

Plan Change 95 – Pencarrow Estate

Section 42A Planning Report



**Western
Bay of Plenty**
District Council

PLAN CHANGE 95 – PENCARROW ESTATE PONGAKAWA**AUTHOR: ABI MARK****CONTENTS**

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GLOSSARY

Acronym	Meaning
HBA	Housing and Business Capacity Assessment
FDS	Future Development Strategy
LUC	Land Use Capability Class
LTP	Long Term Plan
MDRS	Medium Density Residential Standards
NPS-FM	National Policy Statement for Freshwater Management
NPS-HPL	National Policy Statement for Highly Productive Land
NPS-UD	National Policy Statement on Urban Development
RMA	Resource Management Act 1991
RNRP	Bay of Plenty Regional Natural Resources Plan
RPS	Bay of Plenty Regional Policy Statement
RFI	Request for Further Information
UFTI	Urban Form and Transport Initiative

1. INTRODUCTION

- 1.1. My name is Abigail Mark, I am a Senior Environmental Planner at Western Bay of Plenty District Council with 8 years' experience as an Environmental Planner and Compliance Officer. I hold the qualification of Master of Water Resource Management from Lincoln University.
- 1.2. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.3. I am authorised to give this evidence on the Council's behalf to the Hearing Panel.

2. SCOPE AND PURPOSE OF THE REPORT

- 2.1. This report has been prepared in accordance with Section 42A of the RMA to assist the Hearing Commissioners in considering the issues or subjects raised by submissions and further submissions on proposed Private Plan Change 95 – Pencarrow Estate, Pongakawa (the Plan Change). It makes recommendations on the Plan Change and submissions and further submissions received on it. It also provides submitters and further submitters with an opportunity to see how their submissions and further submissions have been evaluated and the recommendations being made by the reporting officer, prior to the hearing.
- 2.2. Any conclusions and recommendations made in this report are my own and are not binding upon the Hearing Commissioners in any way. The Hearing Commissioners are required to consider all submissions and evidence presented at the hearing. It should not be assumed that the Hearing Commissioners will reach the same conclusions as I have when they have heard and considered all of the submissions and evidence presented.
- 2.3. In preparing this report I have:
 - Undertaken a site visit to the Plan Change site, Arawa Road and Penelope Place.
 - Reviewed the original Plan Change request, the further information request and the updated Plan Change documentation that was provided in response to submissions, including the supporting technical reports.
 - Read and considered all the submissions received on the Plan Change.
 - Considered the statutory framework and relevant planning documents.
 - Considered and where necessary, relied on the expert advice of Council specialists and consultants engaged by Council on technical matters. Their input helped guide and inform the assessment of the Plan Change and the recommendations on the submissions and further submissions. Specifically, expert advice has been provided regarding Topics 5, 6, 7, and 8.
- 2.4. I confirm I have based my opinion on the sources of information identified in this report.
- 2.5. I confirm that I have no real or perceived conflict of interest in the matters addressed by this report.
- 2.6. For the avoidance of doubt Western Bay of Plenty District Council has been referred to as Council throughout this report. Proposed Private Plan Change 95 – Pencarrow Estate, Pongakawa has been referred to as the Plan Change.

3. OVERVIEW OF PRIVATE PLAN CHANGE 95

- 3.1. The Plan Change was lodged with Council on 15 December 2022, an RFI was made on 6 March 2023, the response to the RFI was received on 17 July 2023 and was subsequently amended to include a traffic Safety Audit on 14 August 2023. Council then accepted the Plan Change on 26 October 2023, and it was publicly notified on 10 November 2023.

Site Description and Surrounding Environment

- 3.2. The site is currently zoned Rural under the Operative District Plan with a Floodable Area overlay. Directly adjoining the site to the south are smaller 'rural-residential' sized lots, zoned Rural. Across Arawa Road to the south is a small area of approximately 7.8ha and around 85 lots which are 800m² or more in size and zoned Residential. The wider surrounding environment is zoned Rural. The site is mapped as highly productive land, with LUC class of LUC 2.
- 3.3. The site is located primarily on land within the farm property of 1491 State Highway 2 (SH 2), Pongakawa. On a larger dairy farmland holding of 76.7ha which has frontage to both SH 2 and Arawa Road. The site is a working dairy farm that contains two dwellings. Figure 1 below shows the existing site arrangement.



Figure 1: Aerial photo and Structure Plan area shown in blue outline.

The Proposal

- 3.4. The applicant's Section 32 Report states that the Plan Change is being pursued to give effect to the landowner's vision to consolidate and improve amenities available to the residential community of Pongakawa, and to address housing supply shortages relative to demand increasing from the quickly expanding horticulture land-uses within the Pongakawa area. The vision includes creating a high-quality residential village environment that integrates and enhances the existing Pongakawa settlement through the provision of reserves, reticulated services, a small commercial area and playground area.
- 3.5. A diversity of residential section sizes between 500m²- 350m² is provided for by the Plan Change. The application considers this will ensure that a considerable proportion of the land to be re-zoned can be developed whilst being affordable for full-time workers in the horticulture sector seeking to locate in Pongakawa.
- 3.6. The Plan Change includes a Structure Plan for the proposed development which has been designed to take into consideration the site's characteristics, the stormwater approach, the on-site wastewater disposal approach and the interface between the Rural Zone and the proposed Residential Zone.
- 3.7. The Structure Plan submitted in the applicant's Section 32 Report provides for:
- Approximately 2.28ha of 'higher density' (350m² per lot) Residential Zone.
 - 4.2ha of 'lower density' (500m² per lot) Residential Zone.
 - Residential yield of 120-130 dwellings over the developable area.
 - 1600m² Commercial Zone.
 - Indicative roading layout.
 - Residential height restriction area.
 - New 100mm water main.
 - Private playground & reserve adjacent to Commercial Zone.
 - Stormwater pond, overland flowpaths and reserve.
 - Wastewater disposal area and reserve (to remain Rural Zone).
- 3.8. The applicant's Section 32 Report identifies that the Structure Plan is proposed to be completed over three general stages as outlined below:
- Stage 1 – 2.85ha developable land. Includes lower-density and higher-density development areas, road connection in from Arawa Road, widening of Arawa Road to intersection, and upgrade of SH2/Arawa Road intersection. Includes formation of central overland flowpath and stormwater pond, and reserve area around these features. Reverse sensitivity measures include re-locating effluent ponds currently within the Plan Change site.
 - Stage 2 – 3.78ha developable land. Includes local roads within the Plan Change to serve the Stage 2 areas, low-density and higher-density areas. Includes formation of reserve next to the commercial area, and lodgement of a building consent for a commercial building within the commercial area to realise community benefits intended at this location. Reverse sensitivity measures include de-commissioning of the milking shed from its current location.
 - Stage 3 – 1.52ha developable land. Includes local roads within the Plan Change to serve the Stage 3 areas and remaining low-density developable areas.

4. STATUTORY CONSIDERATIONS

RMA – Section 74 Matters to be considered by territorial authority

- 4.1. The method for making a plan change request and how this is to be processed is set out in Schedule 1 of the Resource Management Act 1991 (RMA). Section 73(2) of the RMA allows for any person to request that a change be made to the District Plan, in accordance with the process set out in Part 2 or Part 5 of Schedule 1 (Part 5 of Schedule 1 relates to the use of the streamlined planning process and is not relevant to this plan change).
- 4.2. In this case, the tests to be applied to the consideration of the Plan Change under Schedule 1 Part 2 of the RMA are summarised below and include whether:
- It accords with and assists the Council to carry out its functions (Section 74(1)(a) and Section 31).
 - It accords with Part 2 of the Act (Section 74(1)(b)).
 - It accords with a national policy statement, a national planning standard and any regulation (Section 74)(1)(ea) and (f)).
 - It will give effect to any national policy statement, national planning standard or operative regional policy statement (Section 75(3)(a)(ba) and (c)).
 - The objectives of the request (in this case, being the stated purpose of the request) are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
 - The provisions in the Plan Change are the most appropriate way to achieve the objectives of the District Plan and the purpose of the request (Section 32(1)(b)).
- 4.3. In evaluating the appropriateness of the Plan Change, Council must also:
- Have particular regard to an evaluation report prepared in accordance with Section 32 (Section 74(1)(d) and (e)).
 - Have regard to any proposed regional policy statement, and management plans and strategies prepared under any other Acts and consistency with the plans or proposed plans of adjacent territorial authorities (Section 74(2)).
 - Take into account any relevant planning document recognised by an iwi authority (Section 74(2A)).
 - Not have regard to trade competition or the effects of trade competition (Section 74(3)).
 - Not be inconsistent with a water conservation order or regional plan (Section 75(4)).
 - Have regard to actual and potential effects on the environment, including, in particular, any adverse effect in respect to making a rule (Section 76(3)).

Section 32 Evaluation (for the Proposal)

- 4.4. To support the proposal, the applicant carried out an evaluation under Section 32 of the RMA. In summary, this evaluation must:
- Examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA.
 - Examine whether the provisions in the proposal are the most appropriate way to achieve the objectives, by identifying other reasonably practicable options for achieving the objectives, assessing the efficiency and effectiveness of the

provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

- Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

4.5. The application was submitted with an assessment of statutory and non-statutory documents within Section 9 of the applicant's Section 32 Report.

4.6. In summary, the statutory documents that are considered relevant to this proposal are:

- National Policy Statement for Urban Development 2020.
- National Policy Statement for Highly Productive Land 2022.
- National Policy Statement for Freshwater Management 2020.
- Bay of Plenty Regional Policy Statement.
- Western Bay of Plenty Operative District Plan 2012.

Section 32AA Requirements for undertaking and publishing further evaluations

4.7. Where recommendations are made in this evidence that propose changes to the Plan Change, evaluation of the change has been undertaken in accordance with Section 32AA of the RMA. In particular, Section 32AA(1) states that:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section

4.8. The required Section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to the Plan Change are contained within the assessment of the relief sought in submissions in this report as required by Section 32AA(1)(d)(ii) of the Act. These evaluations are contained under the heading 'Section 32AA Analysis' within relevant sections of this report.

National Planning Standards 2019

4.9. The National Planning Standards aim to make RMA Plans (e.g. policy statements, regional plans, district plans) more consistent with each other, easier to use and more efficient to create. This is by establishing nationally consistent guidelines for the structure, format,

definitions, noise and vibration metrics, electronic functionality, and accessibility of regional policy statements, regional plans, district plans, and combined plans under the RMA.

- 4.10. Council is undertaking Phase 1 of implementing the National Planning Standards this year. Phase 1 entails rehousing the current District Plan to align with the National Planning Standards without a Schedule 1 process. It is anticipated that the rehoused District Plan will be completed and available for public use through the WBOPDC ePlan by December 2024. If the Plan Change is approved, subject to timing, consequential changes will be made to the new rules, provisions and zone mapping so that they are included in the rehoused Plan in alignment with the National Planning Standards.

5. TANGATA WHENUA

- 5.1. Section 74 (2A) states that any relevant document recognised by an iwi authority and lodged with the territorial authority should be taken into account to the extent that its content has a bearing on the resource management issues.
- 5.2. The relevant iwi authorities to the Plan Change location are Ngāti Mākino, Ngāti Pikiao, Ngāti Rangitihī and Ngāti Whakahemo.
- 5.3. Ngāti Mākino, Ngāti Pikiao and Ngāti Rangitihī have Statutory Acknowledgement Areas in the Bay of Plenty Region however there are no Statutory Acknowledgement Areas in the location of the Plan Change.
- 5.4. Below outlines the current status of the relevant iwi authority's Iwi/Hapū Management Plans.
- Ngāti Pikiao's 1997 Iwi Resource Management Plan – Nga Tikanga Whakahaere Taonga o Ngāti Pikiao Whanui Iwi Resource Management Plan, 1997 – Rotorua, is not lodged with Council, it is however lodged with Bay of Plenty Regional Council. Ngāti Pikiao are currently in the process of reviewing/renewing their plan.
 - Ngāti Rangitihī Iwi Management Plan 2011 is lodged with Council, however due to an error has only recently become available on the Council website.
 - Ngāti Mākino do not have a plan lodged with either authority however one is currently under development.
 - Ngāti Whakehemo's Environmental Management Plan is currently under development.
- 5.5. The applicant's Section 32 Report does not make reference to Ngāti Pikiao's or Ngāti Rangitihī's Management Plans. Nevertheless, they are acknowledged here.
- 5.6. Ngāti Pikiao Iwi Resource Management Plan – Nga Tikanga Whakahaere Taonga o Ngāti Pikiao Whanui Iwi Resource Management Plan, 1997, includes but is not limited to references to the management of water, water quality and discharges to water and property development.
- 5.7. Ngāti Pikiao were consulted with during the preparation of the application. Ngāti Pikiao expressed a desire for a meandering watercourse rather than channelised and expressed interest in stormwater disposal to improve water quality. Ngāti Pikiao was also interested in wastewater management for the development.
- 5.8. Ngāti Rangitihī Iwi Environmental Management Plan 2011, sets out objectives, policies and methods for a range of matters, including but not limited to, restoring, maintaining and protecting the mauri of freshwater resources, improving water quality, the disposal of

wastewater, the avoidance of fragmentation of farming land, rural sprawl and the inefficient use of productive soils.

- 5.9. While Ngāti Rangitahi was contacted by the applicant in regard to the Plan Change, neither the applicant's Section 32 Report nor the RFI response covers whether Ngāti Rangitahi replied.
- 5.10. The applicant has also engaged with Ngāti Mākino and Ngāti Whakahemo. Ngāti Mākino indicated they would let Ngāti Whakahemo respond on their behalf. While the applicant has sent additional emails to Ngāti Mākino and a phone message left, no further response has been received.
- 5.11. Several hui were held by the applicant with Ngāti Whakahemo, followed by written support for the proposal subject to water quality being appropriately managed and safeguarded.

6. CONSIDERATION OF SUBMISSIONS

- 6.1. The Plan Change was notified on 10 November 2023 and was open for submissions for 20 working days, the "Summary of Submissions" was then publicly notified for further submissions on Saturday 3 February 2024 and was open for 10 working days. A total of 37 submissions and four further submissions were received. The closing period for submissions was 8 December 2023 at 4pm and 19 February 2024 at 4pm for further submissions.
- 6.2. Where a submitter is referred to in this report the format is set out as "Submitter Name (submission number)".
- 6.3. Of the 41 submissions, one is considered to be a late submission received on 11 December 2023 (one working day late). There were no late further submissions.
- 6.4. The late submission was received from Scott Adams (32). This submission supports the Plan Change with no request for amendments or changes.
- 6.5. Additionally, Hayden Dugmore's (FS38) further submission form was incomplete, as submission point numbers were not provided but rather submission numbers as a whole. Mr Dugmore was not able to be contacted to provide clarification on the submission point numbers. For the purposes of the summary of submissions and further submissions, Council staff have included the further submission points in the summary based on best understanding of the submitter's wording.
- 6.6. The Hearing Commissioners will need to determine whether these submissions should be accepted in accordance with Section 37. I do not have any objection to the submissions being accepted, as the lateness and incompleteness of the submissions has not had an impact on the Plan Change process. The applicant may also wish to address the Hearing Commissioners on whether they have any objection to these submissions being accepted.

7. REPORT STRUCTURE

- 7.1. The report is divided into topics to address the range of matters raised in submissions.
- 7.2. The Hearing Commissioners could reach a decision to approve or decline. On that basis, the first Topic contains the overall recommendation and then goes on to provide recommendations on each topic. This includes any changes required to the proposed provisions of the District Plan's Section 12 – Subdivision and Development, Section 13 – Residential and Appendix 7 – Structure Plans to address particular issues. Other recommendations relate to where further information is still required from the applicant to demonstrate the suitability of the Plan Change with respect to outstanding issues.

- 7.3. In summary, this approach is intended to provide the Hearing Commissioners with the recommendations they need to support either decision.
- 7.4. Recommendations made in the Section 42A Report are shown as follows:
- Existing District Plan text is shown in black.
 - Proposed changes to District Plan (as notified) text in black underline and ~~strikeout~~.
 - Recommended changes to District Plan (in Section 42A Report) text in response to submissions in red underline and ~~strikeout~~.
 - Recommendations to accept, accept in part or reject submission points are at the end of the report after the Topic sections.
- 7.5. Attachments to this report have been referred to within the report as “Attachment ...”. Where an appendix to the applicant’s Section 32 Report or in the applicant’s further information is referenced, these have been referred to as “Appendix ... of the applicants Section 32 Report” or “Appendix ... of Attachment ...” respectively.

8. TOPIC 1 – WHOLE OF PLAN CHANGE

BACKGROUND

8.1. Most of the submissions received on the Plan Change were in support or opposition to the whole of the proposal. While submission points on key topics were coded, there were very few submissions which had specific requests for relief sought and no submissions sought relief by way of changes to the rules proposed.

SUBMISSION POINTS

8.2. 37 submissions were received. Four further submissions were received. The overall positions of the submitters can be generally summarised as shown in Table 1 below. 16 submissions support the Plan Change, four submissions support in part and 21 submissions oppose the Plan Change.

8.3. Two submission points supported the Plan Change in its entirety (Dianne Boothby (5.1) and Robert Allcard (6.1)) with no further explanation given.

Support		Support in Part		Oppose	
No.	Submission Name	No.	Submission Name	No.	Submission Name
1	Craig Haggo	10	Robin Simmons	7	Julian Clayton
2	Maketu Volunteer Coastguard	25	Kirsten Jefferson	8	Craig Green, Lisa McArthur
3	Shane Beech	26	Waka Kotahi	9	Graeme Gillespie
4	Maketu Volunteer Fire Brigade	27	Bay of Plenty Regional Council	12	Mike Masson
5	Dianne Boothby			14	Rachel Sexton
6	Robert Allcard			15	Cyndi and Troy O'Reilly
11	Neville and Jill Marsh			16	Jordan and Ian O'Malley
13	Mark Boyle (Te Puke Economic Development Group)			17	Joseph and Victoria Phillips
21	Paengaroa Community Association			18	Jurgen Delaere
22	Peter Cooney			19	Alan and Patricia Birley
24	David Hamilton			20	Hamish Henderson
28	Pukehina Ratepayers & Residents Association Inc			23	Karen Summerhays, Nicola Cooke
29	Ngāti Whakahemo			31	Rebecca and Cameron Black
30	Paul Hickson			33	Gaye Allan
32	Scott Adams			34	Jodi Ahfook
FS41	Robyne Cooper			35	Tai Ahfook
				36	Gina and David Brookes
				37	Jo Delaere
				FS38	Hayden Dugmore
				FS39	Bay of Plenty Regional Council
				FS40	Waka Kotahi

Table 1: Overall position of submissions

DISCUSSION

- 8.4. The proposal sets out that one of the two primary reasons for pursuing a Private Plan Change “is to address housing supply shortages relative to demand increasing from the recent and quickly-expanding horticultural land-uses within the Pongakawa area, and pending demand from nearby Rangiuuru Business Park.” The proposal goes on to state that “there is a general housing shortage within, and within proximity to, Tauranga particularly the Eastern Corridor of Baypark through Te Puke to Paengaroa”. The general housing shortfall across the sub-region is well recognised and the potential to reduce the housing shortage within our District through this Plan Change proposal is an important development option to evaluate.
- 8.5. Overall, and after careful consideration, it is recommended that the Plan Change be declined. This recommendation is based on a thorough review and assessment of all of the information provided to date, taking into account the Section 32 assessment, and three substantive suites of further information provided post further submissions.
- 8.6. This recommendation is given for several reasons, namely those associated with settlement pattern, the presence of highly productive land, and issues with natural hazards, wastewater and stormwater. The further Topics (namely 2, 3, 7 and 8) below provide an in-depth discussion on these matters. However, for clarity the key reasons are outlined here.

Settlement Pattern

- 8.7. The location of the Plan Change is discussed in Topic 2 (Settlement Pattern). Strategic future growth planning for the western Bay of Plenty as a sub-region has been ongoing and thoroughly considered through SmartGrowth, UFTI, NPS-UD (through the HBA/FDS) and the RPS. The Plan Change location is not identified in any of these as being anticipated or intended for future growth. This includes not being referred to directly (e.g. through mapping, diagrams or specific mention) or being referred to indirectly such as through definitions or other explanations. It would appear that the lack of direct inclusion of the Plan Change site in these strategic documents has been carefully considered, deliberated and intended to instead support development in more appropriate locations consistent with the settlement strategy.
- 8.8. The applicant has generally acknowledged that the proposed Plan Change site is not directly provided for in the legislation and initiatives mentioned above. It is not mapped, shown in diagrams, or specifically named as a growth area for example. The applicant’s focus is therefore largely on seeking to demonstrate that the site was otherwise intended to be provided for in all of these documents through definitions and other explanations. Responses to each of the points made by the applicant in this regard have been provided to assist the panel. In summary, it is not considered that the Plan Change site is indirectly provided for either, as it does not meet the definitions of urban environment or urban area, and because many of the applicant’s references to other explanations appear to be used in isolation from associated context. Therefore, my view is such that the Plan Change should be declined based on its location and misalignment with key strategic planning documents and the NPS-UD.

Highly Productive Land

- 8.9. Highly productive land is discussed in depth in Topic 3 (Highly Productive Land). The Plan Change site is located on highly productive land (LUC 2) and is therefore subject to the tests for urban rezoning Clause 3.6(1) of the NPS-HPL.

- 8.10. All three of the NPS–HPL requirements must be met, it is considered that 3.6(1)(a-c) have not been satisfied. This is primarily due to the conclusion that the expansion of the existing settlement is not required by the NPS–UD for delivering sufficient development capacity. Additionally, it is considered that the applicant has not demonstrated that the Plan Change would meet any of the subclauses due to either the lack of information and detail of assessment provided or through an assessment provided not being able to demonstrate compliance.
- 8.11. Therefore, it is recommended that Council must not allow the urban rezoning, and the Plan Change should be declined on this basis.

Natural Hazards

- 8.12. Natural Hazards is discussed in depth in Topic 4 (Natural Hazards). The Plan Change has provided a Hazards Risk Assessment as part of the Section 32 report and subsequent further information has been provided to address a number of issues raised in submissions. However, further clarification regarding evacuation routes on site and stormwater management is required.

Infrastructure requirements

- 8.13. In terms of infrastructure requirements this matter is two-fold (detailed in Topic 7 (Wastewater) and Topic 8 (Stormwater)). Firstly, whether the appropriate wastewater and stormwater solutions have been considered and proposed with sufficient information to confirm they will work on the Plan Change site. Secondly, should this information be provided, and it is possible to engineer solutions to make the infrastructure work at the site, whether the location is appropriate in terms of the ongoing cost and maintenance for Council must be considered. The provision of these services is complex and can cost Council significantly in comparison to the benefit provided, appearing to be inefficient given the information provided to date.
- 8.14. Currently further investigation is required surrounding the appropriateness and viability of the stormwater and wastewater solutions, especially with respect to whether the effect on groundwater has been considered correctly.

RECOMMENDATION

- 8.15. Private Plan Change 95 – Pencarrow Estate Pongakawa is declined in its entirety on the basis that the location of the development is not supported, the NPS–HPL Clause 3.6 tests have not been satisfied, and further information on, natural hazards, wastewater and stormwater is required.

9. TOPIC 2 – SETTLEMENT PATTERN

BACKGROUND

Plan Change Location

- 9.1. The Plan Change site is located on rural zoned land next to an established settlement accessed off Arawa Road and Penelope Place. It is within the wider Pongakawa rural area which is in the eastern end of the District. The established settlement is zoned residential and is to the eastern side of Arawa Road and abuts SH 2 which Arawa Road accesses. It was first established in the early 1960s with housing along Arawa Road (roughly five dwellings) and along SH 2 (roughly five dwellings). The development within the Residential Zone gradually intensified and by the late 1980s approximately 62 lots were existing.
- 9.2. The first Western Bay of Plenty District Plan was notified in 1994, which included the already existing residential zoned land of the settlement. However, it was not until 2016 that the last portion of the Residential Zone was developed, which resulted in an additional 21 residential lots and the creation of Penelope Place. These new lots meant that the residential part of the settlement increased from 62 to 85 lots (including the addition of the road and stormwater reserve). In essence, the residential part of the settlement expanded from just 10 dwellings in the early 1960s to a total of 85 lots by 2016. The settlement also includes nine rural zoned lots accessed off the western side of Arawa Road. Eight of these are lifestyle in nature and were created in 1997 with most of the dwellings present by the early 2000s. The other rural zoned lot is 8754m² with an established dwelling.
- 9.3. There is currently no commercial zoning within the settlement, and the nearest shop is the BP service station approximately 1.8km away. Businesses servicing the rural sector are established within proximity of the settlement including Wealleans Groundspread at 1539 SH 2 at the south-east corner of the settlement and the Kiwi Land Developments excavation business 1.2km east on the corner of SH 2 and Wharere Road.
- 9.4. The wider rural area is characterised by both horticulture and agricultural land, as well as the Rangiuru Business Park. This Business Park is currently under development and is located approximately 10km away. The first stage of the Rangiuru Business Park development is now selling. The nearest town is Te Puke which is located 15km away. The Pongakawa School and Domain is located approximately 1.5km from the Plan Change site. (See Figure 2 below for broader context of Plan Change location).
- 9.5. The applicant's Section 32 Report states that horticultural housing needs will be provided through the residential development delivered by the Plan Change. It is also expected by the applicant that the housing will accommodate the needs of people employed at the Rangiuru Business Park. The Commercial Zone is proposed to support the expansion of the existing settlement, but it is acknowledged by the applicant that residents would still need to travel beyond the settlement (namely by private vehicle) to access a full range of community facilities and services.

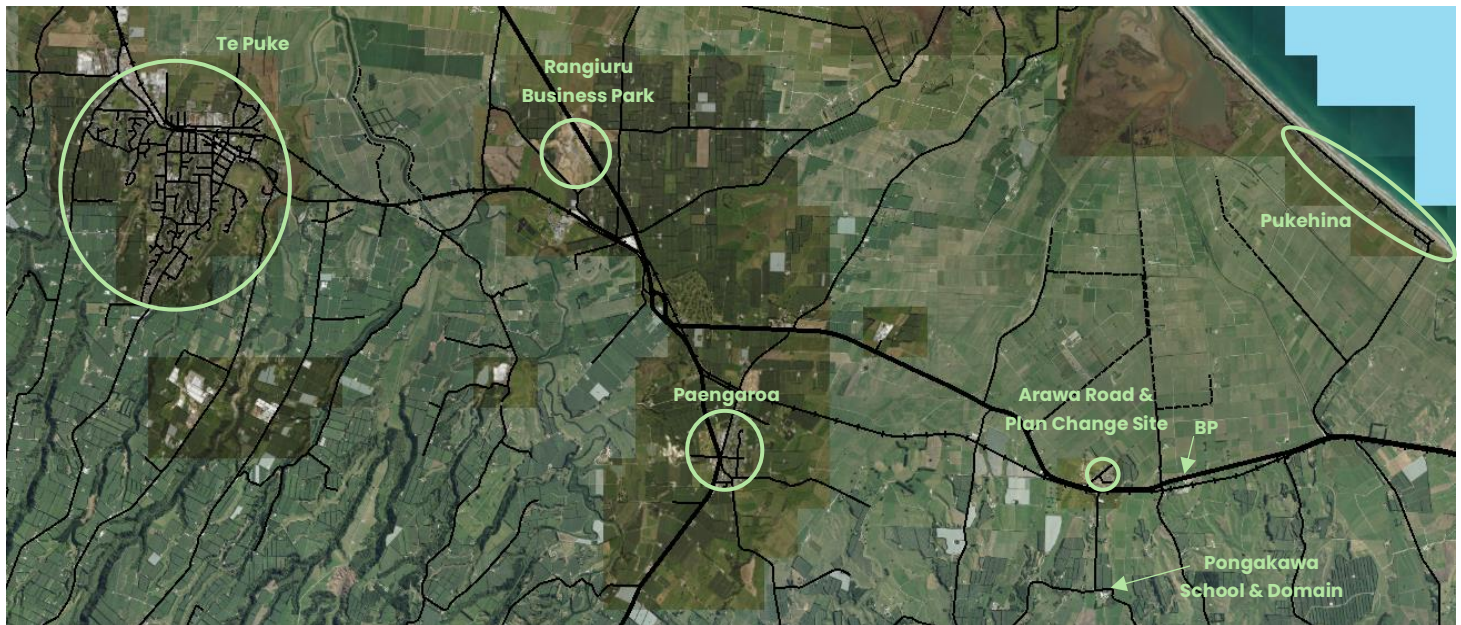


Figure 2: Map of Plan Change Site and Arawa Road location within broader context.

SmartGrowth

9.6. The western Bay of Plenty sub-region is formed by Tauranga City and the small settlements, rural towns and productive rural land of the Western Bay of Plenty District surrounding Tauranga City. The settlement pattern of the sub-region has been considered and planned for over the past 20 years through the mechanism of SmartGrowth which is a partnership made up of Bay of Plenty Regional Council, Tauranga City Council, Western Bay of Plenty District Council, tangata whenua and central government including Waka Kotahi. The aim of SmartGrowth is to provide a strategic vision for the future of the sub-region with priorities around housing, tangata whenua values, transport, priority development areas and planning and policy. The most recent strategic document produced through this partnership is the recently adopted SmartGrowth Strategy 2024-2074.

Urban Form and Transport Initiative (UFTI)

- 9.7. In 2020, SmartGrowth, Waka Kotahi, iwi and community leaders produced the UFTI report which was a business case to set out an integrated land use and transport programme and delivery plan for the subregion.
- 9.8. UFTI focuses on supporting liveable community outcomes – finding answers for housing, intensification, multi-modal transport and network capacity. UFTI worked from the basis that the sub-region needed to accommodate a future population of 400,000 people over the next 30-50+ years. The detailed planning assessments assumed a need to accommodate total dwellings of 62,000 (30+ years).
- 9.9. The outcome from UFTI is known as the connected centres programme. This is a settlement pattern in the sub-region that contributes to more affordable housing, and more competitive land and job markets through up, and out, future development. The supporting transport improvements will enable greater access, increased transport choice, and improve safety, while also maintaining important freight access, particularly to the Port of Tauranga. The two core concepts of the programme are to increase number of dwellings by intensifying our existing urban and new growth areas and 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.

- 9.10. UFTI identified spatial constraints and hazards and sought to avoid or moderate any future development in relation to these. The report spatially maps “planned urban areas” (those already included in the SmartGrowth settlement pattern at that time), specific “envisioned growth areas” (30 years plus) and their locations. The boundaries of the envisioned growth areas are indicative as their spatial extent will need to be tested further before inclusion into regional and local planning statutory frameworks. These planned and envisioned areas are shown on the map below (Figure 3). For the eastern part of the District, this identified the area which is now known as the ‘Eastern Centre’ (Te Kāinga) in the FDS.

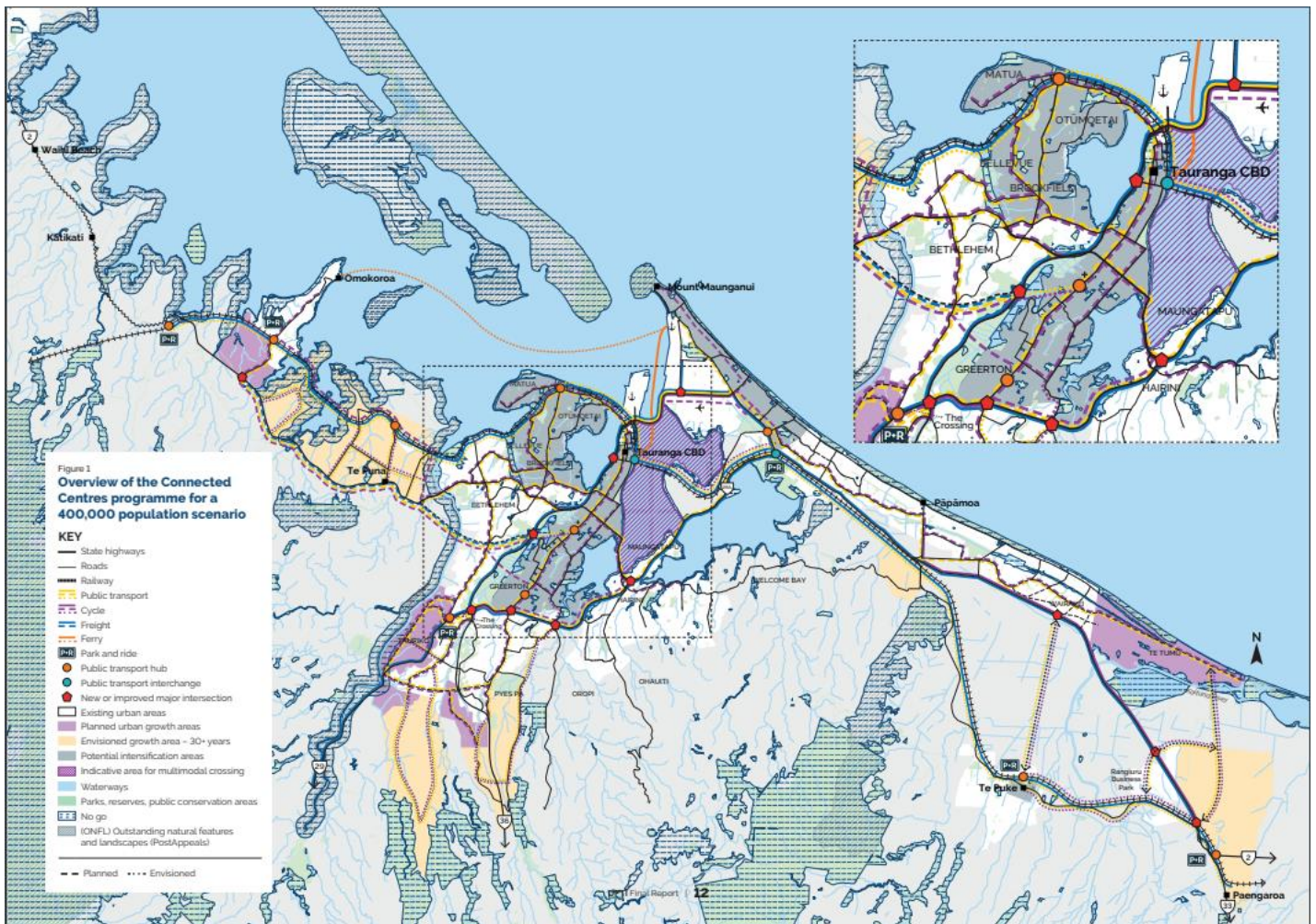


Figure 3: Connected centres Overview Map - UFTI 2020 - UFTI identifies a ‘connected centres’ settlement pattern with “planned urban growth areas” and “envisioned growth areas – 30+ years”.

National Policy Statement on Urban Development (NPS-UD) (Urban Environments, HBA & FDS)

- 9.11. The NPS-UD specifies requirements for different tiers of local authorities. It identifies Council as a tier 1 local authority. The application of the NPS-UD is to ‘urban environments’ which is defined as:

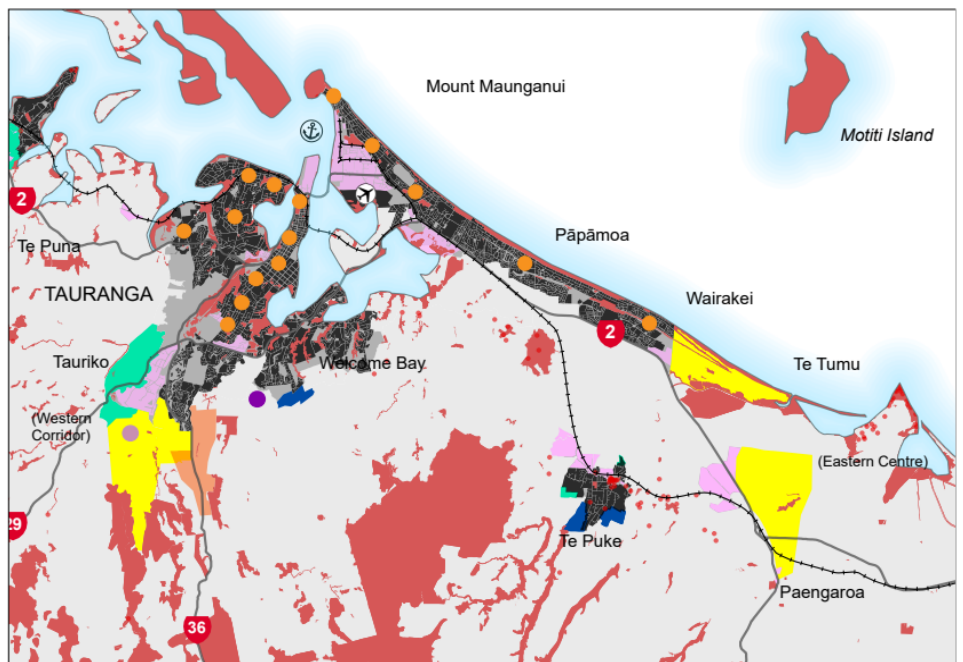
Urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and is, or
- (b) is intended to be, part of a housing and labour market of at least 10,000 people.

- 9.12. There are two urban environments within the Western Bay of Plenty District, which are the settlements of Te Puke and Ōmokoroa. Both are plan-enabled to grow to populations of 13,000 people. Te Puke already has an existing population of more than 10,000 people.
- 9.13. The NPS-UD directs tier 1 local authorities to provide for sufficient development capacity for housing and business in its district. It requires tier 1 local authorities to prepare and make a publicly available HBA. The latest HBA (2022) for the District has been prepared in partnership with Bay of Plenty Regional Council and Tauranga City Council as part of SmartGrowth. The HBA is required to identify housing demand and the development capacity (supply) that is sufficient to meet the expected demand in at least the sub-region’s urban environments over the short (3 years), medium (3 and 10 years) and long term (10 to 30 years). This HBA (December 2022) identifies a shortfall in housing supply across the medium and long term for the District as a whole.
- 9.14. The FDS is another requirement of the NPS-UD, prepared by tier 1 local authorities, reviewed every three years and updated every six years. The SmartGrowth Strategy 2024-2074 includes the first FDS for the sub-region. It identifies long-term strategic planning by setting out how the sub-region intends to achieve well-functioning urban environments in its existing and future urban areas and provide at least sufficient development capacity over the next 30 years as identified through the HBA. Staged urban growth areas are spatially mapped for the short, medium, and long term. The key areas identified for the sub-region’s eastern corridor are Te Puke, Rangiuuru and Eastern Centre (Te Kāinga) in the Western Bay of Plenty District and Pāpāmoa, Wairakei and Te Tumu in Tauranga City. Map 18 from the SmartGrowth Strategy 2024-2074 is shown below (Figure 4).

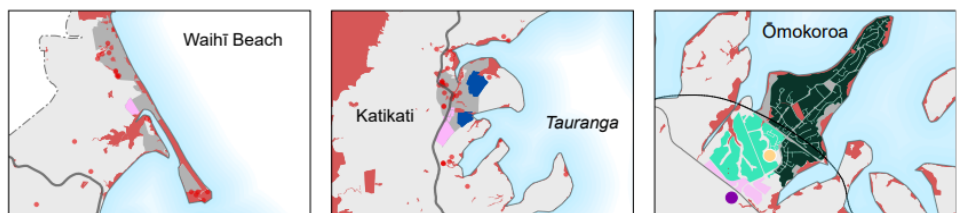
Map 18: Future Development Strategy – Staging Map

- ⚓ Port of Tauranga
 - ✈ Tauranga Airport
 - Existing Urban Area
 - Existing Urban Areas – increased density and housing choice
 - Industry Zone
 - Potential Long-term Growth Area
 - High Density Residential
 - Medium Density Residential
 - Potential Long-Term Growth Area – Business Land
 - Long-term Growth Area – Business Land
- STAGED GROWTH AREAS***
- Short term
 - Medium term
 - Long term
- NO GO AREAS**
- Important environmental, cultural and heritage values.
 - Areas at risk from coastal or inner harbour erosion.



The staging timeframes shown on this map are based on when development will commence in the area. Detail around development in each greenfield area is available in the tables and text in the Future Development Strategy section.

The future development areas shown are indicative only. Detailed information for individual areas is available in the respective District or City Plan (as applicable) or will be developed through future planning processes.



*Further work is required to determine staging, spatial extent and mix of land uses for the Eastern Centre and Western Corridor (Upper Belk Road)

Figure 4: Map 18 – Future Development Strategy – Staging Map, image taken from SmartGrowth Strategy 2024-2074

Regional Policy Statement – Operative/Change 6

- 9.15. The operative RPS contains policies and objectives to guide the approach to urban growth and development in the sub-region. The RPS identifies the “key urban areas” for the sub-region as Tauranga City, Te Puke, Ōmokoroa, Waihi Beach and Katikati. The RPS states that “between these urban areas are extensive areas of rural land and smaller settlements”. Since 2006, the RPS has spatially mapped urban limits around the key urban areas showing the specific locations committed for future urban expansion. These urban limits are for residential and business expansion and are divided into two different timeframes being pre 2021 and 2021–2051.
- 9.16. Recently Bay of Plenty Regional Council has begun implementing the requirements of the NPS-UD, proposing to amend the RPS to remove the urban limits whilst still being responsive to urban development proposals that provide support to intensification of urban environments. It includes a policy for considering development proposals within urban environments which are unanticipated or out-of-sequence. It also includes a policy to restrict growth outside of urban environments. This amendment is known as RPS Change 6 (NPS-UD). A decision on RPS Change 6 was released by Bay of Plenty Regional Council on 12 February 2024 and four separate appeals have been made and are in the process of being resolved by mediation. Council made a submission to Change 6 and joined the appeals as an interested party pursuant to Section 274 of the RMA. Given the collaborative initiatives such as SmartGrowth and the requirement to give effect to the RPS provisions, Council has an interest in the final decisions.

Western Bay of Plenty Operative District Plan

- 9.17. The District Plan provides for the expansion of four urban growth areas which are identified as Waihi Beach, Katikati, Ōmokoroa and Te Puke. These are the same as those identified in the RPS. The Plan notes that urban expansion should be adjacent to existing urban areas, to ensure the efficient use of infrastructure and land resources. This also aims to reduce the potential conflict between rural and urban areas.

Proposed Site in Relation to Strategic Planning

- 9.18. In summary of the above, none of the legislation or initiatives have identified Arawa Road or Pongakawa as areas planned or intended for future urban development.

Applicant’s Section 32 Assessment

- 9.19. The applicant has provided their views on the suitability of the proposed site’s location regarding the strategic direction of the legislation and initiatives mentioned above. In summary, their view is that the Plan Change is consistent with these and will ultimately assist in providing housing to meet a shortage of residential land supply in the area.
- 9.20. The applicant’s views contained in their Section 32 Report can be summarised as follows:
- Initial discussions with SmartGrowth (in 2020) indicated support for the proposal, however further discussions (in 2022) confirmed that SmartGrowth’s role would no longer include consideration of private plan changes. Rather, SmartGrowth would expect its partners to deliver the FDS with the UFTI connected centres approach as its basis.
 - UFTI identifies Paengaroa as a future growth area for the eastern corridor with a new eastern centre (Te Kāinga) to be located between Paengaroa and Rangiora

to deliver housing between 2034–2054. The Rangiuru Business Park is being developed now and will be established with supporting housing for workers limited to Te Puke which is 7km away from it. The Plan Change site according to the applicant is similarly located only 8km (although Council mapping indicates both Te Puke and the Plan Change site are closer to 10km) from the Business Park and in the centre of a growing horticultural area. The extra housing from the Plan Change site is close to established transport corridors and building on an existing rural village of Pongakawa will deliver a logical extension to the live-work-learn-play settlement pattern of UFTI and the FDS. The proposal is therefore consistent with the direction of UFTI and the FDS.

- The proposal is consistent with the relevant objectives of the NPS–UD relating to urban environments including delivering a well-functioning urban environment. The Plan Change site is part of an urban environment through being part of the planned working and residential population of the Rangiuru Business Park, Paengaroa and future Eastern Centre (Te Kāinga).
- The NPS–UD directs Council to provide sufficient housing capacity in its district in existing and new urban areas (not strictly larger urban environments). The HBA shows there is insufficient housing development capacity in the sub region, particularly in the eastern corridor. The Plan Change would contribute to the supply of residential land servicing the eastern corridor and help to address this shortfall.
- The proposed site is not within the RPS urban limits so is partly inconsistent with objectives and policies of the RPS that direct growth into urban limits. However, the RPS Change 6 removes urban limit boundaries and allows more expressly for out-of-sequence and unanticipated growth. Amended Policy 6A directs urban growth and development in an efficient and integrated manner between land use and infrastructure requirements. Amended Policy 7A provides for unanticipated or out of sequence growth in urban environments subject to adding significantly to development capacity. These are considered to be addressed by the Plan Change.
- The Rural Zone objectives and policies of the District Plan seek to maintain the rural land resource, in particular versatile land. Only a small amount of versatile land will be removed from the current productive farming unit and will support the growing horticultural land use in the area. The change from rural zoning is not considered to have an integrity or precedent impact upon rural zoned land elsewhere in the District. The Residential Zone objectives and policies seek to ensure efficient use of land for urban development whilst providing cost-effective appropriate infrastructure, to concentrate urban growth into areas identified in the RPS, and to provide housing to meet the needs of the community. The Plan Change would deliver upon the substance of these objectives and policies.

9.21. It is noted that the applicant did not consider their proposed site to be a part of the urban environment of Te Puke at the time of notification of this Plan Change.

9.22. Also, the applicant's view that the proposed site is part of a different urban environment (i.e. predominantly urban in character) is despite their Section 32 report describing the area as

a “cluster of housing in a predominantly rural environment”. The report, in describing the area, refers to a high ratio of open space, interaction with working farms, noise and odour associated with production and grazing activities, high levels of privacy and limited visibility of neighbours. It also describes the eight lots of a rural-residential nature adjoining the Plan Change site as having an outlook over the applicant’s farm to grassed paddocks, shelter belt trees, worker accommodation and farm buildings.

SUBMISSION POINTS

9.23. 64 submission points were received. 23 further submission points received. The submission points on this Topic are summarised as follows:

Plan Change Location

9.24. One submitter (Peter Cooney (22.2) opposed by Bay of Plenty Regional Council (FS39.6)) supports the Plan Change on the basis that the greenfield development is needed in the eastern area of the Western Bay of Plenty District. However, six submissions (Graeme Gillespie (9.6), Rachel Sexton (14.5), Craig Green and Lisa McArthur (8.4), Rebecca and Cameron Black (31.1) and Mike Maassen (12.1 and 12.2) supported by Hayden Dugmore (FS38.1 and 38.2)), do not support the location of the Plan Change. They submit that it is not appropriate, will set a precedent for small pockets of development in the Rural Zone and that there are better serviced alternative locations such as Paengaroa and Te Puke which are in the same proximity to the Rangiora Business Park and the wider rural and horticultural sector of the District.

SmartGrowth

9.25. Two submission points and one further submission point (Julian Clayton (7.3, 7.5) and Bay of Plenty Regional Council (27.1) supported by Waka Kotahi (FS40.1)) oppose the Plan Change stating that it does not fit within the direction and plans shown as part of the SmartGrowth Strategy 2024–2074. One submission point from Mark Boyle of Te Puke Economic Development Group (13.2) outlined their submission to SmartGrowth in 2018 and the need for development in the eastern area of the subregion to support economic growth. This submission point was opposed by Bay of Plenty Regional Council (FS39.2) who state that SmartGrowth considers more than just economic growth and that the location is not supported by the notified SmartGrowth Strategy 2024–2074.

Urban Form and Transport Initiative (UFTI)

9.26. Four submission points and two further submission points (Karen Summerhays and Nicola Cooke (23.4), Mike Maassen (12.5) supported by Hayden Dugmore (FS38.5), Waka Kotahi (26.5) and Bay of Plenty Regional Council (27.1) supported by Waka Kotahi (FS40.1)) note that the location of the Plan Change is not identified as part of, or will be of a critical mass to support, the connected centres approach of UFTI.

NPS–UD (Urban Environments, HBA, FDS)

9.27. One submitter (Mark Boyle of the Te Puke Economic Development Group (13.1 and 13.7) opposed by Bay of Plenty Regional Council (FS39.1)) identified that the Plan Change aligns with the NPS–UD. However, two submission points and two further submission points (Mike Maassen (12.4, 12.5) supported by Hayden Dugmore (FS38.4, FS38.5), Bay of Plenty Regional Council (27.2) supported by Waka Kotahi (FS40.2) and Rebecca and Cameron Black (31.1))

identify that the development does not provide for a well-functioning urban environment. These submission points outline that the Plan Change area is not an urban environment or urban area, is not a potential urban growth location and relies on private transport. Waka Kotahi (26.4) supported by Bay of Plenty Regional Council (FS39.7) also note that there is a reliance on private motor vehicles with limited options for other transport types to occur due to the nature of the development's location.

- 9.28. Three submission points (Mark Boyle (13.3), Peter Cooney (22.1) and Scott Adams (32.2)) all note the shortfall in housing supply in the short, medium and long term as identified in the HBA and support the Plan Change as they believe it will provide sufficiency. All of these submissions were opposed by Bay of Plenty Regional Council (FS39.3, FS39.5, FS39.9) who note that the intensification of Te Puke and development of other areas identified by SmartGrowth are more practicable options for addressing the District's housing shortfall.
- 9.29. Bay of Plenty Regional Council (27.1) supported by Waka Kotahi (FS40.1) note the SmartGrowth Strategy 2024-2074 identifies the following growth areas consistent with the UFTI connected centres settlement pattern: existing growth areas where land is already zoned; planned growth areas where investigations have been completed; and potential long-term growth areas.

RPS – Operative/Change 6

- 9.30. Several submission points from Mike Maassen (12.3) supported by Hayden Dugmore (FS38.3), Graeme Gillispie (9.1) supported by Hayden Dugmore (FS38.19), Bay of Plenty Regional Council (27.2) supported by Waka Kotahi (FS40.2), Bay of Plenty Regional Council (27.3), and Rebecca and Cameron Black (31.2, 31.3, 31.4)) specifically refer to the RPS Change 6 and the objectives and policies associated. The submitters outline that the Plan Change is not provided for, is contrary to the RPS and they disagree with the applicant's assessment of the Plan Change's consistency with the RPS in the applicant's Section 32 Report.

General – Housing

- 9.31. Six submission points from Paengaroa Community Association (21.2), Shane Beech (3.1), Scott Adams (32.1) opposed by Bay of Plenty Regional Council (FS39.8), David Hamilton (24.1), Neville and Jill Marsh (11.4) and Peter Cooney (22.3)) support the Plan Change due to its intention to provide housing for the local horticultural and agricultural community as well as the Rangioru Business Park and deliver on affordable housing.
- 9.32. However, six submission points from Craig Green and Lisa McArthur (8.5), Karen Summerhays and Nicola Cooke (23.2), Julian Clayton (7.4), Mike Maassen (12.7) supported by Hayden Dugmore (FS38.7), Cyndi and Troy O'Reilly (15.5) and Rebecca and Cameron Black (31.1)), oppose the Plan Change and specifically the applicant's Section 32 Report where it has made the assertion that the development will provide housing for horticultural workers. It also noted by the submitters that the housing is unlikely to be affordable or that there is not a demand locally for housing.

General – Commercial

- 9.33. Four submission points from Neville and Jill Marsh (11.2), Mark Boyle of the Te Puke Economic Development Group (13.5) opposed by Bay of Plenty Regional Council (FS39.4), Paengaroa Community Association (21.3) and Scott Adams (32.3) are supportive of the commercial zoning proposed as part of the Plan Change. The submitters note that the commercial

zoning will attract businesses with the community in mind, add value to the Pongakawa residents and wider community, and that there is a need for them as they will facilitate Pongakawa's self sufficiency.

- 9.34. Four submission points and one further submission point from Julian Clayton (7.11), Graeme Gillespie (9.2), Mike Maassen (12.17) supported by Hayden Dugmore (FS38.17) and Rachael Sexton (14.3), oppose the Plan Change's Commercial Zone. The reasons for this opposition include the ability to resource a medical centre, that there will not be the population to support the businesses, and the likelihood of antisocial behaviour as a result of the commercial area.

General – Facilities

- 9.35. Seven submission points from Scott Adams (32.3), Paul Hickson (30.1), Neville and Jill Marsh (11.1), Craig Haggio of Pongakawa School (1.1) supported by Robyne Cooper (FS41.1), Maketu Volunteer Coastguard (2.1), Maketu Volunteer Fire Brigade (4.1), Paengaroa Community Association (21.1) outline support for the location of the Plan change. This is in relation to current reserves and amenities, the new reserves and amenities created and the opportunity for increased population in the area to support their organisations.
- 9.36. Submission points from Mike Maassen (12.17) supported by Hayden Dugmore (FS38.17), Rachael Sexton (14.6), Joseph and Victoria Phillips (17.4), Rachael Sexton (14.2) oppose the Plan Change location due to the lack of social infrastructure for the increase in population and inaccessibility of the current reserves and amenities. One submission point (Kirsten Jefferson (25.4) supports the Plan Change in part but also notes the lack of current infrastructure, amenities and facilities in the area.

DISCUSSION

Introduction

- 9.37. The purpose of this discussion is to reach a recommendation as to whether the rezoning of land at the proposed site from rural to residential and commercial is supported by the relevant legislation and strategic initiatives which guide and direct the future growth of the District.

SmartGrowth – Response to Applicant's Section 32 Assessment

- 9.38. Submitters have noted that the Plan Change site is not identified by SmartGrowth. Whilst they are generally referring to the most recent SmartGrowth Strategy 2024–2074 which includes the FDS, there have been various other SmartGrowth documents in the past. The SmartGrowth Strategy 2024–2074 and the other past documents have not identified the proposed site or Pongakawa as being planned for future growth.

Urban Form and Transport Initiative (UFTI) – Response to Applicant's Section 32 Assessment

- 9.39. Submitters have also noted that neither the proposed site or Pongakawa are identified in UFTI plans and that the Plan Change would be inconsistent with its connected centres approach. It is agreed that the existing settlement and future development of the proposed site is not provided for in this document. Therefore, the development of the proposed site to residential zoned land would not fit with the connected centres approach as it focuses on connecting existing and planned growth areas. The proposed site's omission is reflected in

the FDS (as part of the SmartGrowth Strategy 2024-2074). The FDS seeks to give effect to the connected centres approach but does not include in its staging map the proposed Plan Change site or Pongakawa (including in response to a submission to include the proposed site, as this submission was rejected).

NPS-UD (Urban Environments) – Response to Applicant’s Section 32 Assessment

9.40. Several submitters do not support the applicant’s view that the proposed site is an urban environment. The submitters instead describe it as satellite expansion, ad hoc, or lacking sufficient services. To be an ‘urban environment’ under the NPS-UD firstly requires that the area be predominantly urban in character. Secondly, the area also needs to be part of a housing and labour market of at least 10,000 people.

Whether “Predominantly urban in character”

9.41. The applicant has concluded that the proposed site is part of an urban environment without an assessment as to whether the area is predominantly urban in character. In fact, as noted earlier, the applicant’s Section 32 Report suggests that the area is a predominantly rural environment. That assessment was for the purpose of proposing development controls for any future housing within the Plan Change site to mitigate the loss of rural amenity for the eight properties of a rural-residential nature which directly adjoin it and to a lesser extent for those in the Residential Zone. This does not mean however that the residential zoned properties do not also experience the rural environment surrounding them. A large proportion of these properties also directly adjoin and have an outlook to the other farms/orchards in the area.

9.42. Instead, it is more appropriate to define the area as predominantly rural. The rural land surrounding the settlement, which adjoins or is visible to most of the houses within it, is a mixture of kiwifruit, dairy farming, and other farm blocks. This would not be the case in an urban area. With most of the houses backing onto the rural setting, this allows for views of open space, farm animals and orchards, whilst also experiencing rural noises and smells and higher levels of privacy. For those that are living in an urban setting this would typically only happen to a very small proportion of houses on the very edges of townships or cities. Most of the houses in the settlement have this, with only a select few in Penelope Place without this outlook.

9.43. The large amount of greenspace that is surrounding the current block of houses in the settlement only amplifies the rural scape. This is just as apparent when considering the applicant’s view that this settlement, when combined with Te Puke, or with the Rangiora Business Park and Eastern Centre (Te Kāinga), could be part of an urban environment. Figure 2 above illustrates the relatively small size of these locations (especially the existing settlement at Arawa Road) amongst that vast rural setting. Any wider boundary sought by the applicant to capture these locations together into a single area would still be predominantly rural.

9.44. Usually within an urban area you would also see a diverse range of architecture and building types. The public spaces between the buildings are equally as important as the buildings themselves in urban areas. This location lacks the built form, social and economic experiences that would be seen within an urban area and if these were to be added it may take away from why people moved there in the first place, which was to experience the quiet lifestyle that a rural setting has. The lack of amenities that you would expect to see in an urban area is notable. The settlement lacks social infrastructure such as, a café, place to

purchase food, and the ability to easily access local medical, social and other community facilities. Also, there is an inability to connect with people without needing to travel by car. Houses and roads alone do not make an area urban or predominantly urban.

Whether part of a housing and labour market of 10,000 people

9.45. In terms of housing and labour market, it is proposed that approximately 120–130 new homes would be added to the District by the Plan Change. The extra population from this, added to the existing settlement, would lead to a population of only approximately 500–600 people. This is significantly short of the required 10,000 people. The settlement is also approximately 15km from Te Puke and 10km from the ‘Eastern Centre’ (Te Kāinga) with predominantly rural landscape in between, therefore it is not considered that the Plan Change is part of the housing and labour market in these locations.

Whether an urban environment

9.46. For the above reasons, the proposed site is not considered to be part of its own urban environment nor part of the Te Puke or any other urban environment.

Whether affecting or contributing to another area which is an urban environment

9.47. Also taken into account is that the applicant may be of the view that if the proposed site is not part of an urban environment, it could still be provided for under NPS-UD policies with respect to being able to “affect” or “contribute to” other areas which are urban environments, seemingly from “afar”. This view became more apparent in discussions between members of Council’s Environmental Planning Team and the applicant following submissions but may also be implied in the applicant’s Section 32 Report. Both Te Puke and Tauranga were mentioned as nearby urban environments.

9.48. Policy 8 is for decisions affecting urban environments to be responsive to plan changes that would significantly add to development capacity and contribute to well-functioning urban environments, even if unanticipated by or out-of-sequence.

9.49. Policy 1 explains that a well-functioning urban environment is one that has or enables a variety of homes and businesses, has good accessibility for all people between housing, jobs, community services and natural/open spaces, limits adverse impacts on the competitive operation of land and development markets, supports reductions in greenhouse gas emissions, and is resilient to climate change

9.50. Any interpretation that the Plan Change could be affecting or contributing to another urban environment from “afar” would appear to be incorrect. In the context of the purpose of the NPS-UD the phrases “affecting” and “contributing to” urban environments are focused on the land that is part of the urban environment. The term “contributing” is also being used regarding contributing towards the goal of “well-functioning” rather than contributing to urban environments. The District is large and predominately rural, and it would not appear to be the intention of the NPS-UD to capture all areas of land with some level of housing as part of an urban environment, or to promote development elsewhere to assist one.

NPS-UD (Urban Environments) – Response to Applicant’s Further Information

Whether “Predominantly urban in character”

9.51. Further information provided by the applicant on 13 May 2024 (Attachment 5) and on 30 August 2024 (Attachment 6) states that they believe that there is reason to find that the

Plan Change development is an “urban environment”. The applicant describes the existing settlement at Arawa Road both in its current form and as proposed by the Plan Change as “predominantly urban” and therefore meeting the first part of the definition of urban environment. The applicant also outlines that the location and commutability of labour and services between the Te Puke township, the Rangiuru Business Park, and Arawa Road are such that the land subject to the Plan Change is part of a housing and labour market exceeding 10,000 persons and is therefore part of an urban environment.

9.52. The applicant has suggested that there are several arguments that give credibility to the Arawa Road area being considered as urban, and therefore predominantly urban in character. Their approach focuses on the residential zoning and development of the existing Arawa Road settlement and how this may align with definitions or references to the term ‘urban’ from various planning documents or on Council’s website.

9.53. In summary, there are several issues in the applicant’s approach:

- There is no longer any consideration of the rural environment in which the residential development is situated nor the surrounding predominance of rural activities. This is a departure from the applicant’s Section 32 report which described the area as predominately rural.
- The only definitions or references to ‘urban’ highlighted are those which the applicant is using to support their position. Others may have been overlooked, such as the Stats NZ definition of urban area, other definitions of urban area, and decisions on Plan Change 92 regarding the area of the Te Puke urban environment.
- Where definitions or references to ‘urban’ have been highlighted, the applicant has not considered the reasons for their use or associated context. Many of these, in context, are either not relevant or intend to restrict growth in unsuitable locations.
- Calculations with respect to definitions of ‘urban’ that rely on density appear to have only included residential zoned properties in the settlement. Also, these definitions could just as easily be met by some small individual rural, lifestyle and rural-residential properties with housing, thus opening opportunities for ‘urban’ expansion.

9.54. Below are specific responses to the applicant’s views that the Arawa Road development is urban. The applicant’s views are first paraphrased in italics (with the full versions found in Attachments 5 and 6) followed by the response.

Residential zoning: The settlement on the eastern side of Arawa Road is residential and has sections ranging from 800m² to 1000m² in size and is therefore comparable to Te Puke and Tauranga. The residential zoning is also reflective of that character.

9.55. The Arawa Road settlement is mostly zoned residential but also has eight rural zoned lots for lifestyle living which average 2001m² plus another rural lot of 8754m². The average lot sizes in the Residential Zone are also generally larger than those in Te Puke and Tauranga. The rules for the residential zoned part of the settlement require a minimum lot size of 800m² whereas in Te Puke this was traditionally 350m², but recent medium density rule changes and development trends are leading to smaller lots. This is similar for Tauranga. The settlement is therefore more comparable to the other small settlements in the District rather than to the District’s towns or Tauranga City. Also, as discussed in response to the applicant’s Section 32 assessment earlier, the residential part of the settlement is also reliant on the

rural surroundings for its character and therefore once again not comparable to a township or city.

Urban is not defined in the NPS-UD 2020 or the District Plan.

- 9.56. While it is acknowledged that neither ‘urban’ or ‘urban area’ are specifically defined in the NPS-UD, there is a related District Plan definition for the term ‘urban growth areas’ and a planning decision about the District’s urban environments which is set out in more detail below.
- 9.57. Statistics NZ provide a comprehensive definition of ‘urban area’. This stands out as the most suitable definition for understanding what is meant by an area being urban. The full definition is set out in the specific discussion about the HBA which is further below. However, in summary, urban areas are characterised by having many built-environment features and being places where people and buildings are located close together for residential, cultural, productive, trade, and social purposes, whilst having populations of at least 1,000 people. The existing settlement at Arawa Road does not meet this definition and is classified by Statistics NZ as ‘other rural’.
- 9.58. It is also noted that definitions of ‘urban area’ and ‘urban’ in dictionaries generally refer to these being in relation to a town or a city. The existing settlement is neither of these.
- 9.59. Plan Change 92 – Ōmokoroa and Te Puke Enabling Housing Supply and Other Supporting Matters is also relevant as Council’s response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. This required tier 1 territorial authorities to undertake a plan change to include the MDRS and meet Policies 3-4 of the NPS-UD in relevant residential zones and urban environments respectively. The Independent Hearing Panel (IHP) determined that the reason Council has been determined a tier 1 Council is because it lies at the periphery of Tauranga. The IHP considered that the only areas in Council’s District that should be subject to the MDRS and NPS-UD are Te Puke and Ōmokoroa whereas further afield urban areas such as Waihi Beach and Katikati were not applicable despite being townships.
- 9.60. When preparing to notify this Plan Change, Council determined the boundary of Te Puke’s relevant Residential Zone and urban environment as being the township itself. The Arawa Road settlement, along with other small settlements in the eastern part of the District, were not included in either. Notably, there were also no submissions that sought to include the Arawa Road settlement, or any other small settlement, into Te Puke’s relevant Residential Zone or urban environment. Plan Change 92 was notified on 20 August 2022. The applicant for Plan Change 95 did have the opportunity to submit on Plan Change 92 to seek inclusion in Te Puke’s urban environment, or to demonstrate that they were part of another urban environment, if they felt this was the case. They were preparing their own private plan change at the same time (submitted to Council on 15 December 2022). Their pursuit of their own plan change, rather than being included in a plan change that was already occurring, could indicate they did not consider their land to be part of an urban environment.
- 9.61. Also, while urban is not defined in the District Plan, there is however a definition of ‘Urban Growth Areas’ which “means Waihi Beach (including Athenree, Bowentown and Island View), Katikati, Ōmokoroa and Te Puke.” It is noted that while the urban growth areas defined in the District Plan specify the extent of Waihi Beach (as including connected residential areas) it does not identify Arawa Road as an area to be included as part of Te Puke.

Urban area / settlement in FDS. This is defined as “a concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which is predominantly non-agricultural or non-rural in nature”. The proposed site meets this.

9.62. The SmartGrowth Strategy 2024-2034 includes the FDS and provides this definition. However, the FDS and wider SmartGrowth Strategy have not identified the Arawa Road settlement or Pongakawa within any maps showing the ‘existing urban areas’ or the ‘urban growth areas’. This indicates that the Plan Change location is not considered to be an ‘urban area’ as defined in the SmartGrowth Strategy. This reflects the FDS definition referring to urban areas/settlements needing to be predominantly non-rural in nature. Instead, when Pongakawa has been identified within the document it is referred to as rural.

Urban zoning in NPS-HPL: The NPS-HPL defines “urban” as a description of zoning which includes settlement zones and any density of residential zones.

9.63. The NPS-HPL does not specifically define urban, however it does define ‘urban rezoning’, and this is considered relevant to the Plan Change site (see Topic 3 (Highly Productive Land) for the assessment of the NPS-HPL). As discussed earlier, a Residential Zone by itself does not mean that an area is urban or predominantly urban in character, especially when located in an area which is predominantly rural. Land zoned for housing is only one aspect of what would contribute towards an area being considered urban.

Urban activities in the RPS. This is defined as including residential accommodation at a density of more than one dwelling per 2000m². The density of the current Arawa Road settlement meets this definition. There are 76 existing dwellings clustered at densities higher than 2000m².

9.64. The Plan Change is considered to meet this definition as it is proposed to include residential accommodation at a density of more than dwelling per 2000m². However, the context for this term is also important to understand. In the operative RPS, the use of the term ‘urban activities’ is used in policies to restrict them outside of urban limits (where the proposed site is located). In proposed RPS Change 6, the term is again used but only where policies intend to restrict such activities outside of urban environments. Therefore, in the context of this Plan Change, which must give effect to the RPS, drawing attention to the development meeting the definition of ‘urban activities’ would only have one purpose under the RPS. This being to acknowledge that the existing settlement and/or proposed site is outside of the urban limits or outside of an urban environment and intended to be considered under related policies.

9.65. This definition of ‘urban activities’ is also not intended or suitable for determining an area as being predominantly urban in character. The definition has no consideration of scale and could be met by a single property that has residential accommodation at a density of more than one dwelling per 2000m² of site area. There are many rural and lifestyle properties which do or can meet this density using District Plan rules allowing a dwelling and minor dwelling on site e.g. two on a site of 3000m². To consider land as urban on density alone is therefore not appropriate and could set a precedent. Using the same argument as the applicant, it could allow such properties to be seen as predominantly urban in character and possibly subject to requests for ‘urban’ expansion in locations not intended.

9.66. The applicant has also identified that Arawa Road is considered to be a clustering of residential dwellings making it typical of an urban environment which is also referenced within this definition for urban activities. While this can be a component of an urban area,

this assertion excludes consideration of the broader understanding of what an urban area or urban environment is comprised of.

Urban area or settlement in the RNR. This is defined as an area which contains an aggregation of more than 50 lots or sites of an average size of no more than 1000m². The proposed site meets this and certainly as proposed to be modified.

- 9.67. The RNR defines 'urban area or settlement' in the context of setting requirements for the likes of erosion, earthworks, damming, culverts, drainage and bridges etc. This definition is again not intended or suitable for supporting an area being determined as predominantly urban in character. In any case, it also appears that the applicant may have calculated a lower average lot size by excluding the rural properties on the western side of Arawa Road which are part of the settlement, and by individually counting several smaller residential 'lots' that are amalgamated as part of larger titles.
- 9.68. When making corrections to these, the average lot size of the Arawa Road settlement is 1038m² and the definition is not met. This calculation includes the eight rural properties also part of the settlement and therefore part of the aggregation of lots. If the other rural lot of 8754m² was also added, then the average lot size would become much higher. For this calculation, the definitions of 'lot' in the District Plan and 'site' in the National Planning Standards have been used as the most relevant available, meaning that the smaller amalgamated lots should not be counted separately. These definitions show that separate 'lots' are those which have their own certificate of title. Also, that separate 'sites' are those which have their own certificate of title, or which contain two or more lots that cannot be dealt with separately without consent of the Council (which is the case as the District Plan rules only allows one dwelling, and other activities, per certificate of title).

Urban Maps 2020 on Council's website. These include clusters of residential-only settlements and may have been intended to align with the NPS-UD.

- 9.69. The 'urban maps' referred to by the applicant are from the previous format of the District Plan before the hard copy / PDF versions were converted to an ePlan in 2021. These previous maps are labelled as '2020' as this was the last time they were updated. This old format had always been divided into 'rural maps' and 'urban maps' based on what scale was generally helpful for showing the details of an area. The scales helped plan users navigate the maps of a very large District and were not in any way a reference to what the District Plan considered to be urban. It is noted that Arawa Road was not included in the urban maps in any case. Of note, the Minden Lifestyle Zone and Tuapiro Rural-Residential Zone are also on the 'urban maps' despite being more aligned with a rural zoning. These differences show that the maps were never intended to define what is to be considered as urban.

Whether "Intended to be" predominantly urban in character

- 9.70. The definition of urban environment refers to whether an area is intended to be predominantly urban in character. The applicant concludes that the character of the settlement would be consolidated by the Plan Change and improve it in terms of constituent parts with the inclusion of commercial zoned land, dedicated recreation amenities and infrastructure, therefore making it predominantly urban in character.
- 9.71. The applicant's argument appears to be that "intended to be" includes a proposal for a private plan change so long as the applicant's intention is for their land to become predominantly urban in character. Such an approach would effectively allow any landowner

to decide at any time that their property is ready to become part of an urban environment, regardless of location, and without that location being tested through any public process. It would result in an ad hoc approach to planning and make strategic planning redundant.

9.72. Accordingly, it is understood that “intended to be” refers to the intentions of the local authority, as identified through RMA planning documents such the FDS or District Plan zonings which have been through a public submission process.

Whether Part of a housing and labour market of 10,000

9.73. On 30 August 2024 the applicant provided an economic assessment for the definition of ‘Market’ (Appendix A of Attachment 6). The purpose of this assessment is to determine the Plan Change location to be in the “locality and market” (as outlined in the NPS-HPL) of Te Puke and subsequently in the “housing and labour market” required as part of the definition for urban environment (NPS-UD). This assessment has been addressed below as part of the NPS-HPL assessment in Topic 3 (Highly Productive Land). However, to summarise, the peer review by Insight Economics (Attachment 8) of this proposed ‘Market’ definition concludes that it is not agreed that Te Puke and Pongakawa are in the same “locality and market”. This is due to a variety of reasons including the following:

- Statistics New Zealand does not classify Pongakawa as part of the Te Puke functional urban area.
- It is not agreed that the Plan Change site provides the same level of access to employment.
- It is not agreed that the housing market of Te Puke and Pongakawa are comparable.
- Pongakawa is not part of the District’s urban areas and therefore is not within the scope of the HBA.

9.74. Therefore, it is not agreed that the Plan Change site is part of the housing and labour market of 10,000 in that it is not part of the urban environment of Te Puke.

Whether an urban environment

9.75. In summary, despite the applicant’s further efforts, the Plan Change site and/or the Arawa Road area is still not considered to be an urban environment.

NPS-UD (FDS) – Response to Applicant’s Section 32 Assessment

9.76. At the time of application (December 2022) the FDS had not been notified however the applicant’s Section 32 Report was updated prior to notification in November 2023 to include reference to the Draft FDS (notified for submissions in September 2023). The applicant’s Section 32 Report notes that Pongakawa is identified as being within the Eastern Corridor in the draft SmartGrowth Strategy and builds upon the “established rural village” of Pongakawa aligning with the connected centres approach in UFTI and the “emerging FDS”.

9.77. In the interim it is noted that the agent for the applicant did submit on the FDS to have Pongakawa identified as a growth area. However, it was recommended by SmartGrowth staff (see SmartGrowth Strategy Hearings Panel Deliberations – available on SmartGrowth website) through the SmartGrowth Strategy deliberations (29 February – 1 March, 19 March and 13 May 2024) not to include additional residential areas in the east of the District. Among the reasons for this recommendation, the SmartGrowth Technical Advisor said that to include Pongakawa in the FDS would not align with the Connected Centres approach which

underpins the FDS, and that rejecting the request would provide a clear signal from SmartGrowth that developments outside of the urban growth areas identified are not part of the FDS.

9.78. The FDS is therefore not applicable for supporting the Plan Change location.

NPS-UD (FDS) – Response to Applicant’s Further Information

9.79. Further information was provided on 30 August 2024 (Attachment 6) by the applicant. Their views as to why the proposed site is provided for in the FDS are paraphrased below in italics with specific responses in reply to the applicant’s views following each.

The FDS is premised on a connected centres approach. The plan change gives effect to its two core concepts by increasing the supply of dwellings in the existing urban area of Pongakawa and through this area being integrated with social commercial, health and recreational amenities, close to growing employment sources and local school.

9.80. As discussed earlier, the existing Arawa Road settlement is not considered to be urban or predominantly urban in character, and therefore would not be an existing urban area. This is confirmed in the FDS itself (Map 18) by not identifying the existing settlement (or proposed site) or Pongakawa as an urban area or staged growth area. It therefore is not part of the connected centres approach. This is illustrated on Figure 12 of the SmartGrowth Strategy which identifies the places which are considered connected centres. In the eastern part of the District, only Te Puke, the Eastern Centre (Te Kāinga), and Rangiuuru Business Park are those included. Pongakawa is excluded.

Framing the FDS are strategic corridors in and around Tauranga. The eastern corridor is intended to include the Rangiuuru Business Park, residential housing, Wairakei Town Centre (Tauranga City), high value food production, port staging, connections to eastern Bay of Plenty and further horticultural production. It is acknowledged that Pongakawa is not specified as a staged growth area, however, the FDS applies to all urban development including the proposed site.

9.81. It is important to note that the corridor map (Figure 27 of SmartGrowth Strategy) shown by the applicant is from the wider SmartGrowth Strategy (Part 3 – The Spatial Plan / Chapter 11 – Economic Wellbeing) rather than from the FDS (Part 4). Figure 27 relates to economic corridors and employment and does not identify the development strategy of the FDS. The applicant has concluded that Pongakawa is not provided for on this map making it unclear why they have included it. It is instead the connected centres approach which does inform the FDS. As explained above, Figure 12 shows the connected centres, and it excludes Pongakawa.

9.82. Also, it is not clear why the applicant states that “the FDS applies to all urban development”. The FDS explains of itself that it “relates to urban development only and does not consider rural development”. This wording in the FDS carries a very different meaning to the wording that the applicant has provided. The words “all urban development” imply that any area which is urban is provided for, which is the applicant’s view, whereas the actual words of the FDS which say “urban development only” are to make it clear that only urban areas (and not rural areas) are considered. The FDS then identifies what is considered to be urban areas, none of which include the existing settlement or proposed site at Arawa Road. The wider SmartGrowth Strategy identifies Pongakawa as a rural area.

The FDS shows that some demand is expected to be met in rural, lifestyle and small settlement locations, with 500 dwellings allocated over the short through long terms. These small settlement

locations are not spatially defined, nor is there a specified distribution of this supply across the rural areas and small settlements. The proposed site is clearly a suitable location for some of the small-settlement allocation in the FDS.

9.83. The FDS's reference to some demand (500 dwellings) being met in future by rural, lifestyle and settlement locations is taking into account that these existing locations already enable a level of housing based on the current District Plan zonings/rules. Some rural titles for example remain vacant and the Lifestyle Zones are still being slowly developed. Also, some of the smaller settlements have vacant lots or other lots with potential for infill. The applicant appears to be of the view that Council is forecasting expansion of the boundaries of the small settlements to help provide these 500 dwellings. However, this does not make sense as the very same document (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 need to be provided elsewhere (existing urban areas for intensification or staged growth areas).

The text in Map 18 (of the FDS) makes it clear that future development areas are indicative only and that detailed information for individual areas is available in city and district plans or will be developed through future planning processes such as private plan changes like Plan Change 95.

9.84. The FDS spatially identifies the exact locations and indicative boundaries of the exact locations intended for future development, on Map 18. The reference to "indicative", when read in context of the words that follow it, is explaining two things. Firstly, that readers will need to view the city or district plans to find more detailed information on areas (i.e. the existing urban areas on Map 18 which have their detailed boundaries shown in the plans). Secondly, that staged growth areas would need to be subject to plan changes, which would inevitably include more detailed investigation and consideration of submissions before confirming the exact boundary. The suggestion from the applicant that the future development areas are shown so roughly that they offer no real indication of the Councils' plans and that different sites (such as the Plan Change site) are equally provided for is incorrect. The boundaries of the urban areas and staged growth areas have been carefully determined and mapped.

The proposal is therefore consistent with the intent of the FDS overall.

9.85. The Arawa Road settlement is not identified in the FDS as an urban area, staged growth area or connected centre. Whilst the applicant appears to be aware of these points, they have sought to argue that the FDS had otherwise intended to include the Arawa Road settlement in Pongakawa despite not showing it. The applicant's references to maps and wording from the SmartGrowth Strategy are used in isolation and out of context. Looking further into their references reaffirms why the Arawa Road settlement was not included.

NPS-UD (HBA) – Response to Applicant's Section 32 Assessment

9.86. Policy 8 refers to the decisions of councils being responsive to the development capacity a plan change would add. The applicant's Section 32 Report states that this Plan Change will assist in meeting a housing shortfall in the eastern part of the District as identified in the HBA. The applicant refers numerous times to the "urgent need" identified in the following paragraph from the HBA summary document (not the full HBA) to support their point.

"Within the Western Bay of Plenty District there is an urgent need to investigate future growth areas in Te Puke and the Eastern Corridor to assist in addressing the identified

medium and longer-term shortfall that will arise from 2025 onwards. This will also assist to address local affordable housing needs and a shortage of horticultural/ seasonal worker accommodation.”

- 9.87. Although the applicant acknowledges that Pongakawa is not identified as one of the urban growth areas, they have referred to the HBA as another potential pathway for progressing the Plan Change. The applicant seems to rely on the need for housing in the eastern corridor as a reason for the proposed site to be used. However, where the HBA references the eastern corridor, it is to identify the sufficient development capacity that will be enabled through Te Puke – Plan Change 92 (which implements intensification with the use of MDRS) and upcoming plan change/s for Te Puke, the future Eastern Centre (Te Kāinga) and with respect to Tauranga City, including Te Tumu.
- 9.88. The HBA does not refer to Pongakawa as an area with housing demand and with a related need to provide for sufficient development capacity, and does not need to, as this is only a requirement for the District’s urban environments. It is acknowledged that the HBA has been applied to a wider area and has identified a shortfall across the District. However, the HBA envisages that the above-mentioned larger centres will provide the sufficient capacity needed for the eastern part of the District. The FDS, which must consider the most recent HBA, has confirmed this by identifying these centres for growth and excluding Pongakawa.
- 9.89. Also, Clause 3.2 of the NPS-UD requires that *1. Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet expected demand for housing: (a) in existing and new urban areas (emphasis added)*. Further, Clause 3.25 of the NPS-UD as it relates to HBAs says that *development capacity must be quantified as numbers of dwellings: in different locations, including in existing and new urban areas (emphasis added)*. If an area is not an ‘urban area’ it does not fall within the purpose of the NPS-UD and HBA to identify and provide sufficient development capacity.
- 9.90. The term ‘urban area’ is not defined in the NPS-UD. Notably however, the term was carried over from its predecessor the National Policy Statement on Urban Development Capacity – 2016 (NPS-UDC) where it was defined and used in relation to the equivalent requirement for the preparation of ‘housing and business development capacity assessments’. The NPS-UDC relied on the Statistics NZ definition of urban areas when defining high growth and medium growth urban areas for this requirement and others, the definition was not carried into the NPS-UD because its policies would no longer focus on areas of high and medium growth.
- 9.91. Nevertheless, the Statistics NZ definition, given its robustness, and previous use in the NPS-UDC, is the most obvious and suitable definition for the preparation of HBAs in the NPS-UD. No alternatives of ‘urban area’ have been suggested by the applicant despite this being the exact term used. Instead, they have searched for other definitions using the word ‘urban’.
- 9.92. The latest Statistics NZ definition is shown below:

Urban areas are statistically defined areas with no administrative or legal basis. They are characterised by high population density with many built-environment features, where people and buildings are located close together for residential, cultural, productive, trade, and social purposes. Urban areas are delineated using the following criteria. They:

- *form a contiguous cluster of one or more SA2s*

- *contain an estimated resident population of more than 1,000 people and usually have a population density of more than 400 residents or 200 address points per square kilometre*
- *have a high coverage of built physical structures and artificial landscapes, such as:*
 - *residential dwellings and apartments*
 - *commercial structures, such as factories, office complexes, and shopping centres*
 - *transport and communication facilities, such as airports, ports and port facilities, railway stations, bus stations and similar transport hubs, and communications infrastructure*
 - *medical, education, and community facilities*
 - *tourist attractions and accommodation facilities*
 - *waste disposal and sewerage facilities*
 - *cemeteries*
 - *sports and recreation facilities, such as stadiums, golf courses, racecourses, showgrounds, and fitness centres or green spaces, such as community parks, gardens, and reserves*
- *have strong economic ties where people gather to work and for social, cultural, and recreational interaction*
- *have planned development within the next five to eight years.*

Urban areas are further classified by the size of their estimated resident population as:

- *major urban area (100,000 or more residents)*
- *large urban area (30,000–99,999 residents)*
- *medium urban area (10,000–29,999 residents)*
- *small urban area (1,000–9,999 residents).*

9.93. Based on this definition, the existing residential area of Arawa Road would not qualify as an ‘urban area’. It does not have the required range of the listed built physical structures, only has an existing population of approximately 250 people, and the Plan Change site would only increase the population to around 500–600 people. It is therefore mapped as an “other rural” area by Statistics New Zealand.

9.94. As a result, this part of the NPS-UD and related HBA is also not applicable for supporting the development’s location.

NPS-UD (HBA) – Response to Applicant’s Further Information

9.95. In the applicant’s further information received on 30 August 2024 (Attachment 6) their view remains that the HBA assessment illustrates insufficient housing development capacity in the subregion which they feel the Plan Change will help assist in this regard. To argue their point, NERA have provided an economic assessment (Appendix A of Attachment 4) which demonstrates a need for housing in Pongakawa specifically.

9.96. Whether able to be proven or not, it does not change the conclusion drawn above, that Pongakawa is not an urban area and is therefore not required for the purpose of the NPS-UD and HBA to identify and provide sufficient development capacity.

9.97. The NERA report and Council's peer review from Insight Economics is discussed in detail in Topic 3 (Highly Productive Land) to follow. In summary, the peer review finds that there is not sufficient evidence to conclude that there is a specific demand for housing in the Pongakawa area. This conclusion is reached for a number of reasons, including that the Pongakawa S2A area used in the assessment is a large area of predominantly rural land that also includes places such as Paengaroa, and that NERA have overlooked other sources of supply such as rural-residential opportunities. As detailed in the HBA, which the applicant has made a point of highlighting, existing Rural Zones are expected to deliver some of the future supply needed. This aligns with the findings of the peer review.

Going for Housing Growth – Response to Applicant's Further Information

9.98. In the applicant's further information received on 30 August 2024 (Attachment 6) there is reference to the Central governments "Going for Housing Growth" programme and indicated changes to the NPS-UD looking to be favourable to the Plan Change.

9.99. Current information provided from the Government around the Going for Housing Growth Programme discusses intensification within towns and cities and requiring council to extend the boundaries of these. There is reference to the fringes of these locations and being of benefit for land in and on the boundary of cities/towns. It also outlines that councils will continue to have the freedom to choose the right areas subject to achieving 30 years of growth. Given this context and that the Going for Housing Growth Programme is only in the initial stages of development and no legislative changes have been made it is difficult to determine, at the time of writing this report, whether the Plan Change would be enabled by it. Further, it is foreseeable that the FDS would be used when Council needs to determine which areas to rezone. The FDS does not provide for the Arawa Road settlement.

RPS – Operative/Change 6 – Response to Applicant's Section 32 Assessment

9.100. The RPS sets the regional direction for urban growth and Bay of Plenty Regional Council has begun to implement the requirements of the NPS-UD through proposed RPS Change 6.

9.101. For the purposes of this part of the discussion, it is noted that Plan Change 95 must have regard to the objectives and policies of RPS Change 6. It is also relevant that decisions have been made on RPS Change 6 and that there are appeals, however these appeals are limited to only parts of the provisions. Some weight must therefore be given to the objectives and policies, following decisions, especially those not subject to appeal.

9.102. Two policies (as proposed to be amended by RPS Change 6) are relevant to settlement pattern. These are UG 7A and UG 14B. The applicant's view in their Section 32 Report is that Policy UG 7A (providing for unanticipated or out-of-sequence urban growth in urban environments) is applicable to their proposal. However, in discussions since submissions, the applicant is understood to have also formed a view of how the Plan Change could instead be subject to Policy UG 14B (restricting urban activities outside urban environments) if the site is deemed to be not a part of an urban environment.

9.103. Both policies are connected to Objective 23 (Operative) and Objective 25 (proposed to be amended by RPS Change 6).

Objective 23: A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth.

Objective 25: Urban subdivision, use and development, is located and staged in a way that integrates with the long-term planning and funding mechanisms of local authorities, central government agencies and network utility providers and operators whilst also being responsive to the growth plans of relevant industry sector groups and other development entities.

Policy UG 7A (unanticipated or out-of-sequence urban growth – urban environments)

9.104. Policy UG 7A (as proposed to be amended by RPS Change 6) is as follows:

Private plan changes, submissions on plan changes, or submissions on plan reviews providing for development of urban environments and urban growth that forms part of an urban environment, that is unanticipated or out-of-sequence, will add significantly to development capacity based on the extent to which the proposed development satisfies the following criteria:

(a) The development is of large enough scale to contribute to meeting demand for additional urban land identified through the HBA for the area, including meeting housing bottom lines or meeting needs for specific housing typologies or price points, or business types. Where there is no HBA, there is evidence that there is a need for additional urban land, and

(b) For Tauranga City and Western Bay of Plenty District urban environments, the development is large scale (5 hectares or more), and able to support multi modal transport options, and

(c) For all other urban environments, the development is at a scale commensurate with the size of the urban environment and includes a structure plan for the land use change that meets the requirements of Method 18, and

(d) The development is located with good accessibility between housing, employment, community and other services and open space, and

(e) The development is likely to be completed earlier than the anticipated urban development and/or land release sequence, and

(f) Required development infrastructure can be provided efficiently, including the delivery, funding and financing of infrastructure without materially reducing the benefits of other existing or planned development infrastructure, or undermining committed development infrastructure investment.

9.105. The existing settlement and Plan Change site is not part of an urban environment, and therefore this policy does not apply. Notwithstanding, the applicant has provided the following views with respect to how they believe their proposal would meet the criteria. Their views are paraphrased (from the applicant's Section 32 Report) in italics below, with a response provided in reply to each.

- *Criterion (a) – the development is of a large enough scale to contribute to meeting demand identified in the HBA.*

The HBA only requires local authorities to provide at least sufficient housing capacity in new and existing urban areas. The existing settlement, with or without the addition of the Plan Change proposal, would not be an urban area as

discussed earlier.

- *Criterion (b) – the developable area to be delivered is 8.98ha and there will be enough dwellings to support alternative modes of transport as opposed to pure reliance on private vehicles, particularly for school bus transport.*

The developable area is proposed to be larger than 5ha. Despite its size, due to its location, multi-modal transportation provision outside of the Plan Change site is not within the power of the applicant. While a bus stop is proposed within the Plan Change site, the reliance on private vehicles would remain the primary form of transport to and from the development. The proposal of a bus stop also does not guarantee that it will be used for a public bus service for commuters as this would be a decision made by the service provider.

- *Criterion (c) – a structure plan has been provided.*

A structure plan has been provided but this criterion applies to areas other than Tauranga and the Western Bay of Plenty District.

- *Criterion (d) – the proposal includes open space, and there is a vision to improve social infrastructure with good accessibility to the transport link of State Highway 2.*

Although the proposed structure plan includes open space, the settlement itself does not allow for the accessibility of housing, employment, community, and other services that you would find in an urban area. The current rural community relies on other townships to access these servicing needs. The limited variety of housing types, employment opportunities, connections through cycleways, walkways, public transport is either non-existent or unachievable due to the state highway that runs alongside the rural area. This level of access that has been proposed could just as easily be achieved by any rural property in the district.

- *Criterion (e) – the entire development will be completed in the short term prior to the Eastern Centre (Te Kāinga) which has a 30+ year timeframe.*

It is understood that the basis for the applicants assessment of “short term” is in regard to the short term of the HBA being 2022–2025, these timeframes have been updated through the FDS which identifies the short term dwelling allocations from 2024–2027. The FDS also provides an infographic which shows lead time to development. Stating that it can take 10 years + (total) for a development to have homes, facilities and buildings available for occupation. Therefore, the Plan Change development is unlikely to be completed in the short term (next 3 years). The landowner is first required to proceed through this Plan Change process, and then meet a significant number of pre-requisites, before being able to subdivide or develop the land. This also means that the vision of completing the development ahead of other areas is also questionable.

It is important to note that the Eastern Centre (Te Kāinga) is not the only area planned for future growth in the eastern part of the District. Te Puke is another staged growth area in the FDS and is identified for development in the short to medium terms, with the associated Plan Change scheduled to commence in 2025. It is also relevant to note that the Eastern Centre (Te Kāinga) is intended to deliver 8000 dwellings compared to the proposed Plan Change's 120-130. Te Puke is also intended to add significantly more than 120-130 dwellings being an existing town.

- *Criterion (f) – planned infrastructure is feasible and existing infrastructure will not be undermined.*

The provision of infrastructure would not be efficient as discussed in parts of this report especially relating to the proposal for wastewater. This is discussed in more detail under Policy UG 14B below and in other relevant topics.

Policy UG 14B (restricting urban activities outside urban environments)

9.106. The alternative is therefore Policy UG 14B (as proposed to be amended by RPS Change 6) which restricts urban activities outside of urban environments unless it can be demonstrated that sound resource management principles are achieved. It reads as follows:

Policy UG 14B: Restricting urban activities outside urban environments.

Restrict the growth of urban activities located outside urban environments unless it can be demonstrated that sound resource management principles are achieved, including:

- (a) The efficient development and use of the finite land resource, and*
- (b) Providing for the efficient, planned and co-ordinated use and development of infrastructure.*

9.107. The operative Policy UG 14B currently reads as follows:

Policy UG 14B: Restricting urban activities outside the urban limits – western Bay of Plenty sub-region. Except as provided for in Policy 7A urban activities shall not be developed outside the urban limits shown on Maps 5 to 15 (Appendix E). Note that Operative Policy 7A allowed an exemption for business land only.

9.108. The definition of 'urban activities' in the RPS includes *residential accommodation at a density of more than one dwelling per 2000m² of site area; Commercial and industrial business, retailing and other commercial activities; ... and; Any other land use for which reticulated wastewater and water supply is a requirement.*

9.109. The Plan Change proposes residential accommodation at a density of more than one dwelling per 2000m² of site area and proposes commercial business activities. It therefore can be considered to provide for 'urban activities' as defined by the RPS. Consequently, proposed Policy UG 14B applies and needs to be assessed.

Policy UG 14B (a) (efficient development and use of the finite land resource)

9.110. The applicant's perspective is that they meet (a) by using their site to the best of their ability to use it efficiently to reduce the amount of farmland lost. This essentially would mean that any land could be developed for housing outside of an urban environment if a landowner simply agreed to use less of their land. This would be a very low bar to meet.

9.111. The broader perspective would be that to use the land resource efficiently, and to minimise loss, would mean avoiding areas that are known to be productive (such as the applicant's farm) and instead looking at alternatives. These alternatives would include land which is less suitable or not suitable for productive farming.

9.112. Therefore, it is not agreed that Policy UG 14B (a) has been met.

Policy UG 14B (b) (efficient, planned and co-ordinated use and development of infrastructure)

9.113. The applicant is of the opinion that their proposal meets this part of the policy by proposing coordinated and developer funded three-waters, roading and public transport infrastructure to service the community, with future rates funding the ongoing maintenance costs.

9.114. However, it is not agreed that the Plan Change is an "efficient" use of infrastructure. The current residential area of Arawa Road and Penelope Place only has reticulated water. Wastewater is not reticulated and instead each lot has an individual onsite septic tank system. The development of wastewater infrastructure proposed by the Plan Change is for the Plan Change site only, and there is no plan to include the current residential area in the proposed wastewater scheme. Once complete, the wastewater infrastructure is intended by the applicant to be vested with Council to run and maintain.

9.115. The cost associated with this wastewater scheme relative to the limited population that would benefit from it, is inefficient. While there are other similar schemes in the District (for example at Ongare Point), these schemes have been implemented where previous septic tank systems within the entire existing settlement have not achieved the necessary compliance standards. Council's Water Services Asset Management Team has advised that it will be at least 36% more cost effective to provide wastewater services in a town with an existing system compared to the proposed system (for the Plan Change site).

9.116. In terms of "planned", the infrastructure proposed by the Plan Change to support the development of the 120-130 houses is not planned in any relevant documents such as the Long-Term Plan, District Plan, FDS or UFTI. This is because the development of the Arawa Road area for further residential purposes was not anticipated. The Plan Change site will also not be "co-ordinated" with any other infrastructure. Except that if a water main upgrade by the developer was to occur it may, at Council's cost, later be connected to the existing residential area.

9.117. When read in context, the purpose of this policy is to allow for the expansion of towns which already have both reticulated water and wastewater. For example, this would capture urban areas that are identified for growth in the District such as Waihi Beach and Katikati which are not urban environments but are nevertheless towns planned to grow to accommodate the housing needs of the District.

9.118. The explanation of Policy UG 14B provides clear guidance as to the intent of the policy. It states:

While areas outside urban environments have not been and are unlikely to face the same growth pressures, some urban growth pressures can be expected. Outside of urban environments and urban growth that forms part of an urban environment, new urban areas (or urban zoning) is not desirable as it can create a sporadic settlement pattern and result in an inefficient use of natural and physical resources.

There are however, some limited circumstances where such proposals could be acceptable such as extensions to existing towns that have reticulated water and wastewater services. Therefore, the same overarching growth principles of the National Policy Statement on Urban Development (2020) should apply in other areas to ensure proposals result in an efficient use of land and resources. For the avoidance of doubt, this policy does not enable development in villages and settlements that do not have reticulated water and wastewater services.

There may be other provisions in this Regional Policy Statement to consider in proposals to urbanise land which may mean a particular location is unsuitable. These include, but are not limited to, topographical constraints, natural hazards and natural freshwater features.

- 9.119. This indicates that the Plan Change site would not meet the requirements to allow for urban activities outside of urban environments because it is not expanding a town and does not have reticulated wastewater. The explanation also refers to villages and settlements “that do not” have reticulated water and wastewater as opposed to “will not”, so would require that there is already water and wastewater infrastructure present. The use of the phrase “for the avoidance of doubt” also clearly seeks to limit the application of the policy to towns that have both reticulated water and wastewater services and not to smaller settlements.
- 9.120. For these reasons, the Plan Change site would not satisfy the requirements of Policy UG 14B (b).

RPS – Operative/Change 6 – Response to Applicant’s Further Information

- 9.121. The applicant has since provided further information regarding both Policies UG 7A and UG 14B. Most of the information provided repeats what was presented in the applicant’s Section 32 Report and does not change the conclusions reached above. Further information includes an explanation that the proposed site is increasing to 9.7ha (with no reason given) and a reference to the NERA report regarding a need for additional capacity in Pongakawa (which is not agreed as discussed elsewhere in Topic 2 (Settlement Pattern) and 3 (Highly Productive Land)).

General – Housing Need, Commercial Zoning and Community Facilities / Services

- 9.122. Not all submission points were specifically on strategic growth documents. Many submitters have also focused their support or opposition more generally on the Plan Change’s goal of enabling further housing and commercial land in the area, and its connection or lack of connection (depending on viewpoint) to a range of facilities. This final part of the discussion provides a response to those submissions.

Housing need

- 9.123. The need for housing in the Pongakawa area to accommodate horticultural workers and the affordability of the housing proposed by the applicant’s Section 32 Report has been referenced by many of the submitters. This is both in support and in opposition to the Plan Change. The applicant’s NERA report provides an assessment of the housing demand in Pongakawa citing the recent conversion of dairy farms to horticulture and the Rangiora Business Park creating a demand in the area. It also identifies an increase in house prices and rents in the Pongakawa area in recent years indicating in their view that there is insufficient land supply to meet demand. The provision of smaller sections is in their

proposal is also cited in the applicant's Section 32 Report to support the affordability of houses.

- 9.124. The Council's peer review from Insight Economics also includes comments on housing demand and affordability and notes that the Pongakawa area used in the NERA report covers a large geographic area of 389km², which is almost three times the size of the Tauranga City territorial authority boundary. Therefore, the applicant's assumption of the demand for housing needing to be met in the Plan Change site is inaccurate. The peer review goes on to comment that population projections cited in the NERA report likely reflect the growth in Paengaroa, which is the largest residentially zoned area, and consequently holds the largest population base of the Pongakawa area assessed.
- 9.125. Additionally, the Insight Economics review concludes that "it is unlikely that additional growth in the Pongakawa area will provide affordable housing to meet the needs of additional horticultural and industrial workers, who are not typically high earners" and references data from the 2023/2024 NZ Kiwifruit Growers Pre-Harvest Seasonal Labour Report which indicates that hourly wages are only marginally higher than the minimum wage, on average. Therefore, the peer review suggests that the assertion from the applicant that the Plan Change is providing for horticultural workers is tenuous. Ultimately, the market will determine who would purchase the houses and the Plan Change does not ensure houses are bought by specific groups.

Commercial zoning

- 9.126. The NERA report also provides an assessment of the need for the proposed Commercial Zone. It does this by calculating the population of various locations around the Western Bay of Plenty District focusing on "small urban settlements" or "rural settlements" classified by Statistics NZ (Waihi Beach-Bowentown, Katikati, Ōmokoroa, Plummers Point, Te Puna West, Te Puke, Paengaroa) and comparing these locations to the number of "grocery stores" they have. "Grocery store" has been identified in the report by NERA as a dairy, convenience store or supermarket.
- 9.127. NERA demonstrates that the population necessary to support one grocery store can vary. It is outlined that the required population per grocery store is a population of 600 to 3700. Given the population of Arawa Road combined with the proposed Plan Change to be approximately 577 (according to NERA), NERA concludes that a grocery store would be viable in the Plan Change location.
- 9.128. However, the NERA report does not consider service stations in its assessment which could arguably provide the same grocery items found at a dairy (which is included in the reports classification of a grocery store). The NERA assessment further asserts that the Plan Change site being on SH 2 would mean there could be an even larger population using the store however does not consider that this larger population is already accessing the BP service station approximately 1.8km away.

Community Facilities and Services

- 9.129. While there may be an advantage of the proposed commercial area namely the "grocery store" (which would be enabled by such a zoning but may or may not be established) is that the use of private vehicles to get to convenience type stores may be reduced. As identified in submissions the residents of the Plan Change site will rely heavily upon private vehicle use to get to work, the larger supermarket stores and to access wider social services.

- 9.130. Currently access to the Pongakawa Domain and Pongakawa School, while approximately 1.8km away, is only available by car. While one submitter has offered access through their property to allow residents to walk to the Pongakawa Domain and School, enabling this access, however, is not able to be addressed by the Plan Change and is a process that requires a legal agreement or mechanism established between the landowner and Council. Additionally, pedestrians would still need to safely cross SH 2 and a railway line. The Plan Change location is such that the use of private vehicles to reach a wider range of community services and facilities is inevitable.
- 9.131. Some submissions also question the capacity of national emergency services in terms of resources to handle the additional population. The ability for the Plan Change to address this specific matter is limited however it is noted that there was one submission received from Maketu Volunteer Fire Brigade in support of the Plan Change as it would increase their volunteer base, there were no submissions received on the Plan Change from the New Zealand Police or the wider organisation of Fire and Emergency New Zealand.

Conclusion

- 9.132. In summary, the proposed Plan Change's location is not supported either specifically or indirectly by the legislation and initiatives that guide strategic growth planning for the District. This is considered to be intentional as any extension to the existing Arawa Road settlement is not appropriate or required for the District's growth, whereas those areas which are, have been purposely identified following rigorous assessment processes. Although submissions in favour of additional housing and a new commercial zoning in the settlement are noted, the location is not suitable for a number of reasons, as has been highlighted by other submitters.

RECOMMENDATION

- 9.133. The proposed location of the site is not supported by the legislation and initiatives that guide strategic growth planning for the District including SmartGrowth, UFTI, NPS-UD, HBA, FDS and RPS.

SECTION 32AA ANALYSIS

- 9.134. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

10. TOPIC 3 – HIGHLY PRODUCTIVE LAND

BACKGROUND

- 10.1. The NPS-HPL was gazetted in October 2022 and amended in August 2024. This national direction seeks to protect highly productive land by preventing unintended urbanisation of identified highly productive soils.
- 10.2. The NPS-HPL has one objective, that "highly productive land is protected for use in land-based primary production, both now and for future generations."
- 10.3. Under the NPS-HPL, land that has a LUC of 1, 2, or 3 and that is within a General Rural or Rural Production Zone is to be deemed highly productive until Regional Council, following a Schedule 1 process under the RMA, has included maps of highly productive land in their operative RPS. Bay of Plenty Regional Council are currently preparing Change 8 to their RPS

and must notify this for submissions no later than 17 October 2025 to meet NPS-HPL timeframes.

- 10.4. In the District, 72.55% of the total land area is zoned rural, and 36.9% of the total land area contains LUC 2 and 3 soils. The District does not have any LUC 1 soils. The Plan Change site is zoned rural with LUC 2 soils and therefore represents the most highly productive land classification in the District. As such, the NPS-HPL is relevant to this proposal.
- 10.5. Policy 5 and 6 of the NPS-HPL relate to urban rezoning of highly productive land and both state that urban rezoning should be avoided except where provided for in the NPS. Clause 3.6 outlines the circumstances in which highly productive land can be rezoned.
- 10.6. Council is a tier 1 territorial authority. The relevant parts of Clause 3.6 in the NPS-HPL relating to tier 1 territorial authorities, state:

3.6 Restricting urban rezoning of highly productive land

(1) Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:

- (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*
- (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*
- (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.*

(2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:

- (a) greater intensification in existing urban areas; and*
- (b) rezoning of land that is not highly productive land as urban; and*
- (c) rezoning different highly productive land that has a relatively lower productive capacity.*

(3) In subclause (1)(b), development capacity is within the same locality and market if it:

- (a) is in or close to a location where a demand for additional development capacity has been identified through a Housing and Business Assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and*
- (b) is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).*

...

(5) Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.

10.7. The applicant's Section 32 Report has briefly assessed the Plan Change proposal against the requirements of Clause 3.6(1)(a-c). Their assessment concludes in their view that the Plan Change is consistent with each of the clauses for the following reasons:

- Clause 3.6(1)(a) as it contributes to meeting the identified shortfall in sufficient housing development capacity, by providing housing to the horticultural workers in the area.
- Clause 3.6(1)(b) the alternatives are considered as part of the Section 32(1)(b)(i) analysis (Appendix 11 – RMA Analysis of Section 32 Report) and the site is considered to be the most reasonably practicable and feasible option.
- Clause 3.6(1)(c) in terms of environmental improvements, social and community resilience, reduced greenhouse gas emissions, and expression of kaitiakitanga opportunities, the environmental, social, cultural and economic benefits of rezoning are considered to outweigh the loss of removal of 12ha of the existing farm from productive use.

SUBMISSION POINTS

10.8. Ten submission points were received. One further submission points were received. The submission points on this Topic are summarised as follows:

10.9. Bay of Plenty Regional Council (27.4) consider that the Plan Change does not satisfy Clause 3.6 the NPS-HPL, because there is no evidence of demand for housing in the Pongakawa area and capacity is already enabled in more efficient locations. They also argue that the HBA does not assess or identify Pongakawa as having demand for additional development capacity, noting that the HBA instead has identified demand in Te Puke which is 15km from the Plan Change site and the nearest urban environment as defined in the NPS-UD. It is submitted that there is no evidence of housing demand in Pongakawa therefore consideration of the same locality and market is unnecessary. Further, that other reasonably practicable options would include greater intensification in the existing urban area of Te Puke as now enabled by Plan Change 92 and which could have further rezoning of land through the Te Puke Spatial Plan.

10.10. Rachael Sexton (14.9 and 14.10) submits that the Plan Change is contrary to the RPS policies, the NPS-HPL and is outside the designated urban growth area.

10.11. Rebecca and Cameron Black (31.5) do not consider that appropriate weight has been given to the intent and policies of the NPS-HPL, RPS or District Plan where highly productive land is concerned. The submitter is concerned that the requirements of Clause 3.6 of the NPS-HPL have not been met, specifically the submitter identifies Te Puke as an area that could practicably provide development capacity in the same locality and market. It is also asserted that the justification for the loss of 12ha of productive land to provide housing for the horticultural industry is flawed and will set a precedent for development and loss of highly productive land.

10.12. Rebecca and Cameron Black (31.1) submit that the urban development of the Rural Zone is inappropriate and seek that the rural character and amenity be retained. The submitter states that while the applicant's Section 32 Report considers the loss of 12ha of productive land to be minor, it will contribute to the overall loss of productive land in the District and increase the demand for conversion of more marginal land.

- 10.13. Hamish Henderson (20.3) refers to planning documents aiming to shield rural land and especially land with a high use classification from urban expansion. He argues that the Plan Change erodes the District and country of 12ha of not just rural land but of land with the classification of LUC 2, categorising it as very fertile and productive land.
- 10.14. Mike Maassen (12.6) supported by Hayden Dugmore (FS38.6) believes that the Plan Change land is the “guts” of the applicant’s farm and takes out all of the most productive land and higher ground (above the flood plain) that has farm infrastructure. The submitter states that the Plan Change will result in the fragmentation of a large and geographically cohesive area. The submitter emphasises the importance of retaining farming units of this size for future generations of farmers. Mr Maassen considers that if the Plan Change goes ahead, it could allow other such rural developments and the District’s highly productive land to soon be interspersed with small settlements of people who all need to drive to their jobs, schools, entertainment and supermarkets in the main centres.
- 10.15. Julian Clayton (7.12) considers that allowing the development goes against the NPS-HPL as the Plan Change site currently houses most of the farm’s operational infrastructure and removes this area from being productive.
- 10.16. Karen Summerhays and Nicola Cooke (23.1) support the objections raised by the Regional Council and Waka Kotahi provided as part of the applicant’s Section 32 Report. The submitters are concerned particularly in regard to the protection of productive land.
- 10.17. Pukehina Ratepayers’ and Residents’ Association Inc. (28.1) believes that the Plan Change will support growth in the area and that any farmland that has low productivity is better to be used for something else that is constructive. Their view is that this is a very well thought out independently resourced proposal.

DISCUSSION

- 10.18. Clause 3.6 of the NPS-HPL must be considered in relation to the Plan Change site. This clause states the circumstances under which Council may allow for urban rezoning of highly productive land. The clause is conjunctive, where all three subclauses (a-c) must be met for the rezoning to be allowed.

Clause 3.6 (1) (a) – Response to Applicant’s Section 32 Assessment

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

- 10.19. In this first part of the clause the key assessment criteria is whether there is a need to provide “sufficient development capacity” to meet demand for housing (or business). This wording is directly linked to the NPS-UD (Part 3.2) being the need for tier 1 territorial authorities to provide “sufficient development capacity” in their “districts”. It is important to highlight that this requirement in the NPS-UD relates to the District as a whole and does not direct territorial authorities to provide for sufficient development capacity in each specific area of its District.
- 10.20. Part 3.2 (of NPS-UD) refers to providing for this capacity in “existing and new urban areas”. As discussed in Topic 2 (Settlement Pattern) the existing Arawa Road residential area is not considered to be an urban area.
- 10.21. As required by the NPS-UD (Part 3.19), Council as part of SmartGrowth has completed an HBA to determine the development capacity that is sufficient to meet expected demand for

housing, and the FDS strategically identifies how this need will be met. As discussed in Topic 2 (Settlement Pattern), the HBA does identify a housing shortfall in the medium and long term. However, the HBA is only required by the NPS-UD (Part 3.19) to assess the housing demand and development capacity within the Districts urban environments (Te Puke and Ōmokoroa). The HBA also assesses the urban growth areas of Waihi Beach and Katikati for completeness. Pongakawa is not an urban environment or an urban area and therefore was not required to be considered in the HBA. It should be noted that any discussion in the HBA of a general need to provide further housing in the eastern part of the District is referring to the future growth of Te Puke and a future Eastern Centre (Te Kāinga).

10.22. For the reasons above, it is considered that the Plan Change site is not required to provide sufficient development capacity and give effect to the NPS-UD, therefore does not meet Clause 3.6(1)(a).

Clause 3.6(1)(a) – Response to Applicants Further Information

10.23. To address the fact that the HBA has not included Pongakawa in its analysis of sufficient development capacity, the applicant has provided a high-level preliminary economic assessment by consultants NERA with regard to Clause 3.6(1)(a) to demonstrate that the Plan Change site is in fact needed to provide for sufficient development capacity in Pongakawa. The NERA analysis identifies that there is a shortfall in housing supply of 137 (next five years), 266 (next 10 years) and 583 (next 25 years) houses in Pongakawa and that the Plan Change will contribute to meeting this demand. As a result, the applicant has reached a view that the Plan Change site meets the test in 3.6(1)(a).

10.24. Council has had the NERA assessment peer reviewed by an independent expert, Insight Economics. The Insight Economic review of this assessment outlines that the NERA analysis is not sufficient to support such a conclusion, and that the NERA report does not demonstrate that Clause 3.6(1)(a) is met. Insight Economics' reasons include:

- Use of Pongakawa Statistical Area 2 (SA2) is a large geographical area, and it is therefore inaccurate to assume the demand within this entire area can be specifically applied to a demand for housing in the Plan Change location.
- A general increase in horticultural activity across the rural area will not necessarily translate to strong demand for housing at the Plan Change site.
- The recognition of an increase in horticultural activity of itself, highlights the suitability of the site for high value production.
- "the median value is highly sensitive to individual transactions and may not accurately reflect overall market trends". Reliance on the findings is not sufficient and appropriate as only two to three dwellings have sold per quarter in Pongakawa over 12 months to March 2024.
- The NERA report does not adequately consider other sources of housing supply. Consideration to rural-residential housing is not included and nor is Paengaroa, which is an area of residential zoning within the Pongakawa SA2 itself.

10.25. The NERA report and the Insight Economics peer review are both attached (Appendix A of Attachment 4 and Attachment 7) respectively.

10.26. The applicant's further information provided on 30 August 2024 (Attachment 6) reiterates in their view that there is a shortfall highlighted in the HBA across the District, that the HBA addresses Te Puke, that the NERA Economic Assessment highlights the demand for housing

in Pongakawa and the Going for Housing Growth programme will call for the need to introduce 30 years of feasible zoned land for urban development. Therefore, the Plan Change in the applicant's opinion, is needed to give effect to the NPS-UD and subsequently meets the requirements of Clause 3.6(1)(a).

10.27. This further information does not however introduce any new concepts into the assessment against 3.2(1)(a) that are not already covered above. Going for Housing Growth is addressed in Topic 2 (Settlement Pattern) and as discussed it is not yet legislation. The position remains that the Plan Change is not an urban environment or an urban area, is not required and does not give effect to the NPS-UD as it stands at the time of writing this report.

Clause 3.6 (1)(b) – Response to Applicant's Section 32 Assessment

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

10.28. Further clarification is provided in 3.6(2) and 3.6(3) which state:

(2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:

(a) greater intensification in existing urban areas; and

(b) rezoning of land that is not highly productive land as urban; and

(c) rezoning different highly productive land that has a relatively lower productive capacity.

(3) In subclause (1)(b), development capacity is within the same locality and market if it:

(a) is in or close to a location where a demand for additional development capacity has been identified through a Housing and Business Assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and

(b) is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).

10.29. There are two parts to this clause and to begin, it needs to be determined what is within the 'locality and market' of the Plan Change location. What is meant by 'locality and market' is explicitly outlined in Clause 3.6(3)(a-b) in that it is in or close to a location where demand has been identified in the HBA or equivalent document and that the market is for the types of dwellings in demand.

10.30. It is acknowledged that the level of evidence required to satisfy this test is quite considerable. Particularly when recognising that an understanding of all aspects of the locality and market as it applies to the plan change proposal site must be established, alongside establishing a similar depth of understanding for other sites and areas that may also be identified within the same locality and market. As the NPS-HPL is being implemented around the country, plan change processes are highlighting that the level of detail needed to satisfy the test, that there is "no other" practicable or feasible option for sufficient development capacity is a significant undertaking. With that being said, Appendix 11 (RMA

Analysis of Section 32 Report) in the applicant's Section 32 Report provides the Section 32(1)(b)(i) analysis as the only assessment of the "other reasonably practicable options" by investigating geographic alternatives to the Plan Change site. The areas assessed by the applicant are Maketu, Pukehina, Paengaroa, and "Other Pongakawa". The applicant has concluded that these options are not suitable alternatives, in their opinion, for the following reasons:

- Maketu – Not preferred – further isolated than Plan Change site, higher degree of hazards and constraints to deal with, incomparable yield delivered.
- Pukehina – Not preferred – further isolated than Plan Change site, higher degree of hazards and constraints to deal with, no yield delivered.
- Paengaroa – Not preferred – requires mass removal of established orchards on productive land. The Plan Change proposal is less severe in impact to productive land use.
- Other Pongakawa – Not preferred – greater hazard profile/reverse sensitivity risks at other locations, or more severe impact to productive uses.

10.31. While these alternatives have been briefly considered by the applicant, the evidence to support the statements made has not been provided. Additionally, there is no explanation as to how these locations were chosen and how they meet Clause 3.6(2)(a-c) or are in the 'locality and market' as defined by Clause 3.6(3)(a-b).

10.32. The applicant's response to Council's RFI document (Attachment 3) also explains that Te Puke has not been included in the assessment as the applicant notes that this location has already been assessed in the HBA. This is with regard to the extra housing that will be provided by Plan Change 92 which introduced the MDRS into existing and new residential zones in Te Puke and Ōmokoroa. While Te Puke in terms of intensification has been addressed by the applicant, again, the reason Te Puke might be considered in the same 'locality and market' (Clause 3.6(3)(a-b)) is not clearly determined in either the applicant's Section 32 Report or the RFI Response. In addition to this there is no explanation as to why the intensification of Te Puke has been considered by the applicant while the other aspects of Clause 3.6(2)(a-c) in relation to Te Puke have not.

10.33. Further to this, the final part of Clause 3.6(1)(b) requires that a "well-functioning urban environment" is achieved. Again, this wording mirrors the wording of the NPS-UD, and it is considered that "well-functioning urban environment" has the same meaning as in the NPS-UD. As discussed in Topic 2 (Settlement Pattern), the Plan Change is not part of or in an urban environment and therefore could not be considered as contributing to one.

Clause 3.6(1)(b) – Response to Applicants Further Information

10.34. The NERA Economic Assessment (Appendix A of Attachment 4) provided by the applicant on 16 April 2024 did not provide analysis regarding defining the 'locality and market'. The peer review by Insight Economics (Attachment 7) noted at that time that the requirements of Clause 3.6(1)(b) had not been adequately considered. The Insight Economics peer review also observes that the locality and market has not been explicitly defined in the applicant's Section 32 Report and that the NERA report consider the Plan Change site to be "the most" reasonably practicable option, despite the wording of the clause specifying that there must be "no other" reasonably practicable and feasible options.

- 10.35. On 30 August 2024 the applicant endeavoured to address Clause 3.6(1)(b), 3.6(2)(a-c) and 3.6(3)(a-b), by way of further planning information (Attachment 6) an economic definition of “Market” proposed by NERA (Appendix A of Attachment 6) and a Productive Land Analysis from LandVision (Appendix B of Attachment 6).
- 10.36. In this further information the applicant has not provided any further justification with respect to all of the geographical comparisons provided in the applicant’s Section 32 Report (Maketu, Pukehina, Paengaroa, and “Other Pongakawa”). However instead the applicant states they are addressing now Te Puke and Paengaroa as the “hypothetical options contiguous or close to urban settlements (reflecting the PC95 concept) in the same locality and market”
- 10.37. The reason the applicant has determined to now consider Te Puke is due to the proposed ‘Market’ definition by NERA (Appendix A of Attachment 6). This assessment concludes that Te Puke, being 15km from the Plan Change site is within the radius typically considered to establish a housing market, the Plan Change site (as modified by the Plan Change) has the same access to amenities, employment opportunities as Te Puke and the house prices in Pongakawa and Te Puke are highly correlated. This assessment also notes that Paengaroa although not specifically assessed would likely be in the same housing market, whereas other areas relatively close to Te Puke such as suburbs of Tauranga City have different amenities and likely different housing market. Similarly coastal settlements such as Maketu and Pukehina are “sufficiently distinct” due to proximity to the beach. Therefore, the assessment proposes that “the relevant locality and market encompasses Te Puke, Paengaroa and the Pongakawa Arawa Road residential area.” This means in addition to the other locations; the applicant is now of the opinion that Te Puke is another area that needs to be considered with respect to whether it is a reasonably practicable option.
- 10.38. Insight Economics has peer-reviewed this assessment (Attachment 8) and identified that the proposed ‘Market’ definition is incorrect. This is for a number of reasons including:
- That the use of a 15km distance from Te Puke as an adequate measure to confirming locality is inappropriate. This locality determination does not take into account other geographic aspects, such as the attributes of the surrounding environment and cites dated overseas examples for context.
 - Pongakawa is not part of the District’s urban areas and therefore is not within the scope of the HBA.
 - Statistics New Zealand does not classify Pongakawa as part of the Te Puke functional urban area. While the functional urban area does extend beyond the township, it does not extend so far as to include Pongakawa.
 - Pongakawa and Te Puke do not have the same access to services and facilities. Te Puke residents have access to a much broader and deeper range of commercial, civic, retail, recreational, and community services than those living in Pongakawa, and can also potentially access them without the need for private motor vehicle travel.
 - The Plan Change site falls outside the enrolment zone for most of the schools located in Te Puke, so prospective future households on the PC95 site would not be able to enrol children in the same schools that they could if they lived in Te Puke instead.

- A review and comparison of Census information shows that the level of access to employment for people in the two areas is not the same as they tend to work in different industries, and different locations.
- The housing market of Te Puke and Pongakawa are not comparable, Pongakawa house prices are about 40% to 45% higher than in Te Puke. Consequently, the two areas tend to attract varying demographics.

10.39. Given this Insight Economics assessment, it is therefore not agreed that Te Puke is in the same locality and market as the Plan Change site. Nevertheless the applicant has provided an assessment of 3.6(2)(a-c) with respect to how in their opinion there is no other reasonably practicable and feasible option within this proposed 'locality and market'. Their views are paraphrased (from the 30 August 2024 further information (Attachment 6)) in italics below, with a response provided in reply to each.

3.6(2)(a) – greater intensification in existing urban areas; intensification of Te Puke has been plan enabled through Plan Change 92 and there remains an insufficiency to provide development capacity. Paengaroa did not benefit from Plan Change 92 and has limited infill potential and would not provide a comparable yield to the Plan Change site.

10.40. In terms of Plan Change 92 and the intensification that it enabled, it is worth noting that there was limited ability for Council to undertake in depth engagement on the MDRS within Te Puke and as such Council did not explore further intensification options within the commercial area for high density residential provisions. Council's current Te Puke Spatial Planning exercise and the subsequent plan change that is intended to commence in 2025 will consider where further intensification might be possible. It is not possible to say that intensification of Te Puke is completely plan enabled.

10.41. The applicant has identified that Paengaroa did not benefit from Plan Change 92. This is correct as Paengaroa is not considered to be part of, or an urban environment. Paengaroa was not required to be zoned with the MDRS and therefore not considered in respect to its intensification potential. The Paengaroa residential area is currently restricted in terms of infill potential due to the infrastructure limitations, in that wastewater treatment is done by way of septic tank. The statement made by the applicant that Paengaroa is limited and constrained due to the current zone and reduced subdivision potential, is untested within the Plan Change application and there is no evidence to support or refute the validity of this opinion.

3.6(2)(b) – rezoning of land that is not highly productive land as urban; the LandVision report finds through a desktop review of LUC land surrounding Te Puke and Paengaroa that all land is LUC 2 or 3 except for a 15ha block of LUC 4 which is currently kiwifruit orchard. The LandVision site specific survey finds the Plan Change site to be a mixture of LUC 2, 3, 4 and 7. Rezoning of other land near urban areas in the same locality and market not as highly productive is not an option in this instance due to substantial horticultural investment.

10.42. The Landvision report provided by the applicant, while outlining the various current uses and constraints on the land surrounding Te Puke does not specifically provide an economic comparison of the loss of kiwifruit orchard in these areas compared to the Plan Change site. It does however suggest that the costs of removing these orchards may outweigh the benefits of rezoning the land to residential.

10.43. The LandVision report has been peer reviewed by The AgriBusiness Group (Attachment 9). Generally, the peer review is satisfied with the method used by LandVision to assess the LUC

classification of the soils at the Plan Change site. However, the AgriBusiness Group highlights concerns regarding the ability of the site-specific assessment to be compared to a desktop study of Te Puke's LUC classifications on the edges of the town. Especially given the level of change to LUC class at the paddock scale, the peer review suspects a similar level of change would occur on the alternative sites if it was assessed at the same scale.

10.44. In addition to the conclusions from the peer review, it is also noted that case law (*Blue Grass Limited and Others v Dunedin City Council* [2024] NZEnvC 83) has determined that the use of more detailed mapping of a site does not prevail over the identification of the land as LUC 1, 2, or 3 as mapped by the New Zealand Land Resource Inventory. Therefore, notwithstanding the findings, specific use of the paddock level assessment in comparison to the broader scale LUC classed land on the edges of Te Puke and Paengaroa is not appropriate for this Plan Change proposal.

3.6(2)(c) – rezoning different highly productive land that has a relatively lower productive capacity: based on the expert advice of LandVision, rezoning of other land near urban areas in the same locality and market of a relatively lower productive capacity is not an option in this instance, as the PC95 site has the lower productive capacity.

10.45. Again, this assessment is flawed in that it compares the specific paddock level assessment of the LUC classes of the Plan Change site and the broader regional scale LUC classed areas for the alternative locations.

Clause 3.6 (1)(c) – Response to Applicant's Section 32 Assessment

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-base primary production, taking into account both tangible and intangible values.

10.46. The applicant's Section 32 Report does not provide a specific assessment of this clause however refers to the reasons elaborated elsewhere throughout the report to conclude that the benefit of rezoning outweighs the cost of removing 12ha of the existing farm from productive use.

10.47. Additionally, the applicant did not provide, as part of the applicant's Section 32 Report, an agricultural assessment or an economic assessment of the Plan Change site regarding the costs and benefits of the loss of highly productive land. LUC mapping shows the land is classified as LUC 2. In context, only 11% of the Bay of Plenty Region's soils are LUC 1, 2 and 3 and the Western Bay of Plenty District has no LUC 1 soils at all. Therefore, LUC 2 soils are considered the most productive soils in our District. As such, it is considered that to understand fully the costs and benefits of the loss of the highly productive land as required by this part of Clause 3.6(1)(c), more information and a robust assessment is required.

Clause 3.6 (1)(c) – Response to Further Information

10.48. The Insight Economics peer review (Attachment 7) of the NERA report provided in April (Appendix A of Attachment 4) identifies that the assessment provided by the applicant is limited to a high-level qualitative discussion of the cost and benefits of rezoning the Plan Change site to residential and commercial. Specifically, Insight Economics outlines that there has been no attempt to quantify the economic costs and benefits which is required to demonstrate this clause has been met.

10.49. On 30 August 2024 the applicant provided further information (Attachment 6), however further analysis of how Clause 3.6(1)(c) is achieved was not included. As highlighted in the AgriBusiness Group peer review, a robust assessment of benefits and costs across the four wellbeing's (environment, economic, social, cultural) that specifically considers long-term benefits and costs, and tangible and intangible values is required to show that this clause has been met.

Conclusion

10.50. All three subclauses of Clause 3.6(1)(a-c) in the NPS-HPL must be met for a territorial authority to allow the urban rezoning of the site.

- 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.
- 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.
- 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.

RECOMMENDATION

10.51. Clause 3.6(1) is a conjunctive clause as all three subclauses (a-c) must be met for Council to allow the urban rezoning of the site. The applicant has not demonstrated that the Plan Change would meet any of the subclauses due to either the lack of information and detail of assessment provided or through an assessment provided not being able to demonstrate compliance. Therefore, it is recommended that Council must not allow the urban rezoning.

10.52. Any additional information from the applicant may also not be able to demonstrate that all three subclauses can be met. This is primarily due to the conclusion that the expansion of the existing settlement is not required by the NPS-UD for delivering sufficient development capacity.

SECTION 32AA ANALYSIS

10.53. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

11. TOPIC 4 – NATURAL HAZARDS

BACKGROUND

11.1. The proposed site is subject to flooding (from extreme rainfall) and liquefaction. The extent of these two natural hazards is shown on Council's online maps.

- 11.2. The flood maps for the proposed site were carried out as part of the flood modelling for the District’s rural areas and small settlements. The relevant report is entitled ‘Western Bay of Plenty Flood Mapping – Model Build Report’ (Tonkin + Taylor – February 2021).
- 11.3. This report identifies the possible extent of flooding that may occur if a 1% Annual Exceedance Probability (AEP) event was to happen in the year 2130. A 1% AEP event is something that only has a 1% chance of occurring in any year. This means it is expected to occur on average once every 100 years, however it could happen at any time. A 1% AEP event has been chosen as it is considered best practice and is also used by Bay of Plenty Regional Council. The year 2130 has been selected to meet the requirements of the NZ Coastal Policy Statement (NZCPS) and RPS. The climate change scenario used for the year 2130 is the Intergovernmental Panel on Climate Change’s (IPCC’s) Representative Concentration Pathway (RCP) 8.5. This is a conservative scenario which assumes that greenhouse gas emissions continue to grow without effective climate change mitigation policies. It equates to 1.25m of sea level rise in the year 2130.
- 11.4. Within the proposed site, flooding is identified in the form of a number of overland flowpaths. Some localised ponding areas have also been identified. Flooding covers approximately 2ha of the site. Although not a specific recommendation, the applicant’s natural hazards risk assessment also explains that the design of the Structure Plan and future building platforms outside of flood areas will avoid the flood hazard.
- 11.5. Liquefaction maps for the proposed site were created from a region-wide study. The relevant report is entitled ‘Bay of Plenty Liquefaction Vulnerability Assessment’ (Tonkin + Taylor – April 2021). This study was completed in accordance with the Ministry for the Environment and Ministry of Business, Innovation and Employment ‘Planning and Engineering Guidance for Potentially Liquefaction Prone Land’ (2017). This was done to a Level A (basic desktop assessment) level of detail. This did not include geotechnical investigations or groundwater monitoring within the study areas.
- 11.6. Within the proposed site, the results show that “liquefaction damage is possible” within the majority of the site (to the north) and that the “liquefaction category is undetermined” in the remaining parts of the site adjoining Arawa Road. Further investigation would be required to determine whether these undetermined areas could be reclassified as “liquefaction damage is possible” or “liquefaction damage is unlikely”.
- 11.7. The applicant has prepared a natural hazards risk assessment as required by the RPS. This is included as Appendix 12 (Natural Hazards Assessment) of the applicant’s Section 32 Report. The applicant has concluded low natural hazard risk for all investigated natural hazards including flooding, liquefaction, lateral spread, volcanic risk, fault rupture, coastal erosion, tsunami and landslip. On this basis, they have determined that the land is suitable for rezoning to residential.
- 11.8. Achieving low risk is subject to a recommendation in their assessment to require that all future dwellings and buildings on the site use a TC2 or TC3 foundation design to meet the requirements of the New Zealand Building Code to address the liquefaction hazard.

SUBMISSION POINTS

- 11.9. Six submission points were received. Three further submission points were received. The submission points on this Topic are summarised as follows:

- 11.10. Mike Maassen (12.10) supported by Hayden Dugmore (FS38.10) is concerned about the site having a boundary with a flood plain. The submitter draws attention to the three overland flowpaths that have been identified on Council's natural hazard maps and expects that these would be the flowpaths for stormwater within the proposed site.
- 11.11. Mike Maassen (12.14) supported by Hayden Dugmore (FS38.14) furthers his concern of the flood risk for this location. The submitter refers to two historical flooding events that affected the area. These being flooding in 1988/1989 and 2023 (Cyclone Gabriel). The submitter notes that the three overland flowpaths are essential for existing residents' flood protection and providing pathways for floodwater during major weather events, and cannot be compromised in the developer's plans.
- 11.12. Jordan and Ian O'Malley (16.1) draw attention to the current flooding that occurs on a regular basis (one to four times a year) in the paddocks behind 19 Arawa Road. The submitters are concerned that the filling of the proposed site to ensure houses are above the flood level will increase the flooding risk upstream and that the grassed channels will not be able to channel enough water to keep the upstream properties from flooding.
- 11.13. Karen Summerhays and Nicola Cooke (23.1) support the objections raised by Bay of Plenty Regional Council and Waka Kotahi provided as part of the applicant's Section 32 Report. The submitters are concerned particularly in regard to the heightened flood risk caused by climate change and extreme weather events, explaining that this will likely result in future retreat or protection demands in the future.
- 11.14. Bay of Plenty Regional Council (27.19) agree that the application is supported by a natural hazard risk assessment in accordance with the RPS natural hazard provisions (Policy NH9B and NH4B) for liquefaction, active faults and coastal hazards. However, they note the risk assessment for flooding does not clearly state there will be no increase in risk offsite when the development is completed, including to lifeline infrastructure (a requirement of Policy NH4B). They also ask that the risk assessment for the 1% AEP flood event clearly identify how low risk can be achieved onsite. They request further information including appropriate stormwater sizing and groundwater interaction to confirm low risk onsite is achieved; appropriate stormwater volume mitigation to confirm no increase in risk offsite is achieved; appropriate overland flowpath sizing to confirm low risk is achieved on site and risk is not increased offsite; and assess cumulative effects of floodplain infilling and land use change to confirm risk is not increased offsite.
- 11.15. Mike Maassen (12.15) supported by Hayden Dugmore (FS38.15) notes that much of the land falls within a liquefaction risk zone in the event of a major earthquake.

DISCUSSION

- 11.16. Submissions from landowners have highlighted the need to secure and use the three overland flowpaths on the site to manage flooding. The applicant has partly addressed this in the applicant's Section 32 Report. This explains that two of the flowpaths are identified on the proposed Structure Plan. 'Overland Flowpath 1' is shown at the western end of the site and 'Overland Flowpath 2' is shown more towards the centre of the site and connected to the proposed stormwater pond to the north-east. The Plan Change also proposed a rule in Section 12 – Subdivision and Development of the District Plan requiring the construction of 'Overland Flowpath 2' as a pre-requisite to be carried out in Stage 1 of the development.

- 11.17. In response to submissions, the applicant has since offered to add the third overland flowpath to the Structure Plan at the eastern end of the site. Further, they have suggested changes to the rules to make it clear that the construction of all three flowpaths will be required as part of the pre-requisites for their relevant stages. The applicant's Section 32 report notes that detailed design of the stormwater system will be done prior to lodging resource consent.
- 11.18. In terms of the wider management of flood risk, the applicant has also discussed or proposed measures other than the use of these overland flowpaths. This includes filling that may be required to ensure the onsite roads and buildings are located sufficiently above the flood levels. The applicant also considers that the stormwater attenuation pond will minimise flooding effects downstream of the site. Bay of Plenty Regional Council have however requested that the applicant clearly demonstrate that the development will achieve low risk onsite whilst also not increasing risk offsite in accordance with the requirements of the RPS.
- 11.19. The applicant's response to the request is that the filling is highly unlikely to increase the risk of flooding downstream of the site and that the management of flood hazards is not considered a significant constraint given the site's location next to a flood plain. The Lysaght response (Appendix E of Attachment 4) outlines that any infilling of flowpaths will not increase the risk of flooding on site as the functionality will be maintained by the construction of appropriately sized swales through the site. The applicant's response maintained that calculations of runoff velocity and volume have been demonstrated to be reduced and also reassessed the size of the stormwater wetland to ensure sufficient capacity to provide the necessary attenuation. Therefore, the applicant has concluded that the cumulative flooding effects assessment is considered proportionate and adequate.
- 11.20. Subsequent discussions between Council's Environmental Planning Team and Bay of Plenty Regional Council have highlighted some of Bay of Plenty Regional Council's specific concerns. One is whether low risk to life can be achieved onsite with respect to the overland flowpaths. This is noting that any depths of 500mm or more and moving at a velocity of two metres per second may have the potential to cause loss of life due to the difficulty of being able to wade through the water to safety.
- 11.21. Further information provided by the applicant on 30 August 2024 (Attachment 6) demonstrates, in their view, that the risk of loss of life from overland flowpaths is adequately mitigated as safe evacuation from all parts of the site can be achieved without entry into or crossing overland flowpaths. They believe that this can be ensured through the detailed design phase of the subdivision landform, roads and infrastructure.
- 11.22. The applicant has stated (Attachment 6) that evacuation in a flood event from all parts of the site is possible. However, specific details around how this evacuation will be achieved has not been provided. Particularly regarding whether there will be housing on the western side of Overland Flowpath 1 and if so, how this flow path will be crossed in a flood event is still required. The applicant has proposed in the infrastructure report (Appendix C of Attachment 6) that planting and fencing could be used as a safety measure to prevent people from entering overland flowpaths. This is not considered to be an adequate solution, for example the planting would need to be extremely dense and tall to prevent access. Further information is required to address these matters.

- 11.23. Another concern of Bay of Plenty Regional Council is whether the stormwater pond has been designed appropriately to ensure that there are no effects of flooding downstream of the site. The further information provided by the applicant on 30 August 2024 (Attachment 6) demonstrates in their opinion, that the runoff rates downstream is reduced due to the stormwater management and is therefore adequately mitigated. The appropriateness of the stormwater management on site, the ability of the stormwater pond and the limited conservatism built into the calculations is discussed in detail in Topic 8 (Stormwater). However, to summarise further information is required to ensure the stormwater management on site is adequate.
- 11.24. With respect to liquefaction risk, the applicant has demonstrated low risk will be achieved subject to a requirement that all future dwellings and buildings on the proposed site use a TC2 or TC3 foundation design to meet the requirements of the New Zealand Building Code. This requirement will be addressed in applications to Council for building consent.

RECOMMENDATION

- 11.25. Further information is required to address the evacuation routes available on site, specifically how people in housing on the western side of Overland Flowpath 1 will evacuate.
- 11.26. Further information is required in regard to the viability of the stormwater management on site (see Topic 8 (Stormwater) for full list of recommended information).
- 11.27. Given that further information is recommended it is not possible to suggest proposed rule improvements without knowing what this further information will require. Recommended Changes to District Plan Provisions (Attachment 1) and Recommended Changes to District Plan Maps (Attachment 2) indicate where changes to the proposed provisions may be required.

SECTION 32AA ANALYSIS

- 11.28. As no changes are recommended to the proposal due to the need for further information, no s32AA evaluation is necessary

12. TOPIC 5 – TRANSPORTATION

BACKGROUND

- 12.1. The Plan Change site is located on Arawa Road which has one exit on to SH 2. Arawa Road has been in place prior to the 1960's and has been sealed since at least 1979. Widening of the western side of Arawa Road and the addition of a footpath and bus shelter took place in 2023 in response to the additional traffic generated from the Penelope Place development. According to Council records Penelope Place was vested to Council in 2017. Arawa Road and Penelope Place are Council owned and SH 2 is the responsibility of Waka Kotahi.
- 12.2. The applicant's Section 32 Report transport assessment (Appendix 9 – Updated TA and Concept Dwg) proposes an intersection upgrade to accommodate the increased traffic that will be generated by the Plan Change. This upgrade is also included in the proposed prerequisite rules in Section 12 – Subdivision and Development of the District Plan. A Safe System Audit has been completed by Abley and was included in the application (Appendix 10 – Road Safety Audit). The recommendations from this report included:

- Barrier on SH 2 – Recommendation barrier is designed by a Waka Kotahi accredited-designer in accordance with NZTA M23:2022.
- Left-turn deceleration lane, dynamic visibility obstruction risk – Recommendation is to introduce an offset by way of a chevron channel to increase visibility of eastbound through traffic for vehicles exiting from Arawa Road. This has been implemented in line with the audit recommendations.
- Width of Arawa Road – Recommended width of 6.5m to reflect greater density of residential users, slow traffic – this is reflected in the proposed intersection design.

12.3. There was also a recommendation in the report for the speed limit on SH 2 which is not an action within the applicant's control.

12.4. Council has recently upgraded Arawa Road with kerb and channel and a footpath on the existing residential side using financial contributions from the development of Penelope Place. The Plan Change proposes upgrades to Arawa Road including a carriage way width of 6.5m following the exit from SH 2. The internal roads are proposed to be in accordance with Council's Development Code.

12.5. The Plan Change proposes a bus stop to be included within the development. The applicant's Section 32 Report notes an agreement between the applicant and Pongakawa School for use of the bus stop to address the added traffic due to potentially increased numbers of school children residing in the Plan Change site. In addition to the school bus, it is intended by the applicant that the bus stop will also be used for public transport in the future as the extra population from the proposed development is expected by the applicant to support the viability for commuter routes.

SUBMISSION POINTS

12.6. 28 submission points were received. Two further submission points were received. The submission points on this Topic are summarised as follows:

12.7. Waka Kotahi (26.6) acknowledges the applicant's efforts in engaging with them prior to the public notification of Plan Change 95. Waka Kotahi has provided initial comments to the proposed intersection treatment upgrade of the Arawa Road and SH2 intersection and request the applicant engage further with them.

12.8. Waka Kotahi (26.7) notes that the applicant proposes to undertake upgrades to SH 2 as a prerequisite to Stage 1. The submitter seeks that upgrades would be required at any stage prior to the issuance of a certificate pursuant to Section 224(c) of the RMA or, prior to any land use or building consent activity being established on the site.

12.9. Karen Summerhays and Nicola Cooke (23.1 and 23.3) are concerned about the heavy traffic on SH 2 coming from the east and how the additional population will add to the safety and congestion issues on this road particularly during kiwifruit season.

12.10. Jurgen Delaere (18.2) considers the access to Arawa Road to be extremely dangerous with the numerous near-misses their family have had whilst turning there, especially since the paintwork was remapped on the road by the transport agency. The submitters believe the additional population will add considerable congestion and pressure on this intersection, especially considering there are no public transport options.

- 12.11. Alan and Patricia Birley (19.3) are concerned that the higher volume of traffic will add pressure to the Arawa Road and SH 2 intersection, especially as there is only one way in and out of the settlement.
- 12.12. Kirsten Jefferson (25.2) considers the road access to be unsafe currently.
- 12.13. Gaye Allan (33.1) is opposed to the Plan Change. The submitter believes that the applicant has not considered the impact of traffic on Arawa Road, with the associated congestion on the narrow bridge (west of Arawa road). The submitter believes that there should be a significantly larger upgrade to this intersection.
- 12.14. Jodi Ahfook (34.1) does not support the Plan Change, primarily due to the safety concerns associated with the Arawa Road and SH2 intersection.
- 12.15. Tai Ahfook (35.1) is opposed to the new subdivision being implemented near Arawa Road. The submitter argues that the Arawa Road and SH2 intersection is not fit to handle higher volumes of traffic. The submitter expects that this will lead to peak hour chaos and more crashes on SH2.
- 12.16. Jordan and Ian O'Malley (16.2) are concerned about the problems associated with the additional population and the pressure this will add to the already difficult and dangerous Arawa Road and SH2 intersection. The most significant issue is the small and short turning bay that leads to dangerous choices on the road, specifically overtaking vehicles waiting to turn. The submitter believes that the risks involved are understated in the assessment by Harrison Transportation.
- 12.17. Graeme Gillespie (9.3) draws attention to the congested Arawa Road and SH2 intersection and the challenging (right) turn out from Arawa Road toward Te Puke. The submitter has mentioned and is also in agreement with Waka Kotahi for not supporting the Plan Change regarding the integration between land use and transport.
- 12.18. Neville and Jill Marsh (11.3) support the proposed enlargement of the turning bay from SH2 into Arawa Road and the Plan Change.
- 12.19. Joseph & Victoria Phillips (17.6) submit that the commercial zoning will increase traffic from non-residents resulting in congestion, and risks to an already dangerous intersection.
- 12.20. Julian Clayton (7.6) considers that the intersection of Arawa Road and SH2 is not equipped to handle increased traffic. The submitters safety concerns include the curvature of the road leading to reduced visibility, the low winter sun, and the current road condition. The submitter has suggested upgrades for heavy vehicles, buses, additional traffic, and more consistent maintenance that is currently being provided.
- 12.21. Gina and David Brookes (36.1) are against the Plan Change. There are two main reasons for this, firstly the higher volume of traffic will add pressure to the already difficult and dangerous Arawa Road and SH2 intersection especially during rush hour. Secondly Penelope Place is under considerable wear and tear. The addition of more cars will only exacerbate the situation.
- 12.22. Mike Maassen (12.13) supported by Hayden Dugmore (FS38.13) notes that the intersection located at Arawa Road and SH2 is recognised as a dangerous intersection by locals. The submitter is concerned that the higher traffic volumes resulting from the development would amplify the safety risks. The submitter notes the proposed "minor upgrades to the intersection" but feels that this will not solve the current problems whilst increasing the risks.

The submitter comments that nothing short of a major upgrade would be acceptable. This would include widening both sides of the Puanene bridge, 150m long deceleration lane appropriate barriers and realigning SH2 to match the bridge widening.

- 12.23. Rachael Sexton (14.4) believes that the road access onto the State Highway is treacherous as there is very little turning left area, especially when the school bus is present as it blocks views and children sometimes run across the road to get to the bus. The submitter concludes that there would be a cost to improve the road intersection, when there are other communities with the correct infrastructure needed to accommodate such a development.
- 12.24. Hamish Henderson (20.4) states that the low traffic volumes are part of the appeal of rural land. The submitter's concerns include the additional population and the pressure this will add to the already difficult and dangerous SH2 stretch, the risks associated with the children waiting for their school bus on the side of this busy road, and the hazards associated with accessing the road to the school including crossing the railway.
- 12.25. Robin Simmons (10.1) is concerned that the local children wait alongside or cross SH2 in order to catch the school bus.
- 12.26. Bay of Plenty Regional Council (27.33) supported by Waka Kotahi (FS40.4) submit that the Plan Change needs consideration given to multi-modal transportation. Bay of Plenty Regional Council recommends that the Plan Change include: A traffic impact assessment; more detail regarding the internal road network; the installation of bicycle parking; an accessibility map showing how walking and cycling is supported throughout the development; the installation of footpaths along the frontage of the development; a safety assessment to gauge if pedestrian crossing facilities are needed to support safe movement; and, the recognition of how the site could provide people with access to public transport, and services in the wider area.
- 12.27. Craig Green and Lisa McArthur (8.2) submit that there has been an increase in traffic on SH2, making access challenging. Long traffic flows have led to observations of dangerous driving due to impatience. The submitters believe that the proposal will create an unacceptable increase in risk. They conclude that while the proposed bus stop is positive, the existence of a bus stop will not improve public transport options.
- 12.28. Joseph and Victoria Phillips (17.1) state that the Arawa Road and SH2 intersection is not fit to handle higher volumes of traffic. They state how the intersection is already dangerous and the addition of more vehicles using the intersection will result in more crashes. In addition to this, the lack of public transport places strain on the road system.
- 12.29. Rebecca and Cameron Black (31.7) oppose several points of the road safety audit. The submitters state how a reduction in the speed limit will disrupt traffic flows along this main arterial route. Section 5 of the road safety audit also states that vehicle movements to and from the development would predominantly occur in the morning and evening. The submitters disagree with this assumption, stating that variability of rural traffic has not been taken into consideration. The applicant and agents have referred to the site as being adequately serviced by public transport. The submitters consider this entirely inaccurate. The applicant has also referred to the proximity of the railway and anticipated future development of public trains. The submitters state how this will provide no solution in the short or medium term.
- 12.30. Cyndi and Troy O'Reilly (15.2) outline the problems associated with the additional population and the pressure this will add to the already difficult and dangerous Arawa Road and SH2

intersection. The submitters emphasise the importance of having a safe and functional road system as the area does not have public transport options. The difficulties of the roads and intersection include low visibility, a small turning bay, the school bus size and associated visibility issues, and the safety of the children when waiting for the school buses.

- 12.31. Jo Delaere (37.1) believes that the higher volumes of traffic will add pressure to the already difficult and dangerous Arawa Road and SH2 intersection. They note that there are no facilities accessible without having to use a vehicle, and that every local considers that the Plan Change will impact their lives.
- 12.32. Paul Hickson (30.2) believes that Waka Kotahi should reduce the speed limit to 70km per hour from Puanene to east of the BP now. The submitter also states that if student safety is a concern, they would offer a safe walking trail via their own wetland and farm to the southern end of the Pongakawa school road.
- 12.33. Robin Simmons (10.3) submits that in a rural residential area, free unimpeded access for emergency services is needed at all times.

DISCUSSION

State Highway 2 Intersection

- 12.34. The applicant has provided a revised concept plan (Appendix D of Attachment 4) for the intersection after meeting with Waka Kotahi in March 2024. With the increase in traffic that the development will bring, a thorough analysis of the safety and efficiency of the intersection must be undertaken, and amendments made to the concept intersection design to satisfy the recommendations out of this analysis. In regard to the recommendation of the Safe System Audit by Abley provided in with applicant's Section 32 Report, to change the speed limit on SH 2, Waka Kotahi has advised this is unlikely to be easily achieved as it is a separate process and given the current government's reluctance to approve speed reductions on State Highways.
- 12.35. The intersection upgrade is within the State Highway corridor and therefore the responsibility and final sign off on the intersection design rests with Waka Kotahi.
- 12.36. The Waka Kotahi submission requests that the upgrade to the intersection must be included in all the prerequisite Stages (1-3). This is not necessary however as the proposed rules state that the development shall occur sequentially in that Stage 1 shall be completed prior to, or at the same time, as Stage 2 and 3. Therefore, it follows that the Stage 1 prerequisites will be completed first and with that the intersection upgrade. Hence, there is no need to specifically include the requirement in all stages.
- 12.37. The applicant has suggested changes to the proposed rules in response to the Waka Kotahi submission. In particular, that the proposed requirement to complete the intersection upgrade with the recommendations of the Transportation Assessment Report prepared by Harrison Transportation provided in the applicant's Section 32 Report is removed. The applicant proposes that this is then replaced with new requirements to complete the intersection upgrade and Arawa Road carriage way in general accordance with the new concept plan. While the intent of the changes is agreed, in discussion with the applicant, the recommended rule wording is provided below.
- 12.38. Waka Kotahi advised in May 2024 that, if the Plan Change were approved, they would request the following:

- *The detailed design is to be approved by NZTA. The design is to show the stormwater design, cross sections, earthworks, any retaining features, and to consider deflection for westbound traffic etc.*
- *A Safe System Audit is to be undertaken on the detailed design.*
- *The left turn lane pavement design is to be approved by NZTA. The design is to ensure that the seal joint is located outside of the wheel path.*
- *The method for ensuring ghost line markings are avoided is to be approved by NZTA.*
- *... any upgrades or improvements to State Highway 2 are to be made a prerequisite to any stage of the proposal (whichever stage occurs first). NZTA would expect this to be a condition of any future resource consents following the plan change.*

12.39. Waka Kotahi also asked for the following:

..., the following needs to be amended within the Safe System Audit;

- *for each recommendation table:*
- *change Safety Engineer to be "NZTA Safety Engineer"*
- *add a new line below "NZTA Safety Engineer" to be called "NZTA Network Manager"*
- *add a new line below "NZTA Network Manager" and above "Client Decision" to be called "NZTA System Manager"*
- *for the Safe System Audit Statement at the back of the report include new lines for the NZTA Network Manager and NZTA System Manager to be able to complete*

12.40. Further information provided by the applicant on 30 August 2024 (Appendix D of Attachment 6) includes correspondence from Waka Kotahi which requests the above however outlines that subject to the above matters being volunteered by the applicant and further demonstrated at the detailed design to Waka Kotahi's satisfaction that Waka Kotahi is comfortable in principle with the proposed intersection.

Arawa Road and Penelope Place

12.41. The revised concept plan for the intersection between SH 2 and Arawa Road also provides an indication of where Arawa Road will begin to be widened to 8.5m as required by Council's Development Code. This would allow the carriageway lanes to extend to 3m in width each with a new 2.5m parking area to the Plan Change side of Arawa road. Council's Transportation Team have assessed this plan and comment that the 8.5m widening should be undertaken more or less in front of the commercial area located at the entrance to the development and continue down the other end of the development to the beginning of the paper road (north-eastern end of Arawa Road). It is noted that the Safe Systems Audit by Abley suggests that the entrance to Arawa Road, off SH 2, should be narrowed to 6.5m wide. Council's Transportation Team agrees with this.

12.42. It is considered that the detailed design phase for the internal roading requirements should be part of the resource consent process which would also address compliance with the Development Code. Therefore, it is not necessary for the applicant to provide detailed design for roading as part of the Plan Change.

Bus Stop/Transport Choice/Public Transport

12.43. Submitters raise concerns about the school bus stop located on SH 2. The Plan Change proposes to include a new bus stop within the development in the Commercial Zone. The

applicant has confirmed that the bus will be able to manoeuvre effectively within the new development with a high-level agreement from Pongakawa Primary School to use the bus stop once in place. Pongakawa School caters for intermediate school aged children (up to 13 years old). The nearest secondary school is in Te Puke. No such agreement has been confirmed with any Secondary School.

12.44. While a bus stop is proposed within the Plan Change site, the reliance on private vehicles would remain the primary form of transport to and from the development. The proposal of a bus stop also does not guarantee that it will be used for a public bus service for commuters as this would be a decision made by the service provider.

12.45. In response to submissions from Bay of Plenty Regional Council regarding transport options, the applicant considers that the multi-modal transport is provided for within the Plan Change site and existing residential area of Arawa Road and Penelope Place by way of walking and cycling connections through access corridors, and walkways to the reserve areas outlined in the Structure Plan. Cycle parking is required as part of Section 4B.4.7 of the District Plan. This requires at least one bicycle park to be included for specified permitted and controlled activities. Multi-modal transportation provision outside of the Plan Change site is not within the power of the applicant.

12.46. In response to Bay of Plenty Regional Council's submission, a footpath in front of the Commercial Zone and either side of the intersection into the site has been included by the applicant in the revised proposed Structure Plan, as well as the addition of footpaths to the proposed staging prerequisites.

Access for Emergency Services

12.47. It is acknowledged that emergency responders are a much-needed resource for a community and facilitating emergency vehicle access into communities is important. There are already access requirements in place for this in the District Plan and Development Code.

12.48. It is noted that the current proposed Structure Plan map roading layout would not safely accommodate large emergency vehicles (fire truck) as they would be unable to negotiate the 90-degree bends depicted on the roading layouts. Residents' vehicles parking within the road reserves would exacerbate this.

12.49. The current planning framework (and Development Code) provides minimum design standards for the road network (whether public or private) and requires access for fire appliances to be provided. The Development Code (standard 4.2.2) requires the applicant (amongst other things) to demonstrate fire appliance access is provided for.

RECOMMENDATION

12.50. It is recommended that the following changes are made to the staging prerequisites:

- Upgrades to Arawa Road must be undertaken in accordance with the designs approved by Waka Kotahi for the State Highway intersection and Council for the balance of Arawa Road.
- Roads formed in Stage 1 must meet the Development Code and be approved by Council.
- A footpath must be provided for at the frontage of the Commercial Zone.
- Access must be provided to the bus stop and in accordance with Development Code.

12.51. This requires that the Structure Plan Maps are amended as shown in Attachment 2 and the proposed staging pre-requisites in Rule 12.4.24.3 be amended as follows (also shown in Attachment 1):

12.4.24.3 Pencarrow Estate Pongakawa Structure Plan – Stage Pre-requisites

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, Section 13 of the District Plan.

Stage 1

Roading and Access

- ~~Intersection of Arawa Road and SH 2 to be upgraded in accordance with the recommendations of the Transportation Assessment Report prepared by Harrison Transportation (reference 496 TA, Rev 3 dated August 2023), or subsequent design prepared by a suitably qualified transportation professional, as approved by Waka Kotahi NZ Transport Agency and Council.~~
- ~~Carriageway of Arawa Road widened or amended in terms of width to have a 6.5m wide carriageway following exit from the SH2/Arawa Road intersection into Arawa Road, in accordance with the Transportation Assessment Report prepared by Harrison Transportation (reference 496 TA, Rev 3 dated August 2023), or subsequent design prepared by a suitably qualified transportation professional, as approved by Council, 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 Waka Kotahi for the SH 2 and Council for the balance of Arawa Road.~~
- ~~Footpaths and roads formed within pedestrian access strip between Arawa Road, adjacent to road carriageways and otherwise following 'Pedestrian Connection' routes 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 Bbus stop established within, the Commercial Zone meeting design requirements of Council's Development Code or alternative design approved by Council (or successor document).~~

...

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' Stage 2 Road and Stage 1 Road to complete the established connection to the stormwater pond reserve detailed in the structure plan.~~
- ~~Footpaths following 'Pedestrian Connection' structure plan requirements within Stage 2.~~

...

Stage 3

Roading and Access

- New roads or private ways within Stage 3 constructed, in accordance with the Council's Development Code (or successor document) and as approved by Council.
- ~~Footpaths following 'Pedestrian Connection' structure plan requirements within Stage 3.~~

SECTION 32AA ANALYSIS

12.52. The following provides a further evaluation of the changes made to the Plan Change since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. The s32AA analysis is provided below.

Efficiency & Effectiveness in Achieving the Objectives	Amend prerequisites to ensure designs approved by Waka Kotahi for the State Highway intersection and Western Bay District Council for the balance of Arawa Road, roads formed in Stage 1 must be approved by Council, provision of footpaths, access must be provided to the bus stop and approved by Council.
Costs Environmental effects Economic effects Social effects Cultural effects Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	Environmental No environmental costs. Economic Increased costs to developer to include additional footpaths and further work to design of intersection potentially more costly design needed. Social No social costs. Cultural No cultural costs.
Benefits Environmental Economic Social Cultural Including opportunities for: (i) economic growth that are anticipated to be provided or reduced; and (ii) employment that are anticipated to be provided or reduced	Environmental No environmental benefits. Economic No economic benefits. Social Increased ability for multi-modal transport with footpaths and walking connections. Utilisation of bus stop with access ensures use of SH2 for school bus is removed. Cultural No cultural benefits.
Quantification	Not practicable to quantify.

Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	Sufficient and certain information is available.
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Table 2: 32AA analysis Topic 5 -Transportation

13. TOPIC 6 – WATER SUPPLY

BACKGROUND

- 13.1. To service the existing residential area, Council’s water supply was extended in 2002 from the existing 200mm internal diameter (ID) polyethylene (PE) water main at the corner of SH 2 and Kaikokopu Road, for 2.1 km along SH 2, to the corner of Arawa Road. This extension was a 100mm ID PE water main. The water supply was reticulated into Arawa Road with a 75mm ID PE water main on the eastern side of the road and a 50mm (ID) PE rider main on the western side of the road. The reticulation was also extended further east along SH 2 from the corner of Arawa Road for approximately 425m.
- 13.2. The primary purpose for the extension was to provide a potable water supply to the existing residential sized properties in that area and on route to that area. The project was funded by the residents/property owners of that time who would benefit from the supply. The water main assets are vested in Council. The water supply extensions were not sized to provide sufficient water flow or pressure for fire fighting from hydrants in accordance with PAS NZ 4509. Nor were hydrants installed to draw water for the fire service.
- 13.3. In 2016, Council granted resource consent within Arawa Road (specifically Penelope Place) for a 21-lot subdivision, which is connected to the water main in Arawa Road with a 25mm pipe. The supply for Penelope Place fills storage tanks and a booster pump station provides sufficient pressure for potable supply and fire fighting capabilities.
- 13.4. The current water supply from the 100mm ID PE main cannot meet the demand for water connections in the Plan Change development. It also doesn’t have enough capacity to provide adequate firefighting flow for existing customers on Arawa Road and Penelope Place. In summary, the existing supply is insufficient to handle both the needs of the new development and the current demand while maintaining the required service levels.
- 13.5. The entire community, including the existing residential area and proposed site would also create an urban fire zone and would require fire fighting levels of service for all existing and proposed properties as per SNZ PAS 4509 and Council’s Development Code. Council’s level of service for water includes supply pressures to be maintained with a minimum supply pressure of 30m head, maximum 90m head.
- 13.6. The applicant’s preferred solution is proposed in Rule 12.4.24.3 of Section 12 – Subdivision and Development of the District Plan. This being water mains and reservoirs (if necessary) of sufficient pressure and capacity to service all lots within Stages 1-3 inclusive of firefighting requirements.

SUBMISSION POINTS

- 13.7. Seven submission points were received. One further submission point was received. The submission points on this Topic are summarised as follows:
- 13.8. Ngāti Whakahemo (29.1) support the Plan Change but emphasise the importance of the safeguarding and protection of waterways and ecosystems. Their support is contingent on

the implementation of robust measures and strict adherence to regulations and use of sustainable practices. They request comprehensive environmental protection measures around the water intake area to ensure the preservation and safeguarding of this vital resource.

- 13.9. Mike Maassen (12.16) supported by Hayden Dugmore (FS38.16) believes that the current reticulated water system that services the existing residential area is at capacity and any future development will require a substantial upgrade. The submitter notes that the residents of Arawa Road paid for the current line themselves and believes that the developers should be responsible for the new development's water system upgrades. The submitter also believes that it would be totally unfair if the needs of this development were funded in any way by ratepayers.
- 13.10. Rachael Sexton (14.7) explains that there is poor water pressure already which is a concern with having more residents needing to tap into it, and that there is no fire hydrant either.
- 13.11. Cyndi and Troy O'Reilly (15.6) also note there is no fire hydrant on the road due to not enough water pressure. They question how adding 100 more houses will affect the water pressure.
- 13.12. Jurgen Delaere (18.3) explains that water supply to the current houses on the road was paid for by the residents who paid over \$12,000 over ten years ago. The submitter notes that the pipe capacity was only enough for Arawa Road but somehow the recent Penelope Place development was given access to this at no cost by the Council. The submitter recognises the need for a major upgrade to provide for another residential development.
- 13.13. Kirsten Jefferson (25.3) says that the current water supply would not handle another residential development and that Penelope Place struggles.
- 13.14. Jo Delaere (37.4) is concerned about the impact on the water pressure and says that improved infrastructure is needed first to support a development.

DISCUSSION

- 13.15. In response to the submission point from Ngāti Whakahemo, Council recognises it has a duty to protect and safeguard the vital water resource. To this end Council sources water from deep underground aquifers throughout the District. The physical connections (headworks) to the water source are engineered to high standards to ensure no contamination will enter the water. Council is subject to compliance conditions and requirements to protect the water it takes from any contamination, including the need to monitor. The amount of water Council takes is limited and measured to ensure the precious resource is protected for current and future generations. As such, these requirements are already being met by Council with respect to the source used for the existing reticulated water supply to the existing residential area. This is the same source that would be applicable to both Options 1 and 2 discussed below.
- 13.16. In terms of other submissions and ensuring water supply levels of service, there are two options that have been considered in response to submissions from existing residents.
- 13.17. Option 1 – 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. This is an efficient gravity pressure system and would allow for all customers to receive supply directly from the mains with the levels of service, without the need for a reservoir and boost pump system.

13.18. Option 2 – The provision of a reservoir and pump arrangement at the connection point to the development. This option would be reliant on the limited supply from the 100mm ID main to fill new and on-site reservoir/s. The water supply would then need a boost pump to supply water to the development network and a boost pump to deliver water for fire fighting.

13.19. The points made in the submissions have similar themes:

- Residents are concerned that the existing water supply is at, or near capacity.
- For more connections, major infrastructure upgrades would be required.
- Residents have experienced low water pressure.
- Adding more demand would lower the pressure further.
- There are no fire hydrants in the area.
- The residents paid for the pipeline initially.

13.20. The points made by the submitters need to be considered in the decisions regarding the water supply network for the Plan Change. Existing customers' level of service cannot be compromised, but rather should be enhanced and the final design must include resilience for long term supply for all customers.

13.21. The following comments and observations are made by Council's Infrastructure Engineer – Water after reviewing the application, and the proposed water supply options included in Appendix E of Attachment 4.

13.22. Modelling:

- The applicant has modelled the existing water network from the corner of Maniatutu Rd, along SH 2 to Arawa Road, to identify system capacity. In their modelling parameters, they based the supply head pressure as 100m, but in fact the system is supplied head pressure from the Maketu reservoir at 64m RL.
- For the model input, the applicant took pressure loggings from site for a 48-hour period between 9:30am, 13/07/22 and 9:30am, 15/07/22, at the air valve 90m west of the SH 2 /Arawa Road intersection. This is during mid-winter and represents the lowest usage period for the year and minimal effect on pressures. Though a nominal pressure drop allowance was included in their modelling, it does not represent true pressure losses. Data from pressure logging should be included for mid-summer hottest periods when demand is highest to model actual effect on pressures in the network.
- The modelling calculations were based on 29 properties currently serviced by the main to estimate the probable simultaneous demand (PSD) as 3.32 litres/second. Council records indicate there are more than 60 dwelling connections, which will have a significant difference in the outcomes of the modelling and supply capacity.
- The modelling used a Hazen Williams roughness coefficient (C) of 150 which is suitable for other plastics. It is otherwise recommended by the industry for PE to use $C = 140$. This has an impact on the calculations and shows an increase in pressure losses.
- The existing network currently has more than 60 dwelling connections, which far exceeds the recommended maximum of 40 dwellings from NZS 4404, table 6.2 on a single fed 100mm diameter main.

13.23. With regard to options:

13.24. Option 1 (Water main upgrade)

- This was deemed by the applicant to provide a compliant level of service for all customers to receive a water supply with similar pressures and with fire fighting capabilities (50 litres/second), directly from the mains. The increased main size will also have capacity for seasonal increases in demands. This option has the distinct advantages of efficiency and reliability. It supplies water from the Maketu reservoir, by gravity along the trunk mains to the customers. Hence it can continue to supply water during power outages and maintain levels of service. This system design in essence is used throughout the District to maximise reliable delivery and efficiencies. Therefore, the option of upgrading the main from Maniatutu Road is considered a suitable solution to provide water to the proposed Plan Change area.

13.25. Option 2 (install reservoirs and a booster pumps station)

- This option uses a trickle feed supply, from the existing mains in Arawa Road to fill reservoirs on site and provide 48 hours storage. The water would then be pumped through the water mains within the development. The demands modelled for this scenario, particularly during peak periods, indicate there is little or no reserve in capacity for either resilience or increase in demand. The modelling key features for this option stated, “There are two open hydrants within the proposed development, each delivering 12.5 litres/second in accordance with SNZ PAS4509–2008.” The Plan Change proposal shows that there is a commercial component in the planning, which requires double the fire fighting flow output (2 hydrants each at 25 litres/second) and a minimum of 180m³ storage for this. Council’s Development Code also stipulates all reticulation is designed to W3 (NZ Standards method of determining firefighting supply).

13.26. Some of the disadvantages of Option 2 are;

- The storage or pressure boosting does not cater for the existing properties in Arawa Road. However, they would in essence be part of the urban fire zone if the Plan Change comes into effect and requires fire fighting level of service.
- The existing customers would be susceptible to pressure drops from the increased demands on the network as they are reliant on direct mains pressure.
- It creates a third micro-pressure zone within the community, which is not best practice to operate or maintain a water supply network.
- Reservoir recovery could be inadequate during peak demand periods and compromise compliance requirements to maintain certain levels of storage.

13.27. Council’s Water Services Team have included a ‘desktop’ estimate costing for both options for comparison. The estimates are based on:

- Recent contract rates for similar projects within the Western Bay of Plenty District for Council.
- Unit rate values included in Council’s Asset Management Plan for water.
- Budget estimates requested from suppliers.

Note: The option summary costs provided are for comparison and consideration only. They have not been compiled on site specific inspections or conditions, nor should they be used in any way to form budgets for the development. The quantities are based on

GIS plans, concept network arrangements and assumptions. They are not based on full engineering design plans.

13.28. Option 1: 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.

Budget - Option 1 - Pencarrow - New Water Main upgrade		
Item	Summary of Prices	
1	Preliminary and General	79,140
2	Sediment Control and Environmental Works	8,500
3	Traffic Management	62,500
4	Works	753,925
5	Sundry and Provisional items	50,000
Total estimate ex GST		\$ 954,065

Table 3: Water supply Option 1 upgrade estimated cost.

Note: Attachment 10 includes full schedule of quantities.

13.29. Option 2 – The provision of a reservoir and pump arrangement at the connection point to the development.

Budget - Option 2 - Pencarrow - Reservoir and Pump system			
item	description	unit	Cost ex GST
1	Pump Station and switchboard power	L.S.	310,000
2	Reservoir 300m ³ **	L.S.	275,000
3	Pipework, control valves on site	PC	30,000
4	Telemetry, comms, controls, monitors	PC	60,000
5	Site / civil / security / access	PC	65,000
6	Land value	300 m ²	200,000
Total estimate ex GST			\$ 940,000

Table 4: Water supply Option 2 upgrade estimated cost.

Note: See Attachment 10 which is a spreadsheet for background information, schedules, supplier costs and engineering calculations used in this report. ** Does not include geological design report or reservoir foundation costs.

Conclusion

13.30. The budget tables show the cost for both options are similar. Therefore, cost should not be the major consideration for the option decision.

Note: Option 2 – the costs for reservoir foundation design or construction of foundations have not been included. These can vary considerably and need to be considered as a separate risk and cost over and above.

13.31. Option 1 to renew the water main from Kaikokopu Road to Arawa Road and to Pencarrow Estate has distinct advantages for achieving the desired outcomes. It will have the capacity to deliver water supply to each connection, existing and proposed at the desired levels of service, like those experienced in towns throughout the District. The network will have the capacity for firefighting directly from hydrants on the mains to meet the fire fighting Code of Practice, for all properties in the existing and proposed residential and commercial development.

13.32. The system will utilise the existing gravity supply from the reservoir at Maketu, without the need for additional storage or pumping. This also eliminates the need for additional power

supplies, SCADA communication, or control systems. This all amounts to a resilient, efficient network delivering level of service to customers for the long term.

- 13.33. The developer will also have the advantage of lesser design costs and will free up land otherwise needed for siting the reservoir, pumping station and power supply, and vesting in Council.
- 13.34. Option 2 to construct a reservoir and pumping station has a benefit with on site storage, should the main on SH 2 fail. Water would still be available for the customers from the onsite reservoir. However, mains repairs are managed through Council's maintenance contract and customers seldom experience extended outages.
- 13.35. The existing network will be operating at close to maximum limits to deliver water all year round and may not meet levels of service required. This option only provides for pumped supply to the proposed development, which leaves the existing customer base with a depleted supply. It does not allow for inclusion of fire fighting capability for existing properties in Arawa Road or the neighbouring SH 2.
- 13.36. Attachment 10 includes 'Arawa Road water supply analysis and reference information' used for this report:
1. Hazen Williams system curve – pressure loss v flow rate calcs – 100mm main.
 2. Hazen Williams system curve – pressure loss v flow rate calcs – 200mm main.
 3. Pump cost 1.
 4. Pump cost 2.
 5. Reservoir cost.
 6. Options summary budget.
 7. Water main construction Schedule of rates.

References:

- SNZ PAS 4509: 2008.
- NZS 4404: 2010.
- WBOPDC Development Code.
- WBOPDC Water – Asset Management Plan.

RECOMMENDATION

- 13.37. The applicant has not provided sufficient information to demonstrate that Option 2 to install reservoirs and a booster pumps station is suitable to support the development of the site.
- 13.38. The preferred option is Option 1: 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.
- 13.39. This requires that the proposed staging pre-requisites in Rule 12.4.24.3 of Section 12 – Subdivision and Development of the District Plan are amended to delete reference to the option to provide "reservoirs (if necessary)" as follows (and shown in Attachment 1):

Stage 1

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):

...

- Water mains and reservoirs (if necessary) of sufficient pressure and 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.

...

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):

...

- Water mains and reservoirs (if necessary) of sufficient pressure and 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.

...

Stage 3

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):

...

- Water mains and reservoirs (if necessary) of sufficient pressure and 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.

...

SECTION 32AA ANALYSIS

13.40. The following provides a further evaluation of the changes made to the Plan Change since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. The s32AA analysis is provided below.

<p>Efficiency & Effectiveness in Achieving the Objectives</p>	<p>Delete the option to provide reservoirs from the prerequisites in Rule 12.4.24.3 and add the preferred water upgrade option being the upgrading of 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.</p>
<p>Costs Environmental effects</p>	<p>Environmental</p>

<p>Economic effects</p> <p>Social effects</p> <p>Cultural effects</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>There will be minimal construction works over a 2.1km length to install the new main, this can be mitigated through directional drilling which is non destructive and does not require large excavation through the construction process.</p> <p>Economic</p> <p>Costs to the developer of the required water main upgrade. However, the costs of an upgrade were already known at the time of the notified Plan Change as this option was included.</p> <p>Social</p> <p>No social costs.</p> <p>Cultural</p> <p>No cultural costs.</p>
<p>Benefits</p> <p>Environmental</p> <p>Economic</p> <p>Social</p> <p>Cultural</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>Environmental</p> <p>Continuous flow through a larger main can reduce the risk of stagnation, which helps maintain water quality by preventing issues like sediment buildup or biofilm formation inside a reservoir which will periodically need to be flushed out to the surrounding environment and cleaned.</p> <p>Economic</p> <p>Removes unnecessary costs to the developer of needing to deliver this option which is not considered to be an adequate solution. Also frees up land for development which would no longer be needed for the reservoir/s. Directs similar costs towards a more efficient, reliable and suitable option being the water main upgrade.</p> <p>The larger main allows for future expansion without needing new infrastructure.</p> <p>Social</p> <p>Will ensure the required level of service to every connection in both the proposed development and existing residential area plus capacity for firefighting. Also, a more efficient and resilient network as it does not require electricity to remain functioning.</p> <p>Cultural</p> <p>No cultural benefits.</p>
<p>Quantification</p>	<p>Not practicable to quantify.</p>
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<p>Sufficient and certain information is available.</p>

Table 5: 32AA analysis Topic 6 – Water Supply

14. TOPIC 7 – WASTEWATER

BACKGROUND

- 14.1. The existing residential area of Arawa Road and Penelope Place relies on individual On-site Effluent Treatment (OSET) systems for wastewater management. In this decentralised approach, each property is responsible for its own treatment infrastructure, typically comprising septic tanks, treatment units, and disposal fields located within private property boundaries. Wastewater from households enters septic tanks, where solid waste settles, and the liquid portion undergoes further treatment before being discharged into disposal fields. The primary objective of OSET systems is to treat wastewater before it is released into the soil. Property owners are responsible for maintaining their septic tanks, including periodic pumping to remove accumulated sludge, while adherence to Bay of Plenty Regional Council regulations ensures that the systems operate within acceptable standards.
- 14.2. The Plan Change proposes to implement a new reticulated Septic Tank Effluent Pump (STEP) system where wastewater from each new lot will be conveyed to an on-property STEP tank. Solids will settle in the tank and will anaerobically degrade and eventually be pumped out, and the liquid wastewater will be pumped to a proposed wastewater treatment plant (WWTP). The WWTP is proposed to provide secondary treatment before being discharged via drip irrigation to a disposal field. It is proposed that the WWTP and associated irrigation field will be constructed and expanded in stages to cater for properties proposed as part of each of the three Stages.
- 14.3. The STEP system could be seen as a more complex and centralised OSET system. The main driver for this proposed wastewater solution is that the proposed lot sizes do not offer sufficient land to cater for a private OSET system.

SUBMISSION POINTS

- 14.4. Twenty-four submission points were received. Two further submission points were received. The submission points on this Topic are summarised as follows:
- 14.5. Ngāti Whakahemo (29.1) support the Plan Change but emphasise the importance of the safeguarding and protection of waterways and ecosystems. Their support is contingent on the implementation of robust measures and strict adherence to regulations and use of sustainable practices. They request stringent environmental protection measures for wastewater management and comprehensive environmental protection measures in the monitoring of wastewater development and disposal.
- 14.6. Julian Clayton (7.7) is concerned about the WWTP and does not believe that it has considered the flood prone, low-lying location; the risk that flooding may lead to contaminated waterways; and the risk of associated smells.
- 14.7. Craig Green and Lisa McArthur (8.3) argue the potential for an imposed, unwanted, and expensive upgrade to the current homes wastewater systems. The logic being that the new buildings may place stress on the land if they have a shared boundary to current homes and their septic tanks and absorption/infiltration fields.
- 14.8. Robin Simmons (10.2) suggests that the wastewater and sewage systems are installed before the new housing is built to avoid the use of septic tanks.
- 14.9. Mike Maassen (12.12) supported by Hayden Dugmore (FS38.12) believes that the proposed location for wastewater treatment is currently a flood plain. The risk of contamination from

treated effluent and untreated sewage to local waterways, streams and estuary is high. The submitter has noted the significant affect this runoff would have to local Iwi. Traditionally, Māori believe that any form of human effluent (treated or otherwise) entering waterways would make them contaminated, consequently affecting the traditional food gathering sites.

- 14.10. Mike Maassen (12.9) supported by Hayden Dugmore (FS38.9) outlines that the Puanene Stream, while its course has been modified through the applicant's property, should not be referred to as a "drain". The submitter notes the catchment area of the stream ends in the Waihi Estuary and brings attention to the work that has been done by locals to try and improve the water quality in both the stream and estuary. This includes extensive native plantings along the streambanks. The submitter says the stream is likely home to, and an important migratory path for, native fish. Of concern to the submitter is wastewater entering into waterways from the proposed site because of the land being prone to flooding.
- 14.11. Cyndi and Troy O'Reilly (15.3) do not believe that the proposed wastewater treatment is a viable option. The submitter is concerned that: the location is low lying and prone to flooding; flooding may lead to contaminated waterways; there may be associated smells from wastewater plant; there may be maintenance costs placed on the community; and, they do not wish to have to contribute in any way for a utility that they do not want or need.
- 14.12. Joseph and Victoria Phillips (17.2) are concerned about the WWTP and what would happen when there is flooding.
- 14.13. Karen Summerhays and Nicola Cooke (23.1) support the objections raised by Bay of Plenty Regional Council and Waka Kotahi provided as part of the applicant's Section 32 Report. The submitters are concerned particularly in regard to the STEP system proposed and the pressures on the receiving environment.
- 14.14. Alan and Patricia Birley (19.4) are not confident that the current wastewater plan has considered the potential flooding risks and how this may affect the water supply.
- 14.15. Hamish Henderson (20.2) is worried that the wastewater effluent system and the runoff from roofs will lead to polluted discharge water.
- 14.16. Jo Delaere (37.3) believes that residents will smell the wastewater treatment given that the most common wind direction is from the proposed site.
- 14.17. Bay of Plenty Regional Council (27.20) state how the Engineering Services Report has used the incorrect code of practice/standard. The BOP On-Site Effluent Treatment Regional Plan (OSET Plan) requires the Australian/New Zealand Standard 1547:2012 On-site domestic wastewater management to be used for on-site wastewater discharges in the BOP. The Report (Lysaght, 12/12/2022, Revision 5) has calculated the residential flow incorrectly and should be revised to ensure the discharge area is sized correctly. The Report uses municipal methods to calculate the flows to the wastewater treatment system, which appears to have led to a significant underestimate of the discharge area required to service the proposed development.
- 14.18. Bay of Plenty Regional Council (27.21) contest the occupancy allowance saying the average occupancy cannot be used for on-site systems because they must be designed for peak flows.
- 14.19. Bay of Plenty Regional Council (27.22) point out that the estimated residential flow is incorrect.

- 14.20. Bay of Plenty Regional Council (27.23) note that the applicant has not incorporated the total daily flow allowances which will likely lead to an undersized discharge area.
- 14.21. Bay of Plenty Regional Council (27.24) highlight the omission of the commercial area in the calculations to determine the size of the proposed secondary treatment system.
- 14.22. Bay of Plenty Regional Council (27.25) are concerned that the tanks may be subject to hydrostatic uplift and foundation concerns, given the highly compactable soils. The large tanks may need to be installed above ground, depending on winter groundwater conditions.
- 14.23. Bay of Plenty Regional Council (27.26) draw attention to the peat soil type which is known for fluctuating water tables and that an accurate winter groundwater table level is very important information to enable an accurate effects assessment. They explain that if winter groundwater levels encroach to within 600mm of the ground surface, the proposed discharge disposal area location may not be appropriate.
- 14.24. Bay of Plenty Regional Council (27.28) note that the application does not identify the appropriate separation distance of the wastewater discharge from the Puanene Stream.
- 14.25. Bay of Plenty Regional Council (27.31) state that the applicant has not provided a description of how the wastewater system will be managed into the future. Specific criteria including, responsibilities, installation, maintenance, a cost burden if Council is responsible for this in the future, and an associated possible discharge consent.
- 14.26. Bay of Plenty Regional Council (27.32) reference the Engineering Service Report (Appendix 7 – Engineering Report – Plan Change R5 of the applicants Section 32 Report) in the proposed addition to the District Plan and states how this would lock in the wastewater treatment system design inaccuracies (noted in earlier submission points).
- 14.27. Bay of Plenty Regional Council (27.29) note that the discharge of treated wastewater can have adverse effects on groundwater quality.
- 14.28. Bay of Plenty Regional Council (27.30) highlight the UV disinfection process. They state how this process is expected to address public health concerns from pathogens in the wastewater discharge, but it will not remove the public health effects from the nitrogen discharge.

DISCUSSION

- 14.29. The submission points can be broadly categorised into the following categories: wastewater treatment viability, regulatory compliance and technical issues, water quality due to the flood risk and contamination, odour issues, and capital and operating cost implications.

Wastewater Treatment Viability

- 14.30. It is proposed to implement a STEP reticulation system where wastewater from each new lot will be conveyed to an on-property STEP tank and eventually to a WWTP and then disposed of to land as explained in the background above. It is common for STEP systems to implement a cut-and-carry pasture operation to minimise nitrogen leaching from the land treatment area by removing nitrogen via the crop which would be removed from site.
- 14.31. This method is currently used in the Western Bay of Plenty District at the Ongare Point WWTP. The main risk of using this same method for the proposed site is the standing groundwater and risk of nitrogen leaching into the water table. The viability of this system has not been assessed in detail for this site by the applicant and therefore this remains a significant risk.

The risk is that through ongoing discharge of treated effluent to the imported soil, the soil may become saturated and leaching of nutrients into the underlying groundwater table could occur. No assessment of environmental effects has been provided to assess these concerns.

- 14.32. The applicant has suggested the establishment of a fill raft to create separation between the disposal field and groundwater, and pre-loading to minimise the risk of settlement compromising the integrity of the disposal field infrastructure. However, the geotechnical investigations did not assess the suitability of a wastewater disposal field in this location. There remains a risk that contaminants from the disposal field could migrate through the fill raft into the groundwater.
- 14.33. The infrastructure report cites calculations from Innoflow, which, in revision 6 (Appendix E of Attachment 4), recommends a total land area of 7ha for land irrigation. However, the most recent Structure Plan drawings (Attachment 2) suggest a development area of only 5.2ha for this purpose, indicating that the proposed land area for the irrigation systems is significantly undersized. While the applicant has cited that on-site soil testing (Attachment 6) allows for a smaller disposal field site this assumption is not consistent with the proposed approach of disposing to an imported raft of fill.
- 14.34. In the experience of Councils Water Services Asset Management Team, Innoflow provides one of the best wastewater treatment systems on the market, the applicant has not specified which wastewater treatment system will be installed, nor have they confirmed the use of an Innoflow system. It is important to note that not all wastewater treatment systems are created equal, the land required for treatment and drip irrigation can vary significantly depending on the chosen system.
- 14.35. Revision 5 (Appendix 7 of applicant's Section 32 Report) and revision 6 (Appendix E of Attachment 4) of the infrastructure report provided a breakdown of an Innoflow wastewater system to service each stage of the development. This also provided detail regarding expected influent quality from the development as well as a target discharge effluent quality. While the assumptions made appear reasonable, these have been removed from revision 7 (Appendix C of Attachment 6) of the infrastructure report. Also noting comments made above that the land size required to discharge this effluent has not been allowed for.
- 14.36. Based on the information provided, Councils Water Services Asset Management Team has advised that they have little confidence that the proposed application can safely discharge wastewater, as insufficient supporting details have been presented. The proposed STEP reticulation system may lead to nitrogen leaching into the groundwater, with its viability not adequately assessed for this site. Additionally, the recommended land area for irrigation is significantly undersized at 5.2ha, compared to the 7ha suggested in the infrastructure report, and the applicant has not specified which wastewater treatment system will be installed.

Water Quality due to the Flood Risk and Contamination

- 14.37. Concerns are raised by multiple submitters about the location being low-lying and prone to flooding. This poses potential risk for treated effluent from the wastewater system to enter the Puanene Stream especially during flood or high rainfall events. Bay of Plenty Regional Council have asked for a risk assessment of the potential effects of contaminants entering the stream and identifying an appropriate separation distance, the applicant has since

proposed a 20m setback of the wastewater field from the Puanene Stream to align with AS/NZ1547:2012 (Attachment 4).

14.38. The applicant has suggested the following measures to mitigate some of the risk:

- A raft of imported fill to separate the standing groundwater table from the disposal field.
- A cut-and-carry pasture operation to minimise nitrogen leaching from the land treatment area.

14.39. However, the information provided does not assess the suitability of this site for wastewater disposal, it is recommended further investigation be required to confirm the long-term suitability of the system on this site.

14.40. Bay of Plenty Regional Council also raise concerns regarding the timing of testing for groundwater levels as this was undertaken in summer. The applicant has since undertaken winter soil testing and found ground water levels to be consistent with previous results (Attachment 6).

Capital and Operating Cost implications

14.41. There were submissions which raised concern regarding the financial viability of the proposed wastewater system. The applicant has provided a high-level cost estimate (Attachment 6) as below:

- Annual on-lot septic tank operations and maintenance: \$90+ GST/tank.
- WWTP and land application field annual operations and maintenance (at final stage): \$74,600 + GST.
- Chemical top ups and telemetry management additional.

14.42. In Council's experience this is an accurate estimate for the ongoing operating costs associated with this system. Council operational expenditure for maintaining the same system in Ongare Point has averaged \$75,000 for the past three financial years. The Ongare Point system services approximately 60 properties while the lots serviced differs from 60 properties at Ongare Point to 140 properties at Pencarrow, costs aren't directly affected by number of connections, however Councils Water Services Asset Management Team have advised that the estimated operating costs are potentially slightly under what could be expected.

14.43. The estimate provided at \$74,600 for 140 connections, estimates the cost per connection at \$533 per connection. Using the same metrics Council operational expenditure for maintaining the Te Puke wastewater system has averaged \$966,275 for the past three financial years. With approximately 2862 wastewater connections in Te Puke including a large commercial and industrial area the average cost per connection is approximately \$340 per Annum.

14.44. Using this logic, it is more cost effective to provide connected wastewater to housing in an already developed community than the Plan Change site.

14.45. It is important to note that the Ongare Point system was implemented as the existing privately owned systems were struggling to meet compliance standards due to the low-lying nature of the area and high groundwater tables. Council implemented a system here to address these issues.

- 14.46. The applicant's Section 32 Report does not make it clear on the ownership and maintenance responsibilities for the individual septic tank/pump systems.
- 14.47. There has been no provision made for the possible connection of existing residents in Arawa Road and Penelope Place. Council may face pressure from outside agencies and stakeholders to require the existing residents to connect to the system in the future. This will come with the associated cost of extending the network and the treatment facility. This has not been assessed by the applicant nor has council planned to fund these extensions, no financial contributions were collected at the time of development of these existing areas.

Odour Concerns

- 14.48. Concerns are raised regarding odour associated with the WWTP. Generally, the WWTP proposed is an aerobic system which significantly avoids foul odour generation. Additionally, most process tanks of pre-packaged plants are covered further reducing the risk of odour and the irrigation method proposed is sub-surface drip irrigation eliminating the potential of spray drift from the land treatment system.

Regulatory Compliance and Technical Issues

- 14.49. Bay of Plenty Regional Council raise various technical issues related to wastewater management, including incorrect calculations, design inaccuracies, and regulatory non-compliance. Specific issues highlighted include incorrect estimation of residential flow and omission of commercial areas as well as risk of buoyancy issues with tank installation. Flow allowances have been revised and adjusted by the applicant to reflect the submission in (Appendix E of Attachment 4).

Suitability

- 14.50. There is a small concern with the proposed lot sizes ability to cater for the proposed systems. With the average lots sizes proposed to be between 350m² and 500m² and the stormwater calculations provided suggest an impervious area of 70% of the site. There will be limited space available for the inclusion of a STEP tank on site and proposed stormwater onsite soakage, it is recommended that the applicant provide a typical site layout which consider appropriate setbacks from soakage systems and boundary restrictions to support the proposal. This has since been provided (Appendix C of Attachment 6).

Conclusion

- 14.51. In conclusion, although the proposed wastewater treatment system presents potential solutions, there are concerns regarding its suitability for the area and the potential environmental impacts. The geotechnical investigations provided to date have not assessed the suitability of the site for wastewater disposal, to be confident that an engineering solution could work further investigation is needed to confirm the long-term viability of the system.
- 14.52. Although, Innoflow is referenced in several infrastructure reports, no specific treatment system has been proposed by the applicant leaving uncertainty regarding the system's effectiveness and suitability for the site.
- 14.53. It is recommended that a risk assessment of the potential effects of contaminants entering the stream is provided which identifies an appropriate separation distance to ensure that sufficient land can be allocated for the purpose of treated effluent disposal.

- 14.54. It is three and a half times more cost effective to provide wastewater services in an already developed area like Te Puke compared to providing the proposed system for a small, isolated community.
- 14.55. There is no allowance for the connection of existing residents to the proposed system. Management of private OSET systems can become costly and there is potential that Council will face pressure from outside agencies and stakeholders to require the existing residents to connect to the system in the future, which will come with the associated cost of extending the network and treatment facility. This hasn't been assessed by the applicant.
- 14.56. The proposed land area for irrigation is significantly undersized at 5.2ha, compared to the 7ha recommended in the revision 6 of the infrastructure report (Appendix E of Attachment 4), raising doubts about the system's ability to adequately manage wastewater.

RECOMMENDATION

- 14.57. The applicant has not provided sufficient information to demonstrate that the proposed wastewater management methods are suitable to support the development of the site.
- 14.58. Further information is required from the applicant with respect to;
- Applicant to specify which wastewater treatment system will be installed. Without this it cannot be determined that this is a viable wastewater disposal solution.
 - Detail regarding the proposed raft fill, soil type, compaction requirement, finished level etc.
 - Detailed assessment of effects for the proposed system, including nutrient leaching risks to groundwater. Also evaluate potential impacts on the Puanene Stream during high rainfall or flooding events.
 - Confirm land required for an effective drip irrigation system based on a specific wastewater treatment system.
 - Implement regular monitoring of groundwater levels, particularly during different seasons, to assess the ongoing viability of the wastewater system.
 - Assess the feasibility and implications of connecting existing residents on Arawa Road and Penelope Place to the new wastewater system to avoid future infrastructure pressures.
- 14.59. Given that further information is recommended it is not possible to suggest proposed rule improvements without knowing what this further information will require. Recommended Changes to District Plan Provisions (Attachment 1) and Recommended Changes to District Plan Maps (Attachment 2) indicate where changes to the proposed provisions may be required.

SECTION 32AA ANALYSIS

- 14.60. As no changes are recommended to the proposal due to the need for further information, no s32AA evaluation is necessary.

15. TOPIC 8 – STORMWATER

BACKGROUND

- 15.1. Stormwater runoff from the proposed site and existing development upstream currently flows overland through three existing flowpaths to the Puanene Stream which runs along

the north-western boundary of the site. This watercourse flows to the northeast of the site to a small farm pond.

- 15.2. There is currently no formal stormwater network at the Plan Change site, however there are three prominent flowpaths which convey overland flow from the upstream catchment through the site. Two of these flowpaths have stormwater easements through the adjoining properties of 19 and 53 Arawa Road, these however do not continue on to the Plan Change site. Flood modelling indicates there is significant downstream flooding.

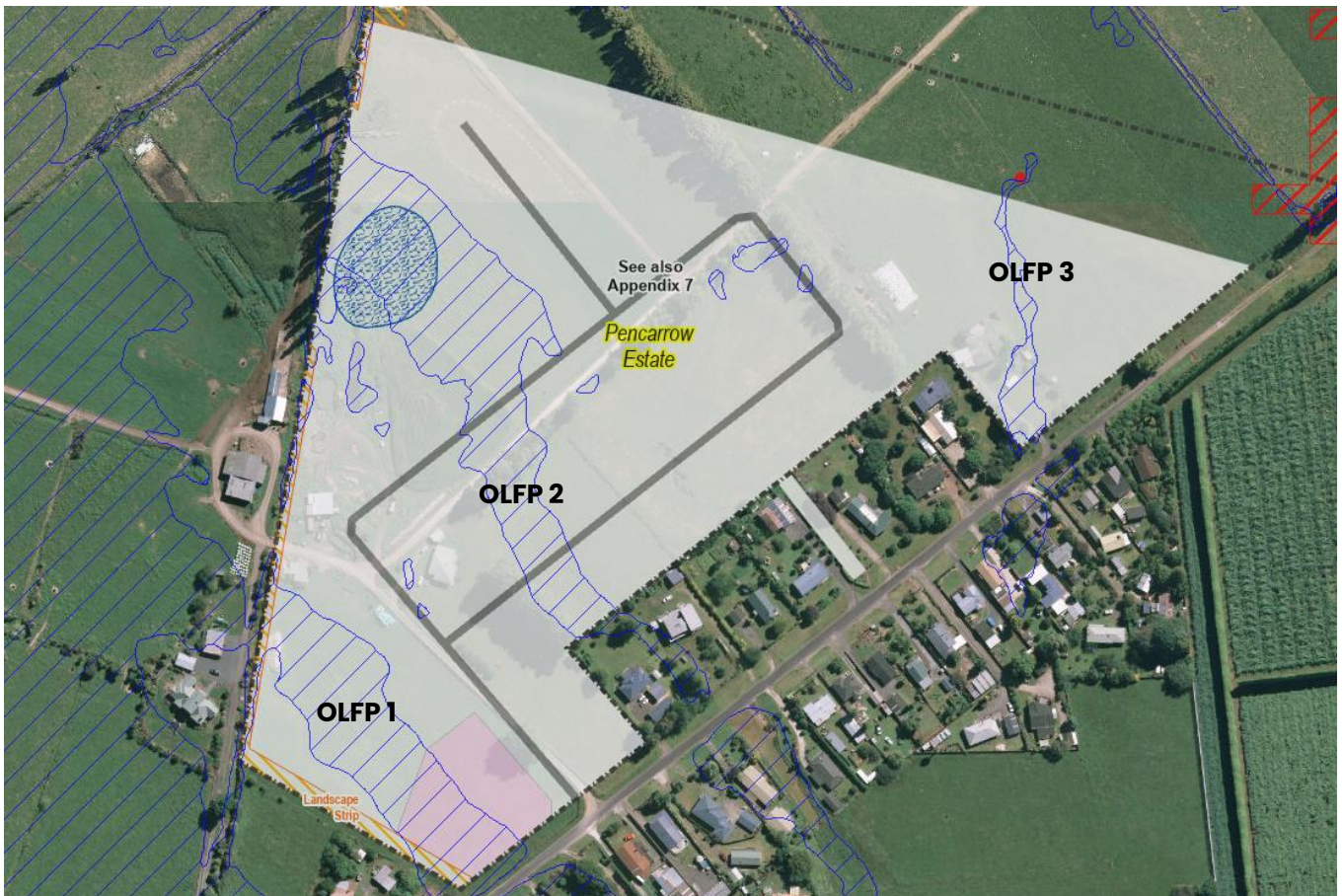


Figure 5: Plan Change site and Rural Areas and Small Settlements Floodable Map (blue hatched). Three flow paths through Plan Change site demonstrated. In the above Figure, OLFP means 'Overland Flowpath'.

- 15.3. The applicant's Section 32 Report proposes the stormwater system as part of the Section 12 – Subdivision and Development of the District Plan pre-requisite staging and demonstrated in the Structure Plan map. The intention is for the stormwater wetland and the conveyance infrastructure to be constructed as part of Stage 1. Similarly Stage 2 and Stage 3 will see the construction of overland flowpaths and conveyance infrastructure associated with that area installed.

SUBMISSION POINTS

- 15.4. Nineteen submission points were received. Three further submission points were received. The submission points on this Topic are summarised as follows:
- 15.5. Ngāti Whakahemo (29.1) support the Plan Change but emphasise the importance of the safeguarding and protection of waterways and ecosystems. Their support is contingent on the implementation of robust measures and strict adherence to regulations and use of

sustainable practices. They request robust environmental protection measures for stormwater disposal.

- 15.6. Mike Maassen (12.11) supported by Hayden Dugmore (FS38.11) submits that proper stormwater management is required to prevent waterway contamination. The submitter says that the applicant has refused to allow stormwater from Arawa Road to flow onto their land despite flowpaths marked which has resulted in extra costs and adjustments for surrounding properties. The submitter explains that the Penelope Place and Arawa Road intersection is a flowpath which should be secured. They also explain that when the subdivision was being constructed the Council wanted to install a release culvert for a 1% AEP event under Arawa Road, but this was refused by the applicant and a sump was constructed instead of releasing to the flowpath putting 20 Arawa Road at an unacceptable flood risk.
- 15.7. Mike Maassen (12.9) supported by Hayden Dugmore (FS38.9) outlines that the Puanene Stream, while its course has been modified through the applicant's property, should not be referred to as a "drain". The submitter notes the catchment area of the stream ends in the Waihi Estuary and brings attention to the work that has been done by locals to try and improve the water quality in both the stream and estuary. This includes extensive native plantings along the streambanks. The submitter says the stream is likely home to, and an important migratory path for, native fish. Of concern to the submitter is stormwater entering into waterways from the proposed site because of the land being prone to flooding.
- 15.8. Jo Delaere (37.2) is concerned that the new development will have negative effects on the area's water quality due to the runoff entering Puanene Stream and the joining the estuary that locals have worked hard to restore.
- 15.9. Julian Clayton (7.8) believes that the runoff during the construction phase or after will have a damaging effect on the biodiversity of the area and wants to know how pollution of the surround land and waterways will be prevented. The submitter notes that the existing properties on Arawa Road are on porous ground which removes the potential for flooding and water/sediment runoff.
- 15.10. Karen Summerhays and Nicola Cooke (23.1) support the concerns raised by Bay of Plenty Regional Council and Waka Kotahi provided as part of the applicant's Section 32 Report. The submitters are concerned particularly about the stormwater management on low lying land and the pressures on the receiving environment.
- 15.11. Bay of Plenty Regional Council (27.10) cautions that the design and sizing of the stormwater pond is based on using a 10mm/hr rainfall intensity. This approach is taken from GD01 in Auckland, which is not the appropriate guideline to use in Bay of Plenty. The submitter warns that the 10mm/hr rainfall intensity depth is likely to lead to the device being undersized.
- 15.12. Bay of Plenty Regional Council (27.6) recommend a stormwater management plan to ensure the issues identified in their points about stormwater are addressed in an integrated manner (as required by Section 30(1)(a) of the RMA, RPS Objective 11 and RPS Policy IR 3B). The submitter notes that the stormwater discharge consent process under the Regional Plan is not the appropriate mechanism to manage effects of large developments and that stormwater effects need to be considered collectively on a catchment or sub-catchment basis to enable cumulative effects to be assessed at the structure planning stage and implemented via provisions in the District Plan.

- 15.13. Bay of Plenty Regional Council (27.7) is in favour of onsite soakage to discharge stormwater from individual lot areas (roofs, paved areas, driveways) where possible. However, based on the geotechnical report for the application, they believe that a high groundwater table may preclude the use of soakage in the lower lying areas.
- 15.14. Bay of Plenty Regional Council (27.8) note an inconsistency. The Engineering Servicing Report (Lysaght, 12/12/2022, Revision 5) states that stormwater from roads will be collected in catchpits and piped to the stormwater detention pond. The Structure Plan states that roadside swales will drain the roads.
- 15.15. Bay of Plenty Regional Council (27.9) note an additional inconsistency. The Assessment of Ecological Effects (Wildlands, May 2022, Contract Report No. 6334) recommends the stormwater detention area is planted with wetland plants. The Engineering Servicing Report (Lysaght, 12/12/2022, Revision 5) and proposed planning map refer to a stormwater pond.
- 15.16. Bay of Plenty Regional Council (27.11) have highlighted the stormwater treatment pond does not achieve the correct length to width ratio to meet the treatment requirements in the Stormwater Management Guidelines for Bay of Plenty Region (Bay of Plenty Regional Council Guideline 2012/01).
- 15.17. Bay of Plenty Regional Council (27.12) point out that Puanene Stream on the northwest boundary of the site has been mislabelled as a drain. They request that the stormwater plans need to include extended detention to avoid erosion, ensure that impervious surfaces do not flow directly into streams, and use water sensitive design (WSD) consistent with the Stormwater Management Guidelines for Bay of Plenty region and the NPS-FM, with the most effective WSD treatment train approach.
- 15.18. Bay of Plenty Regional Council (27.13) note that the applicant's Section 32 Report states that stormwater attenuation will be provided. However, the Engineering Services Report outlines that the watercourse will need to be upgraded where the pond discharges to prevent erosion of the watercourse banks in large storm events. They seek clarification of whether post-development Puanene Stream flows will be erosive or if this refers to localised erosion at the outlet. They highlight a number of required measures including avoiding new erosion protection structure in streams as the result of increased flows from development, stormwater discharges and associated structures being designed to avoid erosion and scour of streams, and erosion protect at outlets, streams, channels and overland flowpaths being consistent with their Stormwater Management Guidelines.
- 15.19. Bay of Plenty Regional Council (27.14) note that the Plan Change site drains into an area subject to a privately owned drainage system (Little Waihi Drainage Scheme) which relies on conveyance through modified water courses They believe an increase in impervious areas will result in more stormwater discharge, including in storm events, and increase operational cost. They seek clarification of the appropriate stormwater volume mitigation.
- 15.20. Bay of Plenty Regional Council (27.15) note that the proposal indicates that 50% of the site's stormwater will be discharged vial ground soakage for the 1-in-10 year 10 minute storm and as such assumes that peak flow rates will not increase. However, due to the applicant relying on groundwater depths measured in summer after a year of low flow conditions, they believe soakage will become less effective. The submitter notes that the applicant's report provides a pond volume but fails to indicate the required area and that the likely shallow groundwater hasn't been taken into account. They seek clarification of the required size of the stormwater pond/wetland and for this to be done at the Structure Plan stage.

- 15.21. Bay of Plenty Regional Council (27.16) note that the proposal identifies three overland flowpaths and proposes to maintain their capacity. They note however that the capacity calculations were based on a 1% AEP flood event in the year 2040 (including climate change) but to avoid an increase in upstream flood risk should have been based on a 1% AEP flood event in the year 2130 (including climate change based on RCP8.5). They also highlight that the structure plan dated October 2023 does not show Overland Flowpath 3.
- 15.22. Bay of Plenty Regional Council (27.17) supported by Waka Kotahi (FS40.3) note that Council's flood maps show that the Puanene Stream capacity is limited, and that bridges underneath SH2 and KiwiRail embankment appear undersized resulting in ponding and overtopping in 1% AEP climate change adjusted event. They say that failures of this infrastructure may require upgrades which could result in increased flooding through the Plan Change area. However, they do not suggest any relief for this point.
- 15.23. Bay of Plenty Regional Council (27.18) note that the proposal estimates some flood displacement for the 1% AEP flood event through infilling but is not based on flood modelling. They also note the applicant identifies this effect as negligible but overlooks the need to identify this effect as part of a cumulative effects assessment including increased stormwater volumes due to land use change. Flood modelling is recommended by the submitter to identify cumulative effects for a variety of events along with appropriate mitigation measures.

DISCUSSION

15.24. The stormwater submissions can be broadly categorised as follows:

- Stormwater Management Plan Requirement
- Onsite Soakage and Groundwater Concerns
- Flood Modelling and Stormwater Management
- Discrepancies in Drainage Infrastructure Design
- Selection of Stormwater Treatment Device
- Rainfall Intensity for Stormwater Pond Design
- Stormwater Pond Design Proportions
- Water Sensitive Design Implementation
- Impact on Waihi Drainage Scheme
- Stormwater Soakage Limitations and Pond Sizing
- Stormwater Discharge Impact on Watercourse

15.25. Calculations are used and referred to as provided from Councils Water Services Assets Team.

Stormwater Management Plan Requirement

- 15.26. In accordance with RPS Policy IR 3B, Bay of Plenty Regional Council request a stormwater management plan to address stormwater issues comprehensively and have therefore asked that the applicant provide a detailed stormwater management plan with objectives, best practicable options, and provisions for managing stormwater.
- 15.27. In response the applicant questions the reasoning, timing and necessity of the Plan Change application for stormwater management, advocating for discharge consent processes instead (Attachment 4).

- 15.28. It is the opinion of Councils Water Services Asset Management Team that a stormwater management plan would ensure a consistent approach to stormwater management, particularly if development were to occur in stages. The staging plan that has been provided to date does not demonstrate in enough detail how stormwater is to be managed.
- 15.29. The revised structure plan shows that the existing overland flowpaths from the existing upstream catchment convey through proposed residential areas and across proposed roads, however, it is not identified with sufficient detail how this would be achieved. For example, for the largest flowpath (Overland Flowpath 2), the applicant has provided sound calculations for the sizing of proposed channels to convey stormwater including large rainfall events through the site. The infrastructure report (Appendix C of Attachment 6) then states “that culverts will also be required along Overland Flowpath 2 as the flow path crosses roads in the development”, the report stops short of calculating the required pipe size for these road crossings and instead states that “these are to be designed during the detailed design phase.”
- 15.30. Using all the assumptions the infrastructure report has provided regarding design storm events, impervious area assumptions, depths and grade of the proposed open channels and ground water depths, Councils Water Services Management Team have calculated the pipe size required to convey the proposed stormwater flows across the road at a 1200mm diameter pipe (Attachment 12). This raises concern regarding feasibility for a number of reasons, Councils’ Development Code requires a minimum pipe coverage under a carriageway of 900mm, not accounting for the thickness of the pipe walls this would see the pipe having a conservative invert depth of 2100mm. The invert of the proposed channel is 820mm so these do not align.
- 15.31. The nearest groundwater test undertaken was CPT10 as shown in the Geotechnical Report (Appendix 8) of the applicant’s Section 32 Report. With a summer ground water depth of 1600mm, depending on finished road height this would see a large portion of pipe full of ground water during dry periods, and worse in wet conditions. Therefore, a 1200mm pipe is not feasible. The applicant has proposed that “culverts will also be required”, assuming that the culvert invert matched the invert of the proposed channel at 820mm as would be good practice, and council theoretically allowed the applicant to reduce the minimum pipe coverage under a carriageway from 900mm to 595mm, not allowing for pipe wall thickness, then a 225mm pipe could fit beneath the carriageway and match the proposed channel depth. To convey the proposed 3.99m³/s of flow, theoretically the development would need approximately 75 pipes at a diameter of 225mm to cross the road. This does not seem feasible given the extreme overall width the pipes would require (approximately 39m) and the transition from that back to the channel width of 6.3m. Therefore, it seems that other engineering solutions may be required, which could (for example) include; bridges, re-configuration of flow-path routes, or cul-de-sac roads which don’t link to allow Overland Flowpath 2 to convey through the site.
- 15.32. The underlying issue is that the applicant has rightly identified that the flow characteristics of Overland Flowpath 2 with a water depth of 670mm and a velocity of 1.98m/s are considered not safe for people or vehicles, therefore presenting a considerable risk to life. These issues are issues that are evident for all three overland flow paths, where the overland flow paths cross roads, dissect proposed residential properties, recreational reserves, wastewater disposal fields and run adjacent to proposed residential properties. These aspects raise concerns as to how these channels will be appropriately managed as well as

give effect to other key considerations. This includes; how will vehicle access to properties across the proposed channels be provided, how will the safety of residents be secured where flow-paths traverse through proposed residential and reserve areas. The proposed planting and barriers are not convincing as solutions and could pose significant safety/liability concerns for council. The applicant has not provided any real detail of how the development seeks to comprehensively mitigate these risks, and there is no evidence that the proposed layout can feasibly manage these risks without significant deviation from the proposal.

Onsite Soakage and Groundwater Concerns

- 15.33. Concerns raised regarding high groundwater tables may limit the effectiveness of onsite soakage for stormwater management. Bay of Plenty Regional Council have asked that the applicant's stormwater design considers the limitations of onsite soakage in areas with high groundwater tables.
- 15.34. The response from the applicant (Attachment 6) acknowledges concerns about high groundwater levels potentially affecting onsite soakage effectiveness and provides a typical residential soakage design which avoids the identified ground water levels to provide year-round soakage. One risk is that soakage calculations are based on soil testing in Pongakawa and assumed appropriate to use for the Plan Change site. The justification provided is that the nearby Penelope Place development successfully employs soakage as a method of discharging primary flows. These assumptions have not been tested on site and are the underlying assumptions which support the statements made by the applicant that there will be less than minor off site effects with regard to stormwater run-off. It is recommended by Council's Water Service Asset Management Team that these assumptions are tested at multiple locations on site to confirm the suitability of soakage as a method of primary stormwater management.

Flood Modelling and Stormwater Management

- 15.35. Bay of Plenty Regional Council identified the need for revised calculations for the overland flowpaths based on the 1% AEP even in the year 2130 and an update to the structure plan to include Overland Flowpath 3. In response the applicant has provided revised calculations and a revised structure plan.
- 15.36. Bay of Plenty Regional Council raised concerns about the flood mapping and the SH2 and KiwiRail bridges, stating that these may require upgrades which may subsequently affect the Plan Change site. The applicant has responded to this submission point noting that it will be the responsibility of the authorities who own the infrastructure to ensure that downstream adverse effects do not occur.
- 15.37. Bay of Plenty Regional Council also note that flood modelling is needed to identify cumulative effects for a variety of events along with appropriate mitigation measures. The applicant has now provided further stormwater run-off calculations which note that for varying durations of the 10-year and 100-year events discharge velocity and volume are reduced (Appendix C of Attachment 6). With the exception of the 10-year, 24-hour event where volume discharged from the site is increased. Council's Water Services Assets Team agree and recommends that flood modelling should be provided to better understand the cumulative impacts of the additional stormwater volume generated and the infilling of the flood plain through a range of critical events. This is consistent with current comprehensive

discharge consents which the Council hold with Bay of Plenty Regional Council where stormwater systems are designed for attenuation of the 50% and 10% AEP critical storm events to pre-development peak stormwater discharge and the 1% AEP critical storm event to 80% of the pre-development peak discharge.

Discrepancies in Drainage Infrastructure Design

- 15.38. Concerns arose from Bay of Plenty Regional Council regarding inconsistencies in the proposed drainage infrastructure design, particularly regarding the use of swales or pipes for road runoff. Clarity was requested from the applicants on the drainage method, emphasising the importance of appropriately sized and designed grassed swales for water quality treatment. The response from the applicant (Appendix E of Attachment 4) clarified that both swales and pipes will be utilised in the drainage plan, aligning with regional guidelines by incorporating adequately sized grassed swales. This effectively addresses the concerns of the submitter by providing clarity on the proposed treatment train and WSD.
- 15.39. There is also a concern around the proposed lot sizes and their ability to cater for the proposed stormwater soakage systems. With the average lots sizes proposed to be between 350m² and 500m² and the stormwater calculations provided suggest an impervious area of 70% of the site. There will be limited space available for the inclusion of a STEP tank (wastewater) on site and proposed stormwater soakage. It was recommended that the applicant provide a typical site layout which consider appropriate setbacks from soakage systems and boundary restrictions to support the proposal. The applicant has since provided typical residential layout of proposed support infrastructure to satisfy this concern (Appendix C of Attachment 6).

Selection of Stormwater Treatment Device

- 15.40. Ambiguity existed regarding the selection between a stormwater wetland or pond, and compliance with regional guidelines was also questioned by the Bay of Plenty Regional Council. Clarification was sought from the applicant on the stormwater treatment device selection, emphasising the need for compliance with regional guidelines favouring constructed wetlands. The response from the applicant (Appendix E of Attachment 4) clarified that the stormwater device will function as a wetland for most storm events, ensuring compliance with treatment standards and addressing concerns about treatment functionality. The applicant also proposed changes to the proposed Section 12 – Subdivision and Development of the District Plan prerequisites to make this clearer. This is considered an adequate response to address these concerns.

Rainfall Intensity for Stormwater Pond Design

- 15.41. Issues were raised by the Bay of Plenty Regional Council; about the adequacy of using a 10mm/hr rainfall intensity for sizing the stormwater pond, as it may lead to under sizing. Relief was sought by the submitter to use appropriate guidelines for determining water quality and detention volumes. The applicant's response acknowledged the concern and amended the report (Appendix E of Attachment 4) to comply with regional guidelines, ensuring that the stormwater device is appropriately sized.

Stormwater Pond Design Proportions

- 15.42. Bay of Plenty Regional Council expressed concern that the stormwater pond did not meet the correct length-to-width ratio as per regional guidelines. Relief was sought by the

submitter for size calculations to align with the Bay of Plenty Regional Council's Stormwater Management Guidelines. The response from the applicant indicated that the scheme plan was adjusted to form a correctly proportioned wetland, ensuring compliance with regional guidelines (Appendix E of Attachment 4).

Water Sensitive Design Implementation

15.43. Bay of Plenty Regional Council asked for the inclusion of WSD methods, such as extended detention and treatment train approach for all impervious areas draining to the treatment wetland/pond. Relief was sought by the submitter to revise stormwater plans to incorporate these WSD methods. The response from the applicant confirmed the inclusion of extended detention and treatment train approach through proposed swales in the stormwater plans, ensuring compliance with WSD principles and regional guidelines.

15.44. It is recommended that this is further clarified in the previously mentioned stormwater management plan.

Impact on Waihi Drainage Scheme

15.45. Concerns were expressed by Bay of Plenty Regional Council about the increased stormwater volume and operational costs for the existing drainage scheme due to the development. Relief was sought by the submitter for clarifying the effects on the drainage scheme and mitigation measures. The applicant's infrastructure report (Appendix C of Attachment 6) states that while stormwater volume increases, stormwater discharge velocities are reduced therefore there is minimal impact on the downstream drainage scheme.

15.46. It is recommended that the applicant assess the impact of the increased volume with regard to the drainage scheme assets, specifically the drainage scheme pumps, as increased volumes means more pump run time. It is recommended that this is assessed in consultation with the Waihi Drainage Society.

Stormwater Soakage Limitations and Pond Sizing

15.47. Bay of Plenty Regional Council also questioned the effectiveness of onsite soakage and the adequacy of the stormwater pond size, considering both current information provided about high groundwater levels and the possibility that these could be higher during winter months. The risk is that groundwater will seep into the proposed wetland taking up capacity within the proposed wetland. Relief was sought by the submitter for clarifying the required size of the stormwater pond and mitigation measures. The applicant's response (Attachment 4) stated that groundwater levels would not compromise the effectiveness of the wetland as it has been appropriately sized with a shallow design to mitigate the effects of the high groundwater table.

15.48. Again, there is a risk in the overall assumptions of the structure plan. The groundwater investigation was completed in summer conditions (January 2022), it was recommended that further groundwater investigations be undertaken during wetter months to quantify any potential limitations. The applicant has since undertaken one additional wintertime ground water test and identified that seasonal differences are minimal. Additionally, as outlined previously the soakage testing assumptions have been made using information gathered through the development of Penelope Place which is somewhat elevated above the Plan Change site and could potentially have better soils for soakage.

Stormwater Discharge Impact on Watercourse

- 15.49. Potential erosion caused by stormwater discharge to the existing Puanene Stream was another matter raised by the Bay of Plenty Regional Council. Relief was sought by them for clarification on whether post-development stream flows would be erosive and the need for erosion protection. The applicant's response (Appendix E of Attachment 4) clarified that the watercourse upgrade referred only to the discharge point and assured that there would be no increase in flow rates downstream, mitigating the risk of erosion.
- 15.50. Multiple submissions including Ngāti Whakahemo have raised concerns regarding Puanene Stream and the need to protect the waterway from stormwater discharges. In response to these submissions the applicants have indicated that the improvements to the overland flowpaths by way of planting for passive treatment as well as the stormwater treatment methods proposed are adequate. The applicant highlights that the stormwater management will be better than what is currently in place. However, this response does not quantify the difference between the impact of a residential land use with stormwater treatment train in comparison to the current rural land use.
- 15.51. The recommendations for further information with regard to specific detail for proposed infrastructure to addressing significant safety concerns and a stormwater management plan as discussed previously in this Topic, will ensure that stormwater system is adequate and that these concerns are addressed appropriately.
- 15.52. Stormwater run off from construction is also identified as an issue by one submitter and this has been addressed in Topic 13 (Construction) below.

Conclusion

- 15.53. The flood modelling should be provided to better understand the cumulative impacts of the additional stormwater volume generated and the infilling of the flood plain through a range of critical events.
- 15.54. The applicant should conduct onsite testing at multiple locations to verify the suitability of soakage for primary stormwater management. While the applicant has acknowledged concerns about high groundwater levels and provided a residential soakage design to avoid these levels, the current assumptions are based on soil testing from elsewhere in Pongakawa, which may not directly apply to the Plan Change site. The justification, referencing successful soakage at the nearby Penelope Place development, has not been tested for this specific location. Confirming the appropriateness of these assumptions through onsite testing is crucial to ensuring the proposed stormwater solution will have less than minor offsite effects.
- 15.55. A comprehensive stormwater management plan should be provided which addresses the significant risks identified. This plan should address the lack of design details to support the feasible management of overland flowpaths through roads and residential areas. Additionally, the flow characteristics of the overland flowpaths present a risk to life with no clear mitigation measures in place. There are also concerns about accessibility to properties, as well as the safety and liability implications for Council, particularly in high-risk flow areas. It is recommended that the applicant conduct a detailed review of overland flowpath management and explore feasible engineering solutions which demonstrate that the proposed layout can effectively manage stormwater without significant deviations from the plan.

RECCOMENDATION

15.56. The applicant has not provided sufficient information to demonstrate that the proposed stormwater management methods are suitable to support the development of the site.

15.57. Further information is required from the applicant:

- That flood modelling should be provided to better understand the cumulative impacts of the additional stormwater volume generated and the infilling of the flood plain through a range of critical events. It is recommended that this is assessed in consultation with the Waihi Drainage Society.
- That the applicant conducts onsite testing at multiple locations to verify the suitability of soakage for primary stormwater management.
- It is recommended that a comprehensive stormwater management plan is provided which addresses the significant risks identified.

15.58. Given that further information is recommended it is not possible to suggest proposed rule improvements without knowing what this further information will require. Recommended Changes to District Plan Provisions (Attachment 1) and Recommended Changes to District Plan Maps (Attachment 2) indicate where changes to the proposed provisions may be required.

SECTION 32AA ANALYSIS

15.59. As no changes are recommended to the proposal due to the need for further information, no s32AA evaluation is necessary.

16. TOPIC 9 – RECREATION

BACKGROUND

16.1. The nearest recreation reserve, Pongakawa Domain, is approximately 1.7km away and accessible by car from the Plan Change site. The Domain and Pongakawa School include community facilities such as a swimming pool, sports fields, community hall and wetlands. However, due to the distance from the Plan Change site it does not address the immediate neighbourhood reserve need for the proposed community expansion of Pongakawa residents at Arawa Road. The relatively small lot sizes proposed increase the need for adequate communal neighbourhood open space.

16.2. The Plan Change proposal provides for future recreation spaces by way of a “destination reserve” with a “village green” located where the primary stormwater attenuation pond is proposed at the north-western end of the site and a playground reserve area in combination with the commercial area at the south-western corner of the site adjoining Arawa Road. The proposed site also makes provision for pedestrian walkway links connecting Arawa Road and the two recreation spaces. These links also follow the proposed internal roads for wider connectivity.

16.3. The proposed recreation spaces and walkway links can be viewed in Appendix 2 – Structure Plan Drawings of the applicant’s Section 32 Report.

16.4. In addition to the Plan Change recreational infrastructure, Council is in the process of enhancing the road reserve of the paper road portion of Arawa Road which continues north-east of the proposed site and existing residential settlement. This process will include

developing an area at the entrance of the paper road with natural play features, and maintenance of the existing pumice track for walking and cycling in the short term (funded by Annual Plan 2023/24). In the medium term there is a project to further enhance the road reserve as a recreation corridor, with wider walking/cycling linkages towards Pukehina and a potential pump track (concept plan budgeted for 2028 as part of the 2024–34 Long Term Plan).

- 16.5. Council's Decision Document and Final Concept Plan for the Arawa Road Recreation Area can be viewed in Attachment 11 of this report.

SUBMISSION POINTS

- 16.6. Three submission points were received. One further submission point was received. The submission points on this Topic are summarised as follows:
- 16.7. Mike Maassen (12.18) supported by Hayden Dugmore (FS38.18) opposes the Plan Change, and says that while additional facilities are welcome, the applicant also needs to support Council's approved recreation plan for the paper road. The submitter draws attention to the significance of this paper road to the local community and the improved focus the Council's plan has on walking and cycling infrastructure for the paper road and surrounding area. This includes walking and cycling access across drains at the end of the paper road for public access along the stop bank of the Wharere Stream and cycling access to Wharere Road. The submitter states that the applicant's oppose the Council's plan, especially public walking access along the Wharere Stream stop bank.
- 16.8. Graeme Gillespie (9.4) opposes the Plan Change as the increased population will reduce their ability to walk their dogs unrestrained on the Arawa Road walkway.
- 16.9. Mark Boyle of the Te Puke Economic Development Group (13.6) is in favour of the Plan Change as he believes that the additional recreational facilities will support social wellbeing.

DISCUSSION

- 16.10. The recreation infrastructure for the paper road is planned and intends to be implemented by Council no matter the outcome of the Plan Change. The Reserves and Facilities Team at Council are conscious of the potential for there to be additional recreational services in the area, and the intention is that the Arawa Road site will complement the proposed reserves and recreational opportunities identified in the Plan Change.
- 16.11. Council's paper road enhancement has been through a community engagement process, has been adopted by Council and the funding for the short-term improvements has been allocated, with the medium-term improvements budgeted for 2028 as part of the 2024–34 LTP. The recreation features provided for within the Plan Change provide the residents of the development the required open space needed as per Council's Recreation and Leisure Strategy and LTP which states that neighbourhood reserves must be within 400m or 5–10min walk of 95% of residential properties.
- 16.12. Regarding concerns about the ability to walk dogs, Arawa Road is currently not an area identified within Council's Dog Control Bylaw 2016. Where areas are not specifically identified, the only requirement is that dogs must be "under control" at all times, as per Section 2.1 and 2.2 of the bylaw. The Plan Change development will only reduce the ability to walk dogs unrestrained on Arawa Road if community feedback informs this change through a future bylaw review process. Council currently has no plans to review this bylaw in 2024.

RECOMMENDATION

16.13. The proposed reserves shown on the Structure Plan should be retained, in addition to the Council's planned development of the paper road for recreation purposes. The reserve areas and walkways are already identified on the structure plan (Attachment 2). The following changes are recommended to the staging prerequisites to clarify the intent of the applicant regarding the timing of the reserves (Attachment 1).

Stage 2

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Landscaping and Reserves

- Formation of reserve around stormwater ~~attenuation pond~~ ~~treatment wetland and adjacent overland flowpath, including 'Village Green' seating area.~~

SECTION 32AA ANALYSIS

16.14. The changes proposed to clarify the intention to form reserves within the proposed site are minor. Accordingly, no s32AA analysis is required.

17. TOPIC 10 - ECOLOGICAL

BACKGROUND

17.1. The watercourse that borders the north-western boundary of the Plan Change site is identified as the Puanene Stream and is classified as a "modified watercourse with ecological values" in the Water Quality Classification Map of the RNRP. The definition of a modified watercourse in the RNRP is as follows:

Modified watercourse – a watercourse that meets any of following criteria:

(a) Is a river or stream that has been channelled or diverted.

(b) Is a Land Drainage Canal (as defined in this regional plan) constructed through a wetland or swamp,

that generally follows the path of a historic natural watercourse or reasonably defined natural drainage channel.

(c) Is a watercourse that has a natural headwater of either a channel or spring, and generally follows the path of a historic natural watercourse or reasonably defined natural drainage channel.

(d) Is the oxbow of a diverted river.

17.2. Puanene Stream is a channelised stream which has been described in the Ecological Assessment (Appendix 6) of the applicant's Section 32 Report's as a large, excavated "drain" or "farm drain". The stream connects into a network of watercourses which feed into the Waihi Estuary. The Ecological Assessment notes that although it is channelised with compromised water quality, the waterway provides a freshwater habitat and key linkage for migratory fish that utilise the upper catchment of the Puanene Stream.

17.3. This Topic addresses those submission points requesting further ecological protection measures not otherwise covered in Topics 7 (Wastewater) and 8 (Stormwater).

SUBMISSION POINTS

- 17.4. Two submission points were received. No further submission points were received. The submission points on this Topic are summarised as follows:
- 17.5. Hamish Henderson (20.1) notes that the ecological report recognises that little of the original flora exists and that the only mitigation measures required are wastewater and stormwater treatment and cessations of dairy farming. The submitter says that there is an opportunity to make significant improvements, but the report does not advocate for this and simply trying to minimise effects is not an adequate aim.
- 17.6. Bay of Plenty Regional Council (27.5) note that the applicant describes the Puanene Stream as a drain without supporting evidence. The submitter argues that it should have the classification of “modified watercourse” and therefore be subject to the policies for rivers and streams in the RNRP and NPS-FM. The submitter requests that the freshwater management within the site be reconsidered and include an appropriate setback from the stream to allow the riparian zone to be restored which in turn would improve aquatic values and water quality. The submitter seeks that the structure plan be revised to include a Conservation Zone 10m back from the top of the bank along the stream as it passes next to the proposed site. They request that the Conservation Zone should be planted with appropriate species and eco-sourced native plants.

DISCUSSION

- 17.7. As a “modified watercourse with ecological values”, this water quality classification is used to ensure water quality is maintained in specific water courses in order to maintain migratory pathways and habitats of indigenous fish species. The use of the stream for this purpose has been acknowledged within the Ecological Assessment (Appendix 6) of the applicant’s Section 32 Report.
- 17.8. Modified watercourses with ecological values used for land drainage must meet rules which are intended to minimise further degradation of their water quality recognising the somewhat limited opportunity to improve the water quality.
- 17.9. The submission points request that this watercourse is protected from the effects of the development. The applicant’s response to the submission points on this matter is to provide for a 6m setback from the stream on the Plan Change side. A portion of this area is also proposed by the applicant to then be vested with Council as a reserve and subject to newly proposed prerequisite landscaping measures including riparian plantings in place prior to each stage. The applicant considers 6m to be adequate to ensure sufficient space for maintenance and access without compromising existing farm buildings that may remain in the meantime between development stages. The requirement to vest this area as reserve with Council is to address the concerns around building encroachment into the riparian area, as only Council would be able to authorise any development or works in the reserve.
- 17.10. It is noted that south of the applicant’s access bridge (approximately 100m of stream from the southern corner of the site) is not included in the “reserve to be vested”, has a smaller 4m setback, and is to remain a private landscape buffer. The applicant has proposed that, although this is a smaller riparian area than the reserve to vest, that the 4m setback will still be required as part of the prerequisites of Stage 2 which includes a riparian planting requirement.

- 17.11. The updated landscape plan outlines riparian planting requirements and identifies the use of native plantings appropriate to riparian areas. Riparian planting would give effect to the objectives and policies of the NPS-FM, improving the quality of the watercourse and its ecosystems.
- 17.12. This updated proposal is suggested by the applicant as an alternative to the requested “Conservation Zone” as the District Plan does not currently include a Conservation Zone, Reserve or Open Space Zone or similar outside of Ōmokoroa. It is agreed that such an approach would be more appropriate for this site-specific concern than creating a new zone with its own specific set of rules. From a plan-drafting point of view, creating a new section would require consideration of a range of other matters related to the purpose of Conservation Zones which are not subject to submissions on this Plan Change. A new zone would be best considered outside of this process.
- 17.13. In summary, the ecological effects of residential buildings will be minimised through the use of the newly proposed Structure Plan pre-requisites to ensure that riparian planting along and setbacks from Puanene stream are met prior to the subdivision Section 224(c) certificate being granted or to land use or building consent activity being established at each stage. This riparian planting, which was not part of the original proposal, would also represent an improvement to ecological values as it will replace the current vegetation with more appropriate indigenous vegetation. Riparian planting can increase biodiversity, provide shading to stabilise water temperatures, prevent erosion and reduce sediment and contaminants from reaching water.

RECOMMENDATION

- 17.14. The 6m and 4m setback from Puanene Stream and riparian planting proposed by the applicant should be accepted.
- 17.15. This requires that the Appendix 7 Structure Plan Maps of the District Plan are amended as shown in the ‘Pencarrow Estate Pongakawa Structure Plan’ and the ‘Pencarrow Estate Pongakawa Tree Placement (Attachment 2)’. This also requires the proposed staging pre-requisites in Rule 12.4.24.3 in Section 12 – Subdivision and Development of the District Plan (Attachment 1) to be amended as follows:

Stage 1:

...

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 building or structures within the 6m Riparian Reserve and 4m Landscape Buffer.

Stage 2:

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Landscaping and Reserves

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- 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 building or structures within the 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.~~

SECTION 32AA ANALYSIS

17.16. The following provides a further evaluation of the changes made to the Plan Change since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. The s32AA analysis is provided below.

Efficiency & Effectiveness in Achieving the Objectives	Amend Rule 12.4.24.3 Stage 1 and 2 prerequisites to include 6m and 4m setback and riparian planting as per revised Structure Plan – Landscape Plan
<p>Costs</p> <p>Environmental effects</p> <p>Economic effects</p> <p>Social effects</p> <p>Cultural effects</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>Environmental</p> <p>No environmental costs.</p> <p>Economic</p> <p>Costs to the developer of planting the riparian margins and the potential loss of usable residential land due to an increased building setback.</p> <p>Social</p> <p>No social costs.</p> <p>Cultural</p> <p>No cultural costs.</p>
<p>Benefits</p> <p>Environmental</p> <p>Economic</p> <p>Social</p> <p>Cultural</p> <p>Including opportunities for:</p>	<p>Environmental</p> <p>The setback reduces encroachment of development into areas near the stream and allows riparian planting to be restored. The riparian planting can increase biodiversity, provide shading to stabilise water temperatures, prevent erosion and reduce sediment and contaminants from reaching water.</p> <p>Economic</p> <p>No direct economic benefits.</p> <p>Social</p>

<p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>Setbacks and riparian margins could be considered to support in part peoples' appreciation of the area's natural values.</p> <p>Cultural</p> <p>Improved ecological values could be considered to support in part the protection of the area's cultural values.</p>
<p>Quantification</p>	<p>Not practicable to quantify.</p>
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<p>Sufficient and certain information is available.</p>

Table 6: Section 32AA analysis Topic 10 – Ecological

18. TOPIC 11 – EXISTING AMENITY AND CHARACTER

BACKGROUND

- 18.1. Appendix 13 – Revised LVIA of the applicant's Section 32 Report included a landscape assessment which considered the impact on the existing rural and residential amenity. This considered the nearby rural properties including working farms and the seven properties on Arawa Road immediately adjoining the Plan Change site that did not wish to be included in the Plan Change. The applicant's Section 32 Report categorises these seven adjoining properties as having a rural residential character due to the smaller lot sizes of 2000m² and outlook to the applicant's farm. The measures proposed to address the impact on these properties' amenity include a 6m height restriction and 5m setback of dwellings and garages on any future residential lots that will adjoin them. Small accessory buildings are allowed within the setback subject to a 2m height limit and maximum gross floor area of 10m².
- 18.2. The applicant's Section 32 Report considers the Residential Zone on the other side of Arawa Road and in Penelope Place to have different levels of rural amenity due to "the proximity of built form and residential occupation". The minimum lot size in this area is 800m² as required by the District Plan rules for smaller residential areas outside of Waihi Beach, Katikati, Ōmokoroa and Te Puke. The reason for the higher minimum lot size was due to the need for lots in these smaller settlements to have their own OSET but these larger lot sizes have also contributed to the established character of these communities. The actual lot sizes in the Residential Zone of Arawa Road and Penelope Place average to around 900m².
- 18.3. The proposed minimum lot sizes within the proposed Plan Change development area range from 350m² to 500m² (with a maximum average of 400m²). These smaller sizes relative to the existing residential area are proposed by the applicant with an intention to provide affordable housing for the target market being the growing horticultural sector in the area.

SUBMISSION POINTS

- 18.4. Nine submission points were received. No further submission points were received. The submission points on this Topic are summarised as follows:
- 18.5. Julian Clayton (7.1 and 7.2) indicates that the reason for living in the current Arawa road settlement is because it is a small rural community and not a larger residential one. It is

submitted that the Plan Change development will triple the residency of the area and the high-density nature of it will remove the rural aspect that the current residents enjoy which will negatively impact the community. The submitter questions if there will be a portion allotted to state/public housing.

- 18.6. Craig Green and Lisa McArthur (8.1) consider the aspiration to provide affordable housing admirable however argue that the smaller sections do not keep with the surrounding residential properties.
- 18.7. Jo Delaere (37.5) believes that the introduction of high-density housing will result in the new homes being rented. The submitter believes that this will result in low property maintenance and security issues for the rest of the community.
- 18.8. Cyndi and Troy O'Reilly (15.1) oppose the Plan Change. They submit that the development will change the rural amenity they enjoy currently, including views, spaciousness, larger section sizes and being out of town, and it will bring increased crime.
- 18.9. Jurgen Delaere (18.1) states that they bought a lifestyle block in the country to be in the country and not to look over at 135 houses. The submitter says that sections should not be less than 800m² and seeks a 30m building enforcement (setback) from the rural properties.
- 18.10. Joseph and Victoria Phillips (17.7) oppose the Plan Change indicating that they bought in the area as they wanted a rural setting for their family. The submitter notes that a high-density subdivision does not fit with the characteristics of the area and is an unnecessary development which negatively impacts the local community.
- 18.11. Kirsten Jefferson (25.1) requested amendments to the Plan Change to address concerns around the density of housing with no police, the amount of proposed housing, and the concern that the current services cannot support more people. The submitter sought less houses and larger sections.
- 18.12. Alan and Patricia Birley (19.5) comment on the number of houses to be built.

DISCUSSION

- 18.13. Given the Plan Change is proposing to increase the number of dwellings in the Arawa Road area by 120-130, it is anticipated that there will be a loss of existing amenity should the Plan Change be accepted. Notwithstanding this, it is acknowledged that the applicant has proposed some measures to minimise the loss of amenity if the Plan Change was to be approved including height limits, increased setbacks and minimum lot sizes of 500m² in some parts of the proposed site instead of 350m².
- 18.14. Further, in response to the submission points around loss of rural amenity, the applicant has proposed to adjust the setback for dwellings and garages that was applied to the "residential rear yard boundary" adjoining the seven 2000m² rural properties on Arawa Road. They propose an increase from 5m to 8m (but not 30m). They have also proposed in the revised Structure Plan (Appendix C of Attachment 4) to have trees specified in this setback to add natural elements within the outlook and spatial separation from the future housing.
- 18.15. Because the dairy farm is rural, a 30m setback from boundaries is something that would generally be required for dwellings when neighbouring houses are in close proximity. It is noted however that most other buildings would only be required to be 5m from neighbouring boundaries in rural zones. A 30m setback would be unnecessary for a

residential development especially where it is adjoining properties which are not operating farms (with associated effects) but rather of lifestyle character such as the seven properties in the Rural Zone. An 8m setback is considered appropriate for dwellings and garages in this case.

- 18.16. The 800m² minimum lot size rule for the existing residential area was originally established within the District Plan to ensure section sizes could accommodate a septic tank. The proposed lot size of 350m² in some parts of the proposed site is consistent with residential areas throughout the District that have access to reticulated wastewater systems beyond the lot.
- 18.17. The applicant's Section 32 Report highlights that they were asked by Council management and staff during preliminary discussions to consider ways of providing affordable housing for the Plan Change's intended market of those in the horticulture industry. The applicant has chosen to consider this commentary and provided smaller lot sizes to enable housing and to address affordability as a response. While the applicant has sought to address housing affordability in this way, it is also acknowledged that this would be a change to the character of the existing residential community in that there will be a higher density of housing. Additional houses in general may also affect the rural look and feel of the area. This may have an impact on existing residents' connection to place.
- 18.18. Despite the increase in density, the applicant's Section 32 Report considers that the future dwellings within the Plan Change site would be subject to the same permitted rules of the Residential Zone and therefore restricted to the same scale and character of the existing dwellings in this area.
- 18.19. Concerns raised by submitters around the introduction of state housing and an increase in crime are noted.

RECOMMENDATION

- 18.20. The proposed provisions, including as revised by increasing the setback from 5m to 8m, and the inclusion of trees in the set back shown in the revised landscape plan as part of the Appendix 7 Structure Plan Maps (Attachment 2), will only to some extent manage the loss of existing amenity and character in the area, given that the proposal is to rezone rural zoned land to residential to enable housing.
- 18.21. Changes are required to proposed Rule 13.4.1 (c)(ii) as follows:

Rule 13.4.1 (c)(ii)

Rear and Side Yards shall be no less than the following:

All buildings/structures 1.5m

Except that:

Dwellings and garages on land adjoining the Pencarrow Estate Residential Rear Yard Boundary shall be set back ~~5m~~ 8m from the specified boundary as shown in that Structure Plan. Accessory buildings are permitted within this yard provided that the maximum height shall be 2m and the maximum gross floor area shall be 10m².

...

SECTION 32AA ANALYSIS

18.22. The following provides a further evaluation of the changes made to the Plan Change since the original evaluation under Section 32 of the RMA. The level of detail corresponds to the scale and significance of the changes. The s32AA analysis is provided below.

Efficiency & Effectiveness in Achieving the Objectives	Amend proposed Rule 13.4.1(c)(i) to increase the setback for dwellings and garages from 5m to 8m and changes to Structure Plan Drawings – ‘Pencarrow Estate Pongakawa – Landscape Plan’
<p>Costs</p> <p>Environmental effects</p> <p>Economic effects</p> <p>Social effects</p> <p>Cultural effects</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>Environmental</p> <p>No environmental costs.</p> <p>Economic</p> <p>Small additional loss of potential buildable land for the developer.</p> <p>Social</p> <p>No social costs.</p> <p>Cultural</p> <p>No cultural costs.</p>
<p>Benefits</p> <p>Environmental</p> <p>Economic</p> <p>Social</p> <p>Cultural</p> <p>Including opportunities for:</p> <p>(i) economic growth that are anticipated to be provided or reduced; and</p> <p>(ii) employment that are anticipated to be provided or reduced</p>	<p>Environmental</p> <p>No environmental benefits.</p> <p>Economic</p> <p>No economic benefits.</p> <p>Social</p> <p>Small increase in separation between potential future dwellings and the seven existing rural properties may reduce effects such as noise and loss of privacy but would not meet the submitter’s concerns about a loss of rural amenity.</p> <p>Cultural</p> <p>No cultural benefits.</p>
Quantification	Not practicable to quantify.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	Sufficient and certain information is available.

Table 7: Section 32AA analysis Topic 11 – Existing Amenity and Character

19. TOPIC 12 – REVERSE SENSITIVITY

BACKGROUND

- 19.1. The Plan Change site is proposed to be rezoned from Rural to Residential and Commercial. The site is for the most part surrounded by rural zoned land including the balance of the applicant's dairy farm and an orchard on the opposite side of Arawa Road which bounds the site's proposed Residential Zone for approximately 80m until the existing residential area begins.
- 19.2. With approximately 73% of the Districts land zoned Rural and rural production being its primary economic driver, the importance of the rural zone is acknowledged in the District Plan. It also recognises reverse sensitivity as a significant issue in the Rural Zone and that legitimate farming practices should not be unreasonably constrained by other activities which are sensitive to their effects.
- 19.3. The application has identified the potential for reverse sensitivity effects namely on the balance of the rural zoned land owned by the applicant if future residential landowners were to object to their farming practices. This is addressed by the applicant through the staging prerequisite rules proposed in Rule 12.4.24.3 of Section 12 – Subdivision and Development of the District Plan, where prior to Stage 1 all effluent pond and storage infrastructure shall be relocated and prior to Stage 2 dairy cow milking shall cease to occur in the current milking shed. This is in addition to the proposed use of reserves and the wastewater disposal field as buffers to mitigate reverse sensitivity effects on the applicant's land.

SUBMISSION POINTS

- 19.4. Three submission points were received. No further submission points were received. The submission points on this Topic are summarised as follows:
- 19.5. Graeme Gillespie (9.7) believes the proposal creates a risk of reverse sensitivity in respect to the current dairying and horticulture activity as there are existing odour and noise issues with the dairying and kiwifruit. The submitter is concerned that further residential intensification may lead to the intolerance of these rural activities and is worried that associated restrictions may follow as well as costs to Council to investigate and resolve complaints.
- 19.6. Alan and Patricia Birley (19.2) are the owners of the horticultural property on the opposite side of Arawa Road to the proposed Plan Change site. They oppose the Plan Change and are concerned that the increased housing will require them to notify more households when they spray. The submitters seek clarification of how many more households will need to be notified.
- 19.7. Rebecca and Cameron Black (31.6) believe that the residential intensification will introduce significant reverse sensitivity effects for farmers carrying out their lawful rural activities. The submitters foresee potential conflict between the new residents and the rural property owners as well as future restraints for the farmers' operations. The submitter considers the "no complaints" covenant is inadequate in addressing the reverse sensitivity effects. They also note that while the application states that milking in the adjacent shed will cease, this cannot be relied upon in future and may constrain future use of the farm infrastructure.

DISCUSSION

- 19.8. Staging prerequisites (relocation or ceasing of farming activities) and use of reserves and a wastewater disposal field as a buffer to address reverse sensitivity effects on the dairy farm have been proposed as part of the Plan Change. However, the risk remains that the introduction of over a hundred new households into a predominantly rural location will increase the possibility of reverse sensitivity effects.
- 19.9. It is noted too that, there are no reverse sensitivity mitigation measures proposed in regard to the orchard immediately east of the end of Arawa Road bounding the proposed Residential Zone. In response to the submissions the agents for the applicant have suggested that this concern will only arise when the Stage 3 area is developed. The solution suggested in the response by the applicant (Attachment 4) is to have a Stage 3 prerequisite which requires “no complaints” covenants to be put on future residential title. However, no proposed rule to implement this was provided.
- 19.10. Such a covenant would prevent landowners from complaining about spray drift from the orchard, which would be a benefit to the orchard owners, but it would not address the potential effects of spray drift and may allow actual effects to continue unchecked. This is in contrast to the solutions proposed for the dairy farm which are measures specifically to reduce the likelihood that future residential landowners would be affected and feel the need to complain. A similar approach was not proposed for the interface between these landowners and the orchard.
- 19.11. It is noted however that the road reserve of Arawa Road would provide a buffer of 25m. Taking into account the distance of the crop from the road reserve and the required setbacks for future dwellings from the road reserve on the other side of the road, this would create a total buffer of approximately 35-40m between the houses and crop. This distance is consistent with the boundary setback requirements for dwellings in the Rural Zone to manage a range of effects including protection from spray drift.
- 19.12. Another consideration is that the RNRP requires orchardists to avoid spray drift beyond their site boundaries and to mitigate and minimise effects where avoidance is not possible. The existing shelterbelts on the orchard adjoining Arawa Road and the existing Residential Zone would assist to some extent with the required mitigation.
- 19.13. Nevertheless the applicant has been asked to determine whether the above factors would resolve the concerns of the orchardist. This resulted in confirmation from the applicant that a no complaints covenant would be difficult to implement through a rule. An alternative proposal was instead provided by them to add the requirement for a shelterbelt along the frontage of the Arawa Road at the north-eastern end of the Plan Change site. However, Council’s Reserves Team has concerns that this alternative will impact the proposed linear park area by casting a shadow over it for the majority of the day.
- 19.14. In summary, it is acknowledged that an increase in reverse sensitivity is a possibility as the result of the proposed Plan Change, but this is also a common concern across the wider District where farming adjoins properties (including both residential and rural) where new dwellings can be built. The proposed mitigations of the Plan Change are considered adequate for minimising reverse sensitivity effects with respect to the dairy farm. The orchardist’s existing requirements to manage the effects of spray drift including the shelterbelt on their side of Arawa Road, are considered adequate for minimising reverse sensitivity effects with respect to the orchard.

RECOMMENDATION

19.15. The proposed provisions (removal or ceasing of existing farming activities and use of reserves and a wastewater disposal field as buffers) are adequate for addressing reverse sensitivity effects with respect to the dairy farm. The orchardist's existing requirements to manage the effects of spray drift and the distance of the Stage 3 housing from the orchard are considered adequate for minimising reverse sensitivity effects with respect to the orchard.

SECTION 32AA ANALYSIS

19.16. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

20. TOPIC 13 – CONSTRUCTION

BACKGROUND

20.1. The applicant acknowledges in their Section 32 Report that there will be temporary earthworks and construction effects on the amenity of the existing residential area resulting from the proposal. They explain that the staging of the development will begin near the existing residential area and move to the north-west of the site, and that Stage 1 will involve earthworks to enable the provision of required infrastructure. Their view is that best practice, and conditions on future earthworks and subdivision consents, will be sufficient for managing effects of earthworks and construction. As a result, there are no rules proposed in the Plan Change specifically to manage construction effects.

SUBMISSION POINTS

- 20.2. Three submission points were received. No further submission points were received. The submission points on this Topic are summarised as follows:
- 20.3. Julian Clayton (7.10) is concerned that the groundworks phase of the development is likely to create dust and vibration which have the potential to result in property damage. The submitter believes that the developers should undertake a full dilapidation survey of the homes located in the area so there is no doubt over damage caused and liability for it. The submitter's understanding is that the developers are not seeing this as their responsibility.
- 20.4. Cyndi and Troy O'Reilly (15.4) oppose the Plan Change due to the potential dust, noise, and vibrations from the earthworks. The submitters are shift workers and are concerned about the loss of sleep. In addition, the submitter believes that the dust will be a significant issue as the wind often blows from that direction.
- 20.5. Joseph & Victoria Phillips (17.5) believe that the construction phase will lead to property damage, wear and tear on an already under-maintained road and significant disturbance to the peaceful rural neighbourhood.

DISCUSSION

20.6. If the Plan Change proposal was to be approved, it is acknowledged that existing residents may experience a range of temporary effects such as noise, dust, vibration and extra traffic including from heavy vehicles, as the result of earthworks and construction of infrastructure and buildings. Such effects are anticipated and are managed through the District Plan, regional plans, and other standards that set reasonable limits that developers must adhere to.

- 20.7. Construction noise is managed by Council under the District Plan. This specifically requires noise limits to not exceed, and to be measured in accordance with, the requirements of NZS 6803:1999 Acoustics – Construction. This standard must be complied with in any case and also addresses matters such as duration of works and the appropriateness of machinery and how it is used.
- 20.8. Vibration is not specifically managed by the District Plan, as it has generally not been an issue in the District. However, Council is still able to address vibration effects through the management of noise emissions or through the Health Act 1956 in cases where vibration is likely to be injurious to health.
- 20.9. With respect to dilapidation surveys to measure any damage to properties, it is understood that these are generally only undertaken in relation to heavy construction activities such as large pile driving or other activities that produce significant vibration or perhaps less significant but over longer periods of time. Therefore, the type of civil construction activity associated with housing developments would not normally generate the scale of vibration substantial enough to damage houses. It is understood from Bay of Plenty Regional Council that such surveys are not required in relation to dust.
- 20.10. Dust from earthworks is controlled by Bay of Plenty Regional Council under their RNRP given it is a discharge of contaminant to air. Rules require that dust must not be noxious, dangerous, offensive, or objectionable beyond the boundary of the property doing the earthworks. The volume of earthworks for a potential development of this size would in any case require a resource consent and be subject to conditions. Best practice methods should also be followed to manage dust including good site design, use of screening and wet suppression.
- 20.11. All roads will be subject to wear and tear over time. This is provided for by Council through funding generated by land development via the payment of financial contributions. Council use these contributions to fund upgrades over time to retain levels of service. For rural areas and minor settlements such as this in the Maketu – Te Puke Ward, a financial contribution will be paid by all new lots or additional dwellings towards rural roading in this area.
- 20.12. On 13 May 2024, the applicant also provided further information (Attachment 5) about what common best practice measures may be used to address noise, vibration, dust and general earthworks. This includes construction noise and vibration plans, dust management plan preparation and erosion and sediment control plan preparation.
- 20.13. Whilst the applicant notes that it's too early in the process to know exactly which mitigation would be required for the development of the site, they explain that mitigation is typically achieved through a wide range of measures such as:
- Water storage requirements for dust-suppression on-site.
 - Scheduling of activities during low-wind and low rain time windows.
 - Limiting exposed earthwork areas at any one time.
 - Clean water diversions away from exposed areas.
 - Earthwork areas draining to sediment retention ponds/decanting earth bunds filtering sediment collected from earthworks-area runoff.
 - Silt filtration/removal devices surrounding work sites as safeguards.
 - Screening to boundaries.
 - At-source screening of high-noise or high-vibration activities.
 - Notification to residents of high-noise or high-vibration activities to be aware of.

RECOMMENDATION

20.14. Temporary effects from earthworks and construction are to be anticipated for subdivision and development and are already regulated by the District Plan, the RNRP and other standards. Such effects can also be managed by best practice measures. There is no need for further rules specifically to manage such effects.

SECTION 32AA ANALYSIS

20.15. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

21. TOPIC 14 – CONSULTATION

BACKGROUND

- 21.1. Engagement and consultation have been undertaken by the applicant in preparing the Plan Change request. This includes with Council, Bay of Plenty Regional Council, SmartGrowth, hapū and iwi with an interest in the area, infrastructure providers and community organisations and economic groups. There has also been consultation with the landowners of the eight smaller rural zoned lots on the northern side of Arawa Road. No consultation was undertaken with landowners within the existing, adjoining residential settlement.
- 21.2. Further details on the engagement and consultation undertaken by the applicant are provided in Appendix 5 – Combined Engagement Records of the applicant's Section 32 Report.

SUBMISSION POINTS

- 21.3. Three submission points were received. Two further submission points were received. The submission points on this Topic are summarised as follows:
- 21.4. Mike Maassen (12.8) supported by Hayden Dugmore (FS38.8) details the participation of the owners of the eight rural lots in the applicant's consultation process. The submitter speaks to the decision of seven consultees to decline the applicant's offer to have their land included in the Plan Change. The submitter notes that the applicant's consultation did not involve more property owners in the area including the wider Arawa Road and Penelope Place community and others who have a boundary with the proposed site.
- 21.5. Jurgen Delaere (18.4) supported by Hayden Dugmore (FS38.20) highlight that the applicant's consultation process only included the property owners that have a boundary with the proposed Plan Change site and this consultation was to try and include these properties in the Plan Change rather than to discuss how the landowners felt about the application. The original submitter notes that the decision discussed at the first meeting was retracted at the second meeting and that questions could not be satisfactorily addressed. The further submitter adds that these landowners may gain an advantage via increased property values, and this may influence their submissions.
- 21.6. Alan and Patricia Birley (19.1) say that there was no consultation prior to this application and that they don't agree with the proposal.

DISCUSSION

- 21.7. Prior to lodgement of the Plan Change application with Council the applicant had undertaken consultation with the eight rural landowners who directly adjoin the Plan

Change site on Arawa Road. During this consultation these property owners were offered the opportunity to be included in the Plan Change to rezone their properties to Residential. Only the property owner at 53 Arawa Road wished to be included. Feedback from the owners of these properties at the time was mixed and minutes from the meetings were included in the application (Appendix 5 – Combined Engagement Records of applicant's Section 32 Report).

- 21.8. During preliminary discussions with the applicant, it was recommended by Council's Environmental Planning Team that consultation with the wider Arawa Road/Penelope Place community should also be undertaken, however the applicant determined that this was not needed at that time. As private plan changes are processed prior to notification in accordance with Clause 21 – 29 of Schedule 1 of the RMA, and these clauses do not impose any consultation requirements on promoters of private plan changes, Council did not pursue this matter any further.
- 21.9. Once submissions were made, Council staff recommended as part of the dispute resolution process that the applicant hold a meeting or meetings with the submitters including landowners. The applicant and agent for the applicant held a meeting on 21 March 2024 in which all submitters were invited. This was attended by many of the landowners. Council staff attended to answer any questions about the Plan Change process and to listen to the discussion. The applicant presented information regarding the Plan Change and answered submitters' questions. No minutes of the meeting on 21 March 2024 have been provided.
- 21.10. In summary, while it is noted that the submitters feel they, or other landowners, have not had the opportunity to be properly consulted with on this Plan Change, many have made submissions, were invited to attend the meeting and have the opportunity to speak at the hearing to elaborate on their points.

RECOMMENDATION

- 21.11. The applicant has met their consultation requirements of the RMA despite it not being to the level recommended by Council staff with respect to potentially affected landowners.

SECTION 32AA ANALYSIS

- 21.12. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

22. TOPIC 15 – RATES

BACKGROUND

- 22.1. The applicant's Section 32 Report notes that through consultation with the adjacent landowners in the eight rural zoned properties prior to lodging the application with Council, issues were raised in regard to the potential for an increase in Council rates due to the development. The applicant notes that the wastewater system proposed could attract rates and estimated that these would be similar to the rates of the Ongare Point scheme.

SUBMISSION POINTS

- 22.2. Four submission points were received. No further submission points were received. The submission points on this Topic are summarised as follows:

- 22.3. Julian Clayton (7.9) is concerned that the proposed development will lead to increased rates due to the new services, utilities and infrastructure required. The submitter states how the residents “would be forced to contribute towards a development we didn’t want”.
- 22.4. Joseph and Victoria Phillips (17.3) ask if the cost of the development will increase rates.
- 22.5. Jurgen Delaere (18.5) does not want to be forced to be rezoned residential or pay rates increased for any future infrastructure required to develop the proposed site.
- 22.6. Karen Summerhays and Nicola Cooke (23.5) explain that residents of the development will utilise the social infrastructure of the surrounding towns and so ask if they will be required to contribute to the targeted rates that maintains them. They reference sports fields, halls and libraries. The submitter outlines that the residents of Te Puke/Maketu Ward should not have to bear the brunt of the future costs of the development.

DISCUSSION

- 22.7. Council’s rates are a combination of three main types of rates being general rates based on the capital value of the property, roading rates based on land value to cover the cost of building and maintaining roads, and targeted rates for services and facilities that benefit particular groups of residents. How a property is rated varies depending on where it is located, what zone it is (for example rural or residential), what services the property owner can access and the value of the property.
- 22.8. Currently the eight rural zoned properties on Arawa Road pay the same targeted rates as the residential zoned properties, except with the addition of a rural works charge (roading) that is not associated with the residential properties. Seven of the rural zoned properties did not want to be included in the Plan Change and are not proposed to change to residential. However, it is noted that if properties were changed from rural to residential, they would likely actually have a reduced rate through removal of the rural works charge.
- 22.9. The new or upgraded infrastructure required to enable the development of the proposed site will be paid for by the developer. As a result, it is considered that there is no need to recover costs from the existing community through rates. Further discussion is provided below on why any water supply upgrades and new wastewater systems would not attract a rate from existing residents.
- 22.10. In terms of water supply, it is acknowledged that the preferred and recommended option (see Topic 6 (Water Supply)) would not only introduce firefighting capacity for the proposed site but also for the existing residential area where this is not currently available. However, the existing residential area already has a sufficient water supply through a main which they funded and pay an annual user charge for. They also have not requested an increased level of service with respect to firefighting. Any increased capacity for firefighting would therefore only be a consequence of the new development.
- 22.11. With respect to wastewater, there is no provision made in the design of the wastewater system to include capacity for the existing residents of Arawa Road or Penelope Place. However further information from the applicant on 30 August 2024 (Attachment 6) has suggested that it would be possible for Council to extend the system if it was determined it needed to in future. Reticulated wastewater systems throughout the District which service residential areas have an associated targeted rate. This is broken down into an availability charge, a connection charge, and a pan charge. The targeted rates are on all properties in the wastewater area or in defined areas of benefit. In most cases where a property has the

ability to connect but is not connected to the wastewater system, an availability rate is charged. As the wastewater system proposed in the Plan Change has not made any allowance for the wider residential area, the availability charge would not apply to the existing residents. If the capital cost of installation and ongoing running costs are specific to certain properties these would be the only ones charged the wastewater rate. Any changes to the rates are subject to a special consultative procedure separate from this Plan Change and would require further consultation with the rate payers at that time.

22.12. In reply to the submitter’s question about whether residents of the new development will be required to contribute towards the maintenance of social infrastructure of the surrounding towns, the answer is yes. Funding would be collected through their rates. Also, through financial contributions.

22.13. Financial contributions to Council will be payable for the creation of new lots or additional dwellings within the proposed site. These are contributions towards the demand that new development would place on wider Council services. For this settlement, these payments would go towards western water supply, rural roading, strategic roading, recreation and open spaces, and ecological protection. The recreation and open spaces contribution would be towards a range of facilities including reserves and access, sports fields, walkways, cycleways, sub-regional parks, playgrounds, and libraries etc.

RECOMMENDATION

22.14. The existing Arawa Road and Penelope Place residents are not expected to be subject to rates increases for the provision of infrastructure required to enable development of the proposed site. However, this is a decision for Council through processes outside of this Plan Change.

SECTION 32AA ANALYSIS

22.15. As no further changes are recommended to the proposal, no s32AA evaluation is necessary.

23. SUBMISSION POINTS ACCEPTED / REJECTED

23.1. Submission points are recommended to be accepted, accepted in part, or rejected, based on the relief sought by the submitters as shown in the summary of submissions. In many cases, submitters either support the Plan Change in full and seek that it be approved or oppose the Plan Change in full and ask that it be declined. On that basis, recommendations on these submission points take into account the overall position of these submitters. For example, if a submitter has sought that the Plan Change be declined, their points are recommended to be accepted. In other cases, where submitters have sought specific changes to provisions, the recommendations are based on whether a change was made or not in response to their point.

ACCEPTED

Submission	Point Number	Name
7	7.1-12	Julian Clayton
8	8.1-5	Craig Green, Lisa McArthur
9	9.1-9.7	Graeme Gillespie
12	12.1-18	Mike Masson
14	14.1-9	Rachel Sexton

15	15.1-6	Cyndi and Troy O'Reilly
16	16.1-2	Jordan and Ian O'Malley
17	17.1-7	Joseph and Victoria Phillips
18	18.1-5	Jurgen Delaere
19	19.1-5	Alan & Patricia Birley
20	20.1-4	Hamish Henderson
23	23.1-5	Karen Summerhays, Nicola Cooke
27, FS39	27.1-31 FS39.1-9	Bay of Plenty Regional Council
31	31.1-7	Rebecca and Cameron Black
33	33.1	Gaye Allan
34	34.1	Jodi Ahfook
35	35.1	Tai Ahfook
36	36.1	Gina and David Brookes
37	37.1-5	Jo Delaere
FS38	FS38.1-21	Hayden Dugmore
FS40	FS40.1-2,4	Waka Kotahi

Table 8: Accepted submission points.

ACCEPTED IN PART

Submission	Point Number	Name
26	26.1-7	Waka Kotahi
27	27.32 – 33	Bay of Plenty Regional Council

Table 9: Accepted in part submissions points.

REJECTED

Submission	Point Number	Name
1	1.1	Craig Haggo
2	2.1	Maketu Volunteer Coastguard
3	3.1	Shane Beech
4	4.1	Maketu Volunteer Fire Brigade
5	5.1	Dianne Boothby
6	6.1	Robert Allcard
10	10.1-3	Robin Simmons
11	11.1-4	Neville and Jill Marsh
13	13.1-7	Mark Boyle (TPEDG)
21	21.1-3	Paengaroa Community Association
22	22.1-3	Peter Cooney
24	24.1	David Hamilton
25	25.1-4	Kirsten Jefferson
28	28.1	Pukehina Ratepayers & Residents Association Inc
29	29.1	Ngāti Whakahemo
30	30.1-2	Paul Hickson
32	32.1-3	Scott Adams
FS40	FS40.3	Waka Kotahi

FS41	FS41.1	Robyne Cooper
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Table 10: Rejected submission points.