5 – Transportation
- (f) Topic 6 – Water Supply
- (g) Topic 7 and 8 – Wastewater and Stormwater
- (h) Topic 9 – Recreation
- (i) Topic 10 – Ecological
- (j) Topic 12 – Reverse Sensitivity
- (k) Current District Plan Rules relating to Tangata Whenua values

10. This response statement sets out where, in light of new information provided through the Applicant and Submitter evidence, a recommendation has changed or not. It also responds in some cases to specific evidence points where new information has been provided and where I believe it is necessary to provide clarification in reply.

SUMMARY OF RECOMMENDATIONS

11. PPC95 proposed changes to Section 12 – Subdivision and Development, Section 13 – Residential, Section 19 – Commercial and Appendix 7 – Structure Plans of the District Plan.
12. For Section 12 – Subdivision and Development, I am recommending changes in reply to evidence. These are shown in **Attachment A** which is a ~~strikeout~~ / underline version identifying changes at various stages of the Plan Change process. This shows notified text in black, recommendations from the Section 42A report in red, Mr Murphy’s requested changes from 14 November in blue and my further recommendations in green based on my evidence below.
13. **Attachment B** is the clean version of the PPC95 Section 12 provisions showing the rules as they would appear with all updates.
14. My recommendations from the Section 42A report are unchanged with respect to Section 13 – Residential and Section 19 - Commercial.
15. For Appendix 7 – Structure Plans, my recommendations from the Section 42A report largely remain unchanged except in response to evidence I now recommend that:
 - Structure Plan, “Pencarrow Estate Pongakawa - General Layout & Infrastructure” and “Pencarrow Estate Pongakawa - Infrastructure Staging Plan” are amended to shift the location of overland flow path 1 to the boundary of the PPC95 site. As shown in the Structure Plan Maps supplied by Mr Murphy 14 November 2024.
 - Structure Plan “Pencarrow Estate Pongakawa - General Layout & Infrastructure”, Pencarrow Estate Pongakawa - Landscaping Plan and “Pencarrow Estate Pongakawa - Infrastructure Staging Plan” is changed to remove the shelterbelt along the edge of Stage 3 next to the paper road portion of Arawa Road. As shown in the Structure Plan Maps supplied by Mr Murphy on 14 November 2024.

TOPIC 1 – WHOLE OF PLAN CHANGE

16. The recommendation set out in the Section 42A report was to decline PPC95.

17. My recommendation to decline remains on the basis of the following:
- (a) PPC95 does not align with the National Policy Statement on Urban Development (**NPS-UD**), SmartGrowth Strategy 2024-2074, Future Development Strategy (**FDS**), Housing and Business Capacity Assessment (**HBA**) and the Bay of Plenty Regional Policy Statement (**RPS**) (including Change 6).
 - (b) The National Policy Statement for Highly Productive Land (**NPS-HPL**) tests in clause 3.6(1) (a-c) for rezoning land from rural to urban have not been met and PPC95 does not give effect to the NPS-HPL.
 - (c) The wastewater system is not proven to be viable in the PPC95 location, should not be left to resolve at the resource consent stage, and is an inefficient use of local authority financial resources.

TOPIC 2 – SETTLEMENT PATTERN

NPS-UD

18. It remains my opinion that the existing settlement at Arawa Road, with or without the addition of PPC95, is not an urban environment as defined by the NPS-UD nor is it part of one. It is not “predominantly urban in character” nor intended to be “part of a housing and labour market of at least 10,000 people”. It is predominantly rural in character and based on the evidence of Mr Colegrave it is not part of the housing and labour market of Te Puke. Therefore, the NPS-UD does not apply to the proposal. I note that despite the Applicant’s experts often saying “urban” that the lay submitters who spoke in support of the development (for example Ms Matthews and Ms Cooper) often described the area as rural and referred to the considerable distance to Te Puke. Also, submitters in opposition who are residents talk about moving there to enjoy rural amenity.
19. The evidence of Mr Coles and Mr Murphy referred to various definitions to counter my assessment in the Section 42A report that the existing settlement is not urban in character. I do not consider that the definitions used are helpful such as the reference to s76(4C) which was inserted into the RMA specifically in relation to clauses in respect of scheduled trees.

20. In paragraph 79 of Mr Coles' evidence, he disagrees that PPC95 would cause a precedent effect if approved and draws attention to the settlement having existed since the 1950s. However, this appears to be a misunderstanding of the Section 42A report. The Section 42A report was responding to the Applicant's view that the area could be "intended to be" predominately urban in character by including proposed PPC95 to support the Applicant's argument for an urban environment. It remains my opinion that "intended to be" refers to the intentions of the local authority such as through the FDS which does not identify Pongakawa for growth.
21. In paragraph 135 of his evidence, Mr Murphy appears to misunderstand part of the discussion in the Section 42A report relating to whether PPC95 could be "affecting or contributing to another area which is an urban environment". As a matter of clarification, the report refers to a possible suggestion that PPC95 could still be provided for by the NPS-UD, even if not part of an urban environment, if it affected or contributed to an area that was deemed an urban environment. The Section 42A report was not discussing the subject of "housing and labour market" which Mr Murphy has commented on in return.

HBA / FDS

22. Mr Coles suggested in paragraph 44 of his evidence that the HBA demonstrates a shortage of housing in the short, medium and long term. This is not correct for the Western Bay of Plenty District. The HBA (Table 4-17a on page 105) identifies a housing shortfall in the medium and long term for the Western Bay of Plenty District. There is not a shortfall identified in the short term in the HBA.
23. Mr Murphy also refers to a housing shortage. To assist the Panel, I note that there is a difference between sufficient development capacity and housing shortage. Development capacity is defined in the NPS-UD. The identification and provision of sufficient development capacity are matters addressed in the preparation of the HBA and FDS.
24. In other parts of his evidence, Mr Murphy (see paragraphs 51, 69, 95 and 159) appears to focus more specifically on Te Puke as having a housing shortage. The specific housing demand for Te Puke is not identified in the HBA however the HBA states (page 99) that the development capacity of Te Puke will be sufficient to meet demand until 5 years into the long term

(2037). At this point, it will then require the Generation 4 areas to be plan enabled and infrastructure ready. The Generation 4 areas are shown in Figure 4-6 on page 96 of the HBA.

25. In paragraph 146(a) of his evidence, Mr Murphy states that the FDS openly acknowledges that it does not provide sufficient development capacity. I disagree. While the housing shortfall is acknowledged, the FDS also states (page 152) the following:

“It is estimated that between 37,000 and 43,000 new homes will need to be built over the next 30 years within the western Bay of Plenty sub-region to meet housing demand”

26. The FDS then goes on to demonstrate sufficient capacity for 30 years of growth to 35,380 – 43,380 additional dwellings across the subregion (page 157). To be clear there has been a housing shortfall identified in the FDS, but not an identified shortfall in the ability to provide development capacity.
27. Mr Murphy also states in paragraph 146(d) of his evidence that there is no recognition of responsive planning in the FDS. This is incorrect as page 163 of the SmartGrowth Strategy relates to, and is titled, “Responsive planning”. Response planning in the FDS focuses on the connected centres settlement pattern which Pongakawa and the PPC95 site are not included within, or consistent with.
28. Mr Coles in paragraph 58 states that planning around smaller settlements has been left to each council to promote plan changes and references the SmartGrowth panel deliberations of 19 March 2024 (p38). The table referred to by Mr Coles refers to the advantages and disadvantages of Option 7(3)A which is “Make no changes to the strategy to include additional residential areas in the East (Recommended)”. The table lists mostly advantages. This includes aligning with the Long Term Plan, providing certainty, aligning with evidence-based decisions, lowering risk of developments that do not align with connected centres and because the areas at Paengaroa and Pongakawa “do not meet the definition of urban environment under the NPS-UD”.
29. Regarding the SmartGrowth Strategy 2024-2074 there are two matters in which I wish to clarify. These are the “No Go” Layer and the Connected Centres approach. I have discussed these matters directly with my

colleague Ms Miller (Council's Strategic Advisor Resource Management) who leads the SmartGrowth work programmes for WBOPDC.

30. In paragraph 16 of Mr Murphy's evidence, he refers to the PPC95 site not being in the "No Go" layer. As shown on Map 18 of the FDS the No Go area layer shows 'important environmental, cultural and heritage values' as well as 'Areas at risk from coastal or inner harbour erosion'. The purpose of the No Go layer is therefore to show what land is affected by these constraints. Being free of these constraints however does not infer a suitable location for urban development from a strategic growth planning perspective, as evidenced by the site being excluded from the FDS. Further the "Go Carefully" layer is also provided in the strategy (page 59 to 63). This again relates to constraints and is not related to strategic growth suitability.

31. Paragraphs 16, 84(c) and 92 of Mr Murphy's evidence refer to PPC95 delivering on the connected centres approach. I disagree with Mr Murphy's conclusion. The connected centres approach should be thought of as part of the larger scale settlement pattern, as it is about identified growth areas. Within the eastern corridor it is Te Puke, the future Eastern Centre and the Rangiora Business Park identified as being able to deliver the connected centres principles. Refer Figure 12 on page 44 of the SmartGrowth Strategy which contains the connected centres approach in a diagram. I also note that the Connected Centres approach has two core concepts (page 43 and outlined below). I do not agree that PPC95 aligns with these concepts:
 - (a) The first is increasing the number of dwellings by intensifying existing urban and new growth areas.
 - (b) The second is being able to access local social and economic opportunities within a 15-minute journey time (walking or cycling), and sub-regional social and economic opportunities within 30–45 minutes.

RPS

32. I agree with Ms Holden of the Bay of Plenty Regional Council that PPC95 is not consistent with the RPS with respect to policy UG 7A (providing for unanticipated or out-of-sequence urban growth - urban environments) or

Policy UG14B (restricting urban activities outside urban environments). As set out in the Section 42A report (page 25-28), in my opinion Policy UG 7A is not applicable as PPC95 is not an urban environment and Policy UG 14B is not met due to infrastructure inefficiency and the use of finite land resources.

33. I have relied on the evidence of Mr Crummer, regarding the cycleways referenced and relied upon by the Applicant, that there are limitations to the realisation of these projects. There is no certainty if, or when, the cycleway project will be delivered.
34. Mr Murphy answered a question that was asked from the Panel regarding how to realise the development density being aimed for. Mr Murphy highlighted the “maximum average” per lot that is built into the rules and advised that this would help to ensure smaller lots and therefore more housing. However, I note that this “maximum average” is only provided for in Density A (shown in the tables under rules 13.3.2.b for more than one dwelling per lot and 13.4.2.a for subdivision). It is not in the requirements for Density B, which means for this area, that developers could still provide a lower housing density or much larger lot sizes if they chose to. This does not therefore guarantee the housing yield of 120-130 dwellings.

TOPIC 3 – HIGHLY PRODUCTIVE LAND

3.6(1)(a) – Sufficient development capacity to give effect to the NPS-UD

35. The Section 42A report recommendation is that the first test of the NPS-HPL is unable to be met as the PPC95 site is not required to provide sufficient development capacity to give effect to the NPS-UD. Based on the evidence of Fraser Colegrave and my comments above, I remain of this opinion and there is no change to this recommendation.
36. Mr Colegrave has also identified his concerns with the Pongakawa specific demand calculations provided by Mr Counsell on behalf of the Applicant. In Mr Colegrave’s opinion there is no evidence to suggest that there is specific demand for the PPC95 site.
37. Mr Murphy in paragraph 69 of his evidence contends that PPC95 would be contributing housing supply in the same “market” as Te Puke. Development capacity for Te Puke is specifically identified in the HBA to

be provided until 5 years into the long term (page 99) before Generation 4 areas would need to be plan-enabled. This is further reinforced through the FDS which states that more capacity than anticipated has been provided through Plan Change 92 (Ōmokoroa and Te Puke Enabling Housing Supply) (page 156).

3.6(1)(b) – No other reasonably practicable and feasible options

38. My recommendation provided in the Section 42A report has not changed. In my opinion while the Applicant has provided further evidence, given the further comments from Mr Colegrave and Mr Ford, I do not consider the Applicant has been able to demonstrate that there are no other reasonably practicable and feasible options.
39. Mr Ford has identified concerns with Mr Perry's conclusion that the PPC95 site is an inferior site in terms of its LUC status. This is based on the statistical analysis of the LUC classes in the areas assessed.
40. Also, I note that Mr Perry in paragraph 63(a) of his evidence (and when he gave evidence at the hearing) that he has removed options for areas of land with "lower versatility" (than the PPC95 site) that are on the fringes of Te Puke and Paengaroa where they are already producing kiwifruit. Whilst he believes that kiwifruit orchards are unfavourable for residential development due to the land already being optimised for production and involving significant investment, this is not always the view of the landowners.
41. For example, there are property owners such as at 22 Landscape Road, Te Puke which currently crop kiwifruit but who had requested a change of zone from Rural to Medium Density Residential through Plan Change 92 (Ōmokoroa and Te Puke Enabling Housing Supply). At that time there was not sufficient information from the submitter regarding consultation, servicing, effects and highly productive land etc to support inclusion in that Plan Change, but it is an example of kiwifruit orchard land where residential development is at least being considered.
42. I also note that the Panel asked a question of Joel Perry regarding flood plains and the discounting of these areas from his assessment. My only comment here is that houses can still be built in a flood hazard layer under the plan as a restricted discretionary activity (Rule 8.3.3.c). It is not

prohibited. Matters of discretion (Rule 8.5.1.3) focus on minimum floor levels (500mm above flood level for dwellings) and managing the effects of activities such as dwellings/buildings and earthworks (over 5m³) on ponding areas and flowpaths. In summary, development is still enabled subject to careful measures. Subdivision within a flood hazard layer is a discretionary activity (Rule 8.3.4.c).

43. In terms of other potentially reasonably practicable options, the Future Urban Zone in the District Plan (some of the Generation 4 Area referred to in HBA, (page 99)) in Te Puke has been included in the analysis by Mr Perry in relation to its LUC. This is an area that would not meet the definition of Highly Productive Land in the NPS-HPL due to the fact it has already been identified for future urban development. Therefore, it could be considered under 3.6(2)(b) – rezoning land that is not HPL as urban.
44. If Te Puke was considered to be in the same locality and market as the PPC95 site, as the Applicant's experts suggest, it follows that the capacity created by rezoning this land (as per 3.6(2)(b)) to Medium Density Residential could be a reasonably practicable option for providing the development capacity required in that same market. This same Future Urban Zone is an area that the HBA and FDS identify as a means for meeting the development capacity requirements in the long term (set out in HBA for Te Puke specifically) and the medium term (set out in the FDS).

3.6(1)(c) - Environmental, social, cultural and economic benefits / costs

45. My recommendation in the Section 42A report has not changed for this clause, on the basis that the evidence does not establish that PPC95 meets the test. I rely upon Mr Colegrove's evidence in reaching my recommendation on this clause.
46. Mr Colegrave has provided an assessment of Mr Counsell's economic cost benefit analysis and concludes that the evidence does not conclusively demonstrate the economic benefits outweigh the costs.
47. Mr Murphy has provided an analysis of the costs and benefits. It appears to be a consolidation of matters that have been provided and responded to throughout my Section 42A Report.

TOPIC 4 – NATURAL HAZARDS

48. The updated Structure Plan provided in Mr Murphy's evidence and in the Structure Plan provided on 14 November 2024, has sought to address the recommendation of the Section 42A report in regard to providing for evacuation routes, whereby overland flow path 1 has been moved to the edge of the site. This addresses the evacuation concerns outlined in my report.

TOPIC 5 –TRANSPORTATION

49. WBOPDC Transportation Engineer Samantha Pendergast has advised that the rules recommended in the Section 42A report in relation to Arawa Road (as a local road) are adequate to address transportation matters at the District Plan Change level (leaving detailed design to the implementation phase).
50. Waka Kotahi tabled additional requirements (letter dated 4 November 2024) which they have requested to be included in the structure plan prerequisites with regard to the State Highway 2 intersection with Arawa Road.
51. Mr Murphy has requested amendments to the proposed notified PPC95 rules to address Waka Kotahi's concerns. I have reviewed this and agree with Mr Murphy's changes (which are included in the provisions in Attachment A).
52. In Attachment A and B under Stage 3 Roding and Access, I have also made an update to remove the reference to "or successor document". I have made this change to be consistent with how the Development Code is currently referred to in the District Plan.

TOPIC 6 – WATER SUPPLY

53. The Section 42A report recommends that the water supply should be provided via an upgrade to the existing pipe infrastructure (Option 1) rather than onsite reservoirs and pump arrangement (Option 2). This has been agreed to by both Mr Hight (paragraph 31) and Mr Murphy (paragraph 154) for the Applicant.

54. I note in the PPC95 provisions circulated by Mr Murphy on 14 November 2024 that the reservoir option has not been removed from Stage 2 and 3. The amendments in Attachment A show the rules as recommended in the Section 42A report.

TOPIC 7 and 8 – WASTEWATER AND STORMWATER

55. I rely on Mr Abraham's expertise with regard to wastewater and stormwater which highlights outstanding concerns with wastewater and stormwater, that in my view, should be resolved at the plan change stage. This includes those matters set out in Mr Abraham's statement of reply evidence dated 22 November 2024 in response to the Commissioners' questions.
56. Ms Holden for the Bay of Plenty Regional Council has proposed stormwater rules to be included in the District Plan (Appendix 1 of Ms Holdens evidence). She has relied on the evidence of Sue Southerwood, also Regional Council, in proposing these rules. I note Mr Murphy has added these rules in his updated PPC95 provisions circulated on 14 November 2024. I agree in principle to these rules but have a number of proposed changes to these provisions found in "All Stages" (see **Attachment A and B**). With these changes I am of the view that PPC95 has addressed this specific matter.
57. I have suggested changes to both the stormwater and wastewater provisions. My changes to the wastewater provisions may still need further adjustment once the fundamental concerns of Mr Abraham are addressed. My changes to the stormwater and wastewater provisions (as shown in Attachment A and B) include:
- (a) Changing the reference to the "plans including notes" in the Structure Plan to make it clear these are the specific notes relating to requirements.
 - (b) Rearranging the rule proposed by Ms Holden to improve readability.
 - (c) Confirming the 10-year storm event to be climate change adjusted.
 - (d) Managing stormwater conveyance from private properties to address concerns around this raised by Mr Abraham.

- (e) Reference to groundwater monitoring, to address some of the concerns raised by Mr Abraham.
- (f) Consistency changes to ensure the wastewater system is installed to a design that is approved by Council (in Stages 1, 2 and 3).
- (g) Consistency change to ensure the qualification around “Deviation from these ...” is included in Stage 3 to match Stage 1 and 2.

TOPIC 9 – RECREATION

58. The recommendation of the Section 42A report that reserves within the PPC95 site should be retained and shown in the Structure Plan has not changed. I have included this recommendation from the Section 42A report in the version of proposed PPC95 provisions circulated by Mr Murphy and updated in Attachment A.

TOPIC 10 – ECOLOGY

59. The evidence of BOPRC (Hamish Dean) had recommended the increase of the riparian buffer area which the applicant supports and so do I. My recommendation from the Section 42A report and the increase in buffer to 8m is included in the version of the provisions circulated by Mr Murphy on 14 November 2024.

TOPIC 12 – REVERSE SENSITIVITY

60. My recommendation in the Section 42A report agreed with all of the reverse sensitivity measures except the shelterbelt along the paper road portion of Arawa Road. The Structure Plan presented by Mr Murphy on 14 November 2024 has included this recommendation.

CURRENT RULES RELATING TO TANGATA WHENUA VALUES

61. The Commissioners asked a number of questions of the Applicant's witnesses in relation to how the plan change includes provisions which relate to tangata whenua values. In response to these questions, I consider it may assist the Panel to see some existing examples of where the District Plan currently has provisions that specifically include iwi/hapu input.

- (a) Section 18 – Rural – Significant issues

The need and desire of tāngata whenua to exercise rangatiratanga and kaitiakitanga and to actively protect cultural values over their ancestral land, and to live on and develop their own land.

- (b) Appendix 7 – Structure Plans – the Ōmokoroa Structure Plan has a requirement for hapu to be directly involved in earthworks monitoring.
- (c) Section 14A – Medium Density – there are rules for Ōmokoroa that require the cultural landform to be protected.
- (d) Section 4A – General – Information requirements with applications – there is a requirement to identify tangata whenua and Treaty issues.
- (e) Section 24 – Natural Open Space – has matters of discretion.

The potential adverse effects on the natural character, ecological, cultural, recreational and amenity values of the area and how these may be avoided, remedied or mitigated.

62. There are no specific rules in Section 12 – Subdivision and Development or Section 13 - Residential (which would apply to development under PPC95) specific to cultural values / tangata whenua values. However, the above examples are to indicate it would not be out of place to include such a provision specifically for PPC95.

SUMMARY

63. In summary my overall recommendation to decline PPC95 on the basis of Settlement Pattern, Highly Productive Land and Wastewater is unchanged for the reasons set out in the Section 42A report and this reply evidence.

Abigail Louise Mark
22 November 2024

Attachment A - Strikeout/Underline Version

Chapter 12 – Subdivision and Development - Proposed Amendments

The below are proposed as new rules to be added to Chapter 12, below the most recent Structure Plan introduced to the District Plan (Rule 12.4.23 – Washer Road Business Park Structure Plan). This would therefore be a new section, Rule 12.4.24 – Pencarrow Estate Pongakawa Structure Plan.

Key:

- Black text shows the notified proposed rules.
- ~~Red underline and red-strikeout~~ are the amendments recommended in the Section 42A report.
- ~~Blue underline and blue-strikeout~~ are the amendments requested by Mr Murphy 14 November 2024.
- ~~Green underline and green-strikeout~~ are the further amendments recommended by Abi Mark 22 November 2024.

12.4.24 Pencarrow Estate Pongakawa Structure Plan

12.4.24.1 General

- a. Any subdivision or development (including delivery of stage pre-requisites) of land zoned Residential or Commercial within the Pencarrow Estate Pongakawa Structure Plan shall be undertaken in general accordance with that structure plan (~~including notes about specific requirements~~) as set out in Appendix 7 – ~~Structure Plans (plans including notes)~~ and in the Pencarrow Estate Pongakawa Structure Plan Stage Prerequisites below.
- b. All roofs of buildings constructed in the Pencarrow Estate Pongakawa Structure Plan Area within lots adjoining a Rural Zoned site, or above one storey in height, shall be of a finish with a reflectivity (Light Reflectance Value) of no greater than 37%, measured and determined in accordance with AS/NZ Standard 1580.

12.4.24.2 Staging Details

- a. Subdivision or development of land within the Pencarrow Estate Pongakawa Structure Plan shall occur sequentially in that Stage 1 shall be completed prior to, or at the same time, as Stages 2 and 3.
- b. Subdivision to create separate lots that reflect the boundaries of the Pencarrow Estate Pongakawa Structure Plan area (in its entirety or individual stages), including prior to the delivery of any stage pre-requisites, is a Controlled Activity.

Council shall exercise control over the following:

- i) The new lot(s) to be established shall be generally consistent with the boundaries of the structure plan area or individual stages.
- ii) Provision of legal and physical access to all proposed lots.

12.4.24.23 Pencarrow Estate Pongakawa Structure Plan – Stage Prerequisites

Stage **Prerequisites to subdivision 224 certificate being granted or to land use or building consent activity being established**

[The pre-requisites below in part correspond to details on Pencarrow Estate Pongakawa Structure Plan drawings, see Appendix 7 – Structure Plans, Section 13 – Residential of the District Plan.](#)

All Stages

Stormwater

In events up to the 10-year storm event, all site stormwater, except stormwater from grassed yards, berms and roads, will discharge via reticulation to ground soakage.

In events up to the 10-year storm event, stormwater from grassed yards, berms and roads will be conveyed to the stormwater treatment wetland.

Beyond the 10-year storm event, stormwater from roads will pipe to a vegetated swale, which will discharge to the stormwater treatment wetland.

An engineering design report, prepared by a suitably qualified chartered civil engineer, shall be provided to Council to demonstrate compliance with: i. 12.4.24.3 a, b, and c ii. Relevant stormwater sizing details iii. Detailed engineering design drawings

An engineering design report, prepared by a suitably qualified chartered civil engineer, shall be provided to Council to demonstrate compliance with:

- a. In events up to the 10-year storm event (climate change adjusted), all site stormwater, subject to post earthworks groundwater testing, except stormwater from grassed yards, berms and roads, will discharge via reticulation to ground soakage.
- b. In events up to the 10-year storm event (climate change adjusted), stormwater from grassed yards, berms and roads will be conveyed to the stormwater treatment wetland.
- c. Beyond the 10-year storm event (climate change adjusted), stormwater from roads and private property will pipe to a vegetated swale, which will discharge to the stormwater treatment wetland.
- d. Relevant stormwater sizing details
- e. Detailed engineering design drawings

Stage 1

Roading and Access

- Intersection of Arawa Road and State Highway 2, and Arawa Road carriageway to the vehicle entrance to the plan change site, to be upgraded generally in accordance with the concept 'Pencarrow Estate – Arawa Road/SH2 Intersection Upgrade', refer to preliminary design at Appendix 7, Section 13.5 of the District Plan, or alternative design approved by to the satisfaction of Waka Kotahi for the State Highway, and to the satisfaction of Council for the balance of Arawa Road.
- Footpaths and roads formed within Stage 1, in accordance with the Council's Development Code ~~(or successor document)~~ and as approved by Council.
- Footpath to frontage of Commercial Zone to be provided.
- Pedestrian and vehicular access to, the Bus stop established within, the Commercial Zone meeting design requirements of Council's Development Code or alternative design approved by Council. ~~(or successor document).~~

Stormwater, Wastewater and Water Infrastructure

~~Following proposed design recommendations within the Engineering Servicing Report prepared by Lysaght Consultants (reference 225216 Rev 2 dated 1/9/2022):~~

- Stormwater ~~pond~~ wetland installed in identified reserve location, formed and planted.
- Stormwater conveyance infrastructure within Stage 1 installed.
- Construction of overland flowpaths within Stage 1 Overland Flow Path 2, formed and planted.
- Installation and Preparation of wastewater disposal field and supporting infrastructure to a design approved by Council of adequate size to service the number of lots within Stage 1.
- Water mains ~~and reservoirs (if necessary)~~ of sufficient pressure capacity to service all lots within Stage 1 inclusive of firefighting requirements. This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road (a 2.1km long length of watermain) to a 250mm OD MDPE main.

Commented [AM1]: My changes to the wastewater provisions may still need further adjustment once the fundamental concerns of Mr Abraham are addressed.

Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably qualified chartered civil engineer, and as approved by Council.

Landscaping and Reserves

- Landscaping mitigation measures within and at the boundary of Stage 1, including in Reserve to Vest, established in general accordance with the structure plan landscaping plan. inclusive of proposed trees. Tree planting to adhere to minimum applicable requirements specified within Pencarrow Estate Structure Plan Drawing No. 004 – Tree Planting
- There shall be no buildings or structures within the 8m 6m Riparian Reserve and 4m Landscape Buffer

Reverse sensitivity

Prior to Stage 1 being completed, all effluent pond and storage infrastructure within the Pencarrow Estate Pongakawa Structure Plan area shall be relocated so as to be west of the north-western boundary of the structure plan area, and north of the existing milking shed and stock pad.

Commercial Land

The commercially-zoned land shall be established and available for future commercial and community service activities.

Stage 2

Roading and Access

- New roads and footpaths within Stage 2 constructed, in accordance with the Council's Development Code ~~(or successor document)~~ and as approved by Council.

- Footpath connection between Arawa Road to internal roads through to 'Village Green' established Stage 2 Road and Stage 1 Road to complete the connection to the stormwater pond reserve detailed in the structure plan.
- Footpaths following 'Pedestrian Connection' structure plan requirements within Stage 2

Stormwater, Wastewater and Water Infrastructure

Following proposed design recommendations within the Engineering Servicing Report prepared by Lysaght Consultants (reference 225216 Rev 2 dated 1/9/2022):

- Stormwater conveyance infrastructure within Stage 2 installed.
- Construction of overland flowpaths within Stage 2, formed and planted.
- Roadside swales to all roads within Stage 2, planted to follow recommendations at section 11.3 of Wildlands Consultants' report no. 6334. Assessment of Ecological Effects for the Proposed Pencarrow Structure Plan Area at Pongakawa.
- Installation and Preparation of wastewater disposal field and infrastructure to a design approved by Council of adequate size to service the number of lots within Stage 2.
- Water mains and reservoirs (if necessary) of sufficient pressure and capacity to service all lots within Stage 2 inclusive of firefighting requirements. This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road (a 2.1km long length of watermain) to a 250mm OD MDPE main.

Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably-qualified chartered civil engineer, and as approved by Council.

Landscaping and Reserves

- Formation of reserve around stormwater attenuation pond treatment wetland and adjacent overland flowpath, including 'Village Green' seating area.
- Landscaping mitigation, including planting in Reserve to Vest, within Stage 2 boundaries established in general accordance with the structure plan landscaping plan.
- There shall be no buildings or structures within the 8m 6m Riparian Reserve and 4m Landscape Buffer

Landscaping

~~Landscaping mitigation measures within and at the boundary of Stage 2 in general accordance with the structure plan. Tree planting to adhere to minimum applicable requirements specified within Pencarrow Estate Structure Plan Drawing No. 004 – Tree Planting.~~

Reverse sensitivity

Dairy cow milking shall cease to occur at the existing milking shed.

Stage 3

Roading and Access

- New roads or privateways within Stage 3 constructed, in accordance with the Council's Development Code ~~(or successor document)~~ and as approved by Council.

Stormwater, Wastewater and Water Infrastructure

- [Construction of overland flowpath within Stage 3, formed and planted.](#)
- [Stormwater conveyance infrastructure within Stage 3 installed.](#)
- ~~Roadside swales to all roads within Stage 2, planted to follow recommendations at section 11.3 of Wildlands Consultants' report no. 6334, Assessment of Ecological Effects for the Proposed Pencarrow Structure Plan Area at Pengakawa.~~
- [Installation and preparation of wastewater disposal field and infrastructure to a design approved by Council of adequate size to service the number of lots within Stage 3.](#)
- Water mains ~~and reservoirs (if necessary)~~ of sufficient pressure and capacity to service all lots within Stage 3 inclusive of firefighting requirements. [This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road \(a 2.1km long length of watermain\) to a 250mm OD MDPE main.](#)

[Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably-qualified chartered civil engineer, and as approved by Council.](#)

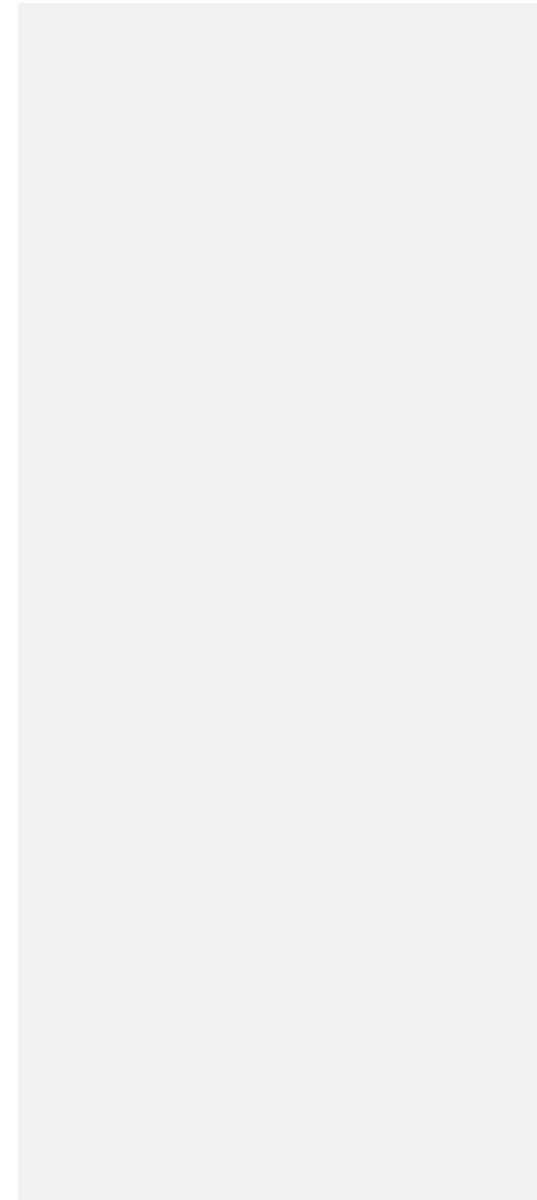
Landscaping and Reserves

- Formation of the private playground reserve within the Commercial Area as shown on the structure plan.

- Landscaping within Stage 3 boundaries established in general accordance with the structure plan landscaping plan.

Landscaping

~~Landscaping mitigation measures within and at the boundary of Stage 3 in general accordance with the structure plan. Tree planting to adhere to minimum applicable requirements specified within Pencarrow Estate Structure Plan Drawing No. 004 – Tree Planting.~~



Attachment B - Clean Version

Chapter 12 – Subdivision and Development - Proposed Amendments

The below are proposed as new rules to be added to Chapter 12, below the most recent Structure Plan introduced to the District Plan (Rule 12.4.23 – Washer Road Business Park Structure Plan). This would therefore be a new section, Rule 12.4.24 – Pencarrow Estate Pongakawa Structure Plan.

- Below is a clean copy of the rules as updated with Section 42A, Mr Murphys proposed updates 14.11.2024 and Abi Mark updates 22.11.24

12.4.24 Pencarrow Estate Pongakawa Structure Plan

12.4.24.1 General

- a. Any subdivision or development (including delivery of stage pre-requisites) of land zoned Residential or Commercial within the Pencarrow Estate Pongakawa Structure Plan shall be undertaken in general accordance with that structure plan (including notes about specific requirements) as set out in Appendix 7 – Structure Plans and in the Pencarrow Estate Pongakawa Structure Plan Stage Prerequisites below.
- b. All roofs of buildings constructed in the Pencarrow Estate Pongakawa Structure Plan Area within lots adjoining a Rural Zoned site, or above one storey in height, shall be of a finish with a reflectivity (Light Reflectance Value) of no greater than 37%, measured and determined in accordance with AS/NZ Standard 1580.

12.4.24.2 Staging Details

- a. Subdivision or development of land within the Pencarrow Estate Pongakawa Structure Plan shall occur sequentially in that Stage 1 shall be completed prior to, or at the same time, as Stages 2 and 3.
- b. Subdivision to create separate lots that reflect the boundaries of the Pencarrow Estate Pongakawa Structure Plan area (in its entirety or individual stages), including prior to the delivery of any stage pre-requisites, is a Controlled Activity.

Council shall exercise control over the following:

- i) The new lot(s) to be established shall be generally consistent with the boundaries of the structure plan area or individual stages.
- ii) Provision of legal and physical access to all proposed lots.

12.4.24.3 Pencarrow Estate Pongakawa Structure Plan – Stage Prerequisites

Stage **Prerequisites to subdivision 224 certificate being granted or to land use or building consent activity being established**

The pre-requisites below in part correspond to details on Pencarrow Estate Pongakawa Structure Plan drawings, see Appendix 7 – Structure Plans, Section 13 – Residential of the District Plan.

All Stages **Stormwater**

An engineering design report, prepared by a suitably qualified chartered civil engineer, shall be provided to Council to demonstrate compliance with:

- a. In events up to the 10-year storm event (climate change adjusted), all site stormwater, subject to post earthworks groundwater testing, except stormwater from grassed yards, berms and roads, will discharge via reticulation to ground soakage.
- b. In events up to the 10-year storm event (climate change adjusted), stormwater from grassed yards, berms and roads will be conveyed to the stormwater treatment wetland.
- c. Beyond the 10-year storm event (climate change adjusted), stormwater from roads and private property will pipe to a vegetated swale, which will discharge to the stormwater treatment wetland.
- d. Relevant stormwater sizing details
- e. Detailed engineering design drawings

Stage 1 **Roading and Access**

- Intersection of Arawa Road and State Highway 2, and Arawa Road carriageway to the vehicle entrance to the plan change site, to be upgraded to the satisfaction of Waka Kotahi for the State Highway, and to the satisfaction of Council for the balance of Arawa Road.

- Footpaths and roads formed within Stage 1, in accordance with the Council's Development Code and as approved by Council.
- Footpath to frontage of Commercial Zone to be provided.
- Pedestrian and vehicular access to, the Bus stop established within, the Commercial Zone meeting design requirements of Council's Development Code or alternative design approved by Council.

Stormwater, Wastewater and Water Infrastructure

- Stormwater wetland installed in identified reserve location, formed and planted.
- Stormwater conveyance infrastructure within Stage 1 installed.
- Construction of overland flowpaths within Stage 1 formed and planted.
- Installation and preparation of wastewater disposal field and supporting infrastructure to a design approved by Council to service the number of lots within Stage 1.
- Water mains of sufficient pressure capacity to service all lots within Stage 1 inclusive of firefighting requirements. This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road (a 2.1km long length of watermain) to a 250mm OD MDPE main.

Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably qualified chartered civil engineer, and as approved by Council.

Landscaping and Reserves

- Landscaping mitigation measures within and at the boundary of Stage 1, including in Reserve to Vest, established in general accordance with the structure plan landscaping plan.
- There shall be no buildings or structures within the 8m Riparian Reserve and Landscape Buffer

Reverse sensitivity

Prior to Stage 1 being completed, all effluent pond and storage infrastructure within the Pencarrow Estate Pongakawa Structure Plan area shall be relocated so as to be west of the north-western boundary of the structure plan area, and north of the existing milking shed and stock pad.

Commercial Land

The commercially-zoned land shall be established and available for future commercial and community service activities.

Stage 2

Roading and Access

- New roads and footpaths within Stage 2 constructed, in accordance with the Council's Development Code and as approved by Council.
- Footpath connection between Arawa Road to internal roads through to 'Village Green' established

Stormwater, Wastewater and Water Infrastructure

- Stormwater conveyance infrastructure within Stage 2 installed.
- Construction of overland flowpaths within Stage 2, formed and planted.
- Installation and preparation of wastewater disposal field and infrastructure to a design approved by Council to service the number of lots within Stage 2.
- Water mains of sufficient pressure and capacity to service all lots within Stage 2 inclusive of firefighting requirements. This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road (a 2.1km long length of watermain) to a 250mm OD MDPE main.

Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably-qualified chartered civil engineer, and as approved by Council.

Landscaping and Reserves

- Formation of reserve around stormwater treatment wetland and adjacent overland flowpath, including 'Village Green' seating area.
- Landscaping mitigation, including planting in Reserve to Vest, within Stage 2 boundaries established in general accordance with the structure plan landscaping plan.
- There shall be no buildings or structures within the 8m Riparian Reserve and Landscape Buffer

Reverse sensitivity

Dairy cow milking shall cease to occur at the existing milking shed.

Stage 3

Roading and Access

- New roads or privateways within Stage 3 constructed, in accordance with the Council's Development Code and as approved by Council.

Stormwater, Wastewater and Water Infrastructure

- Construction of overland flowpath within Stage 3, formed and planted.
- Stormwater conveyance infrastructure within Stage 3 installed.
- Installation and preparation of wastewater disposal field and infrastructure to a design approved by Council to service the number of lots within Stage 3.
- Water mains of sufficient pressure and capacity to service all lots within Stage 3 inclusive of firefighting requirements. This requires upgrading the 100mm ID main connecting the Arawa Road development to Maniatutu Road (a 2.1km long length of watermain) to a 250mm OD MDPE main.

Deviation from these requirements shall be in accordance with an engineering design report prepared by a suitably-qualified chartered civil engineer, and as approved by Council.

Landscaping and Reserves

- Formation of the private playground reserve within the Commercial Area as shown on the structure plan.
- Landscaping within Stage 3 boundaries established in general accordance with the structure plan landscaping plan.