

**TAUPŌ DISTRICT COUNCIL**

**PROPOSED DISTRICT PLAN CHANGE:**

**PLAN CHANGE 42: GENERAL RURAL AND RURAL LIFESTYLE ENVIRONMENTS**

**MINUTE 6 OF THE INDEPENDENT HEARING PANEL**

---

1. This Minute is being sent to you because you are either a Submitter or a Council reporting officer to **Plan Change 42**, being the **Rural Lifestyle Environments** of the District Plan.

**Minute Purpose**

2. Mr Steve Hawkins' (Submitter 74) representative has filed a memorandum dated 25 July 2023. The stated purpose of this memorandum is to formally update the Panel, and Taupō District Council reporting officers as to the refined relief being sought by that Submitter in these proceedings. A copy of this memorandum and its attachment can be found on the Councils Plan Change website.
3. The Council has directed this memorandum to the Panel for response and direction – this being the purpose of this Minute.

**Memorandum received**

4. The memorandum outlines the **original relief**; that being to:
  - a) *Amend the zone of the site located at 387 Whakaroa Road to Rural Lifestyle Zone.*
  - b) *Amend Rule 4b.5.1 to make subdivision that results in lots smaller than 10ha a discretionary activity.*
  - c) *The proposed changes to the rural chapter should be amended to reflect the obligations and requirements of the National Policy Statement for Highly Productive Land whereby only Class 1-3 land should be protected with a non-complying activity subdivision rule.*
5. The memorandum then outlines the 'more specific relief/refined relief' that the Submitter will be seeking at the hearing. It states that the reason for this is to give the reporting officer the ability to respond, to best assist the process and the Panel in the consideration of the submission.
6. Attached to the memorandum is a set of amended provisions that the Submitter intends to seek by way of alternative refined relief – i.e., their preferred relief.
7. The balance of the memorandum addresses the question of scope. The Submitter considers that their **refined relief** is more restrictive than their original relief as;
  - a) *While it still seeks rezoning of the site to Rural Lifestyle;*
  - b) *Instead of seeking a discretionary status for all subdivision under 10ha it is seeking for that discretionary status to remain only if subdivision is generally in accordance with a detailed structure plan.*

8. And it states that a specific directive objective and policy, together with some supporting rules, reinforce this more restrictive relief.

### **Direction**

9. After due consideration we find that there are two matters that require our direction, these are set out below:
  - a) First, while the Submitter has provided an evaluation of their interpretation of scope, we direct that the Councils legal counsel provide their **legal opinion** as to whether or not the 'more specific relief/refined relief' is within scope of both PC42 and the original submission.
  - b) Secondly, we direct the Submitter's planning expert and the Council's reporting officer **conference** on a "without prejudice" basis on the planning provisions attached to the Submitter's memorandum. The purpose of this conferencing is to assess the efficacy of the planning provisions in terms of their workability and mechanical appropriateness. To be clear the purpose of such conferencing is not to adjudge the merits/appropriateness of the rezoning request to achieve the objective of the plan change. The result of this conferencing is to be recorded by way of a joint statement with any attendant revisions to the related provisions of this plan change.
10. In terms of timetabling of the above two directions we require **the legal opinion and the outcome of the conferencing** to be filed with the Hearing Administrator no later (and earlier if possible) than **1pm 14 August 2023** – that being five working days prior to the commencement of the hearing for PC42 on 21 August 2023.
11. The Submitter has been clear that they intend to bring a range of technical experts to present at the hearing including design layout, landscape and visual, ecology, engineering, transport, and architecture, along with an evaluative expert in the form of a planner. We surmise that this suggests that a case will be presented by the Submitter that there are no fundamental impediments to/effects arising from the refined relief sought. At this point and having not yet seen the s42A Report it is unclear to us whether there is a "planning policy impediment" to their relief. This will be a matter for the planners for both the Submitter and Council to address in their evidence at the hearing.
12. While we will not direct formal conferencing between the Submitter and the Council on substantive technical issues (e.g. ecology, landscape etc.) between the release of the s42A Report (due 28 July 2023) and the hearing we do consider that it would be in the best interests of both parties to undertake some sort of technical expert conferencing. This is especially in the event that it is determined that there is no "planning policy impediment" to the requested rezoning in which case the technical expert evidence might then be material in determining whether or not there is any fundamental impediment to the zoning being an appropriate outcome. In such an instance, we would find either conferencing statements or evidence from both parties on the determinative substantive topics to be material and useful. However, we do not direct such and leave it to the parties to determine their willingness to undertake/provide such. In any event, we grant leave for the Council's reporting officer to submit

a supplementary statement addressing the “planning policy impediment” matter referenced in paragraph 11 above.

13. For completeness, and given the significance of this issue, every opportunity will be given to all parties to present their case on the substantive merits matter. This may necessitate a reconvening of the hearing to a date after the initial hearing was due to be completed. A decision on this will be made at the by the Panel at the hearing with the benefit of receiving input from both the Council and the Submitter.

**Next steps**

14. The timeframe for the legal opinion and planning conferencing on mechanical matters is set out above. Any questions of clarification should be made to the Hearings Administrator as soon as possible. The Panel will provide subsequent Minutes on any further updates in relation to the hearing’s proceedings in due course.
15. Any Submitter enquiries relating to the proposed plan changes and the hearing should be directed to the Hearing Administrators Hilary Samuel or Haydee Wood and can be contacted at [districtplan@taupo.govt.nz](mailto:districtplan@taupo.govt.nz)

**DATED** Thursday 27 July 2023



---

DJ McMahon

Chair - Independent Hearings Panel

For and on behalf of:  
Commissioner Elizabeth Burge  
Councillor Kevin Taylor

**BEFORE HEARING COMMISSIONERS  
IN TAUPŌ**

**UNDER THE** Resource Management Act 1991 (“**Act**”)

**IN THE MATTER OF** Proposed Plan Change 42 Rural Chapter - General Rural Environment and Rural Lifestyle Environment

**AND IN THE MATTER OF** a submission seeking the rezoning of the site located at 387 Whakaroa Road to Rural Lifestyle Zone.

**BETWEEN** **STEVE HAWKINS**  
Submitter

**AND** **TAUPŌ DISTRICT COUNCIL**  
Planning authority

**MEMORANDUM ON BEHALF OF STEVE HAWKINS**

*Before a Hearing Panel: Chairperson David McMahon, Commissioner Liz Burge, and Councillors Yvonne Westerman and Kevin Taylor.*

**INTRODUCTION**

1. I am the Project Manager for the Applicant,<sup>1</sup> and file this memorandum as its representative.<sup>2</sup> The key purpose of this memorandum is to formally update the Panel, and Taupō District Council (**TDC**) reporting officers as to the refined relief being sought by the submitter in these proceedings. This

---

<sup>1</sup> I was appointed in April 2023 as Project Manager in relation to an intended application for consent, together with the plan change matters, for the developer of the site.

<sup>2</sup> Noting that the term “representation” has commonly been adopted by the Environment Court, Boards of Inquiry, etc when non-lawyers are addressing the Court. I have recently made representations in a number of Council-level processes, including: “The Clearing” consent application for a subdivision in Amberley before Commissioners Mr Dean Chrystal and Mr Dave Smith (decision pending); Plan Change 19 to the Central Otago District Plan before Deputy Mayor Gillespie and Councillors McPherson and Cooney (decision pending); an electronic billboard consent application before Commissioners Bell and Kensington recently determined on 14 April 2023 (LUC60374063) with the decision acknowledging: aspects of what “*Mr Gardner Hopkins opined*” and “*the representations of Mr Gardner-Hopkins*”; and in the 15 November 2022 Decision of Commissioners Ms Gina Sweetman and Ms Jane Taylor in respect of an application (RM 220327) by Cardrona Cattle Company Limited for a storage facility at Victoria Flats in Queenstown, which stated, in respect of a particular issue: “*We are grateful to Mr Gardner-Hopkins for his helpful representations on behalf of the Applicant in this respect*”.



follows a meeting with TDC's appointed reporting officer Mr Craig Sharman - 42A report author and TDC Policy Team lead Ms Hilary Samuel.

2. The submitter originally sought the following relief (**original relief**):
  - (a) Amend the zone of the site located at 387 Whakaroa Road to Rural Lifestyle Zone (**site**).
  - (b) Amend Rule 4b.5.1 to make subdivision that results in lots smaller than 10ha a discretionary activity.
  - (c) The proposed changes to the rural chapter should be amended to reflect the obligations and requirements of the National Policy Statement for Highly Productive Land whereby only Class 1-3 land should be protected with a non-complying activity subdivision rule.<sup>3</sup>
3. Since making its submission, the submitter has been working to develop an application for resource consent, which it anticipates lodging prior to the hearing of its submission on Plan Change 42 (**PC42**). In developing their application for consent the submitter has recognised that the site has its challenges, which are also relevant to their submission on PC42.
4. The submitter, without limiting the scope of its submission,<sup>4</sup> wishes to give notice of more specific relief that it will be seeking at the hearing. This is to give the reporting officer the ability to respond (in best as possible in the time available), so as to best assist the process and the Panel in the consideration of the submission.
5. The set of amendments that the submitter intends to seek by way of alternative refined relief accompanies this memorandum (**preferred relief**), in their present form<sup>5</sup>.

---

<sup>3</sup> It is noted that the site is not LUC1, 2, or 3, and so there is no constraint under the NPS-HPL to its rezoning to Rural Lifestyle with discretionary status for subdivision under 10ha, as sought in the submission.

<sup>4</sup> This is to ensure that there is still the ability within the scope of the original relief to consider alternatives or further refinements to what is presently being put forward as its preferred relief.

<sup>5</sup> The final set of amendments to be sought in the preferred relief is still being finalized, including the full detail of the Structure Plan, and will be attached to the planning evidence provided for the hearing.

6. The balance of this memorandum addresses the question of scope. In short, the submitter considers that their refined relief is more restrictive than their original relief as,:
- (a) while it still seeks rezoning of the site to Rural Lifestyle;
  - (b) instead of seeking a discretionary status for all subdivision under 10ha it is seeking for that discretionary status to remain *only* if subdivision is generally in accordance with a detailed structure plan.
7. A specific directive objective and policy, together with some supporting rules, reinforce this more restrictive relief.

## JURISDICTION

### Overview of law

8. By law, any submission must be “on” the notified plan change for a local authority to be able to consider it (Sch 1, cls 6, 8, 10(1); see *Motor Machinists*<sup>6</sup>). Allowance is given for “matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions” and “any other matter relevant to the proposed statement or plan arising from the submissions” (Sch 1, cl 10(2)(b)).
9. The leading authorities in the consideration of whether a submission is “on” a plan change are *Clearwater*<sup>7</sup> and *Motor Machinists*. In *Clearwater*, the High Court identified that, in order for a submission to be “on” a notified proposed plan change, the submission must:
- (a) address the extent to which the plan change would alter the status quo; and
  - (b) not cause the plan change to be appreciably amended without real opportunity for participation by those potentially affected.
10. Caselaw confirms that answers to these questions turn on the specific facts and context of the relevant variation and submissions. Some of the factors that the courts have considered as relevant to the two questions include:

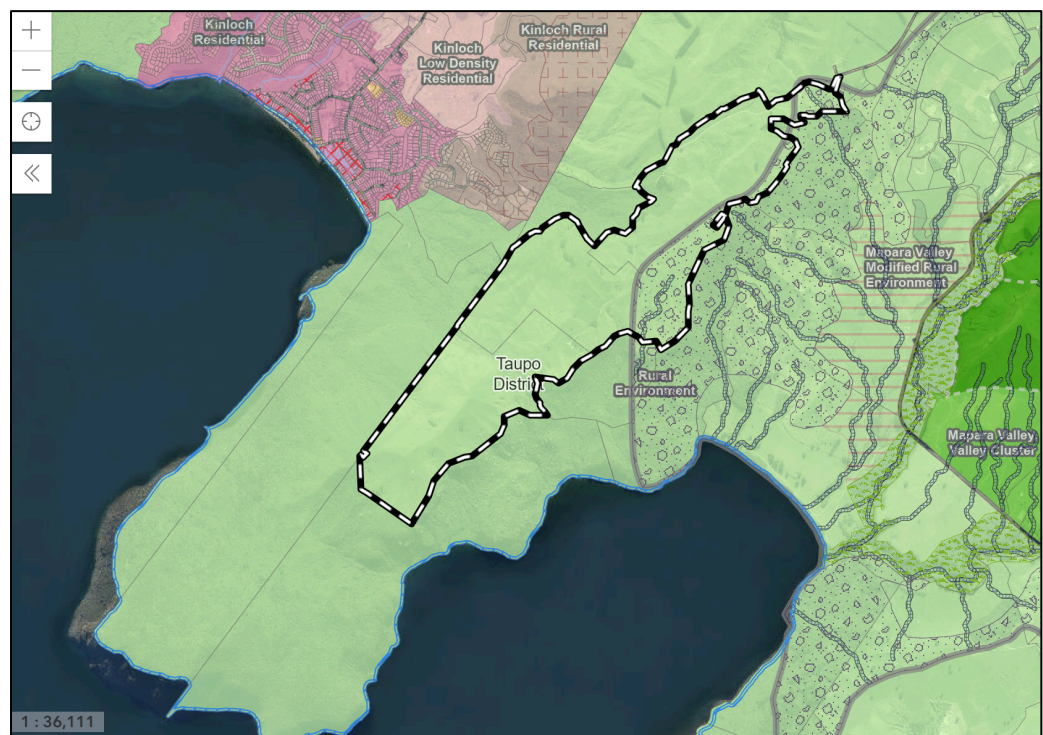
---

<sup>6</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290, Kós J, at [1].  
<sup>7</sup> *Clearwater Resort Ltd v Christchurch City Council*, HC Christchurch AP34/02, 14 March 2003.

- (a) Whether the submission aligns with the purpose of the Plan Change;
- (b) Whether the section 32 assessment assessed the land/subject matter in question (or should have);
- (c) The proximity/context of the submission land to the variation area – eg whether it is geographically connected;
- (d) Whether the change would be viewed as “out of left field”, “novel” or a “submissional sidewind”;
- (e) Whether participation by affected parties that has occurred, and/or whether there are opportunities for further participation; and
- (f) The number of new directly affected parties and the likelihood that they would (or would not) have been sufficiently aware of the changes sought in the submissions.

### Analysis

11. As a first point, the site is readily identifiable on TDC’s ePlan planning maps, by searching the stated address, as follows:



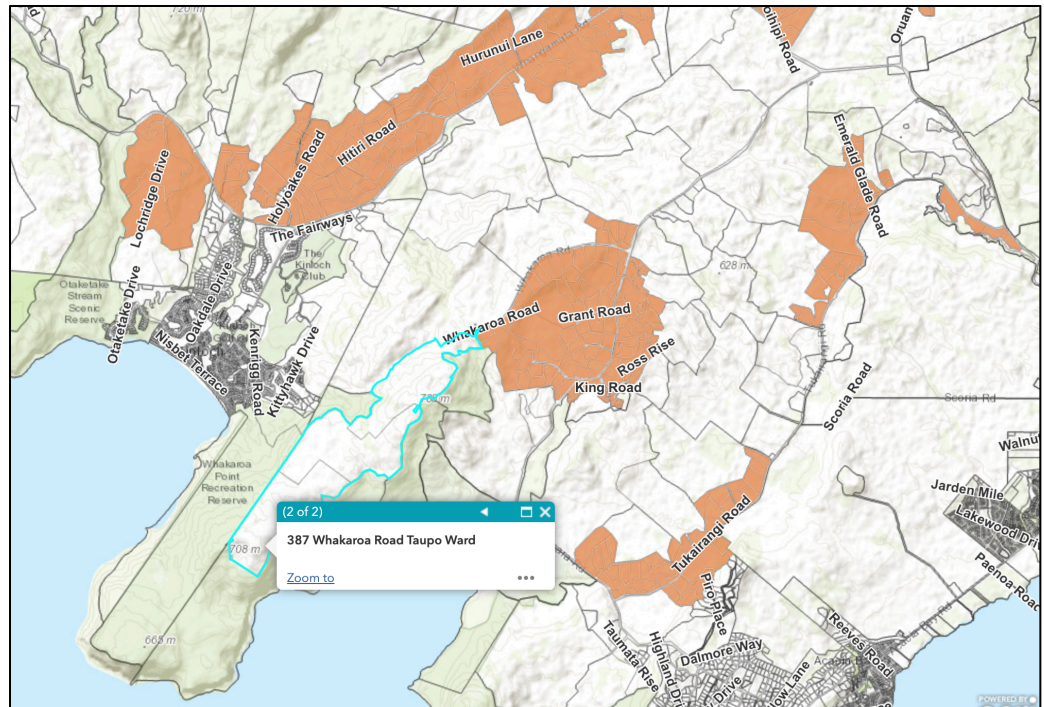
12. In other word, anyone interested or potentially interested in the site and the rezoning sought could easily have identified it.
13. In addition, the submission, while brief, was very clear in its objectives. It wanted the site zoned Rural Lifestyle and for the Rural Lifestyle zone to be subject to a discretionary subdivision regime for lots less than 10ha. If that relief, for the site or more generally, was of concern to any submitter, it was clearly “flagged”.
14. Arguably, that is the end of the matter. However, for completeness, I note the following in respect of the various factors identified above.

**Whether the submission aligns with the purpose of the plan change**

15. Plan Change 42 is a full review of the existing Rural Chapters within the Taupō District Plan. PC42 applies to every Rural Environment site in the district and rezones it to either Rural Lifestyle Environment with associated provisions, or General Rural with associated provisions. The General Rural provisions are less different to the previous Rural Environment provisions than the Rural Lifestyle Environment, but there are still significant changes, eg minor residential units are enabled. There can be no suggestion that the Te Tuhi site was not subject to PC42.
16. Some of the key changes in the PC42 to the Rural Chapters identified by TDC itself are:
  - Creating a new Rural Lifestyle Environment from the General Rural Environment
  - A new set of objectives, policies and rules for the Rural lifestyle Environment including relaxation of subdivision rules
17. It is hard to see, even if TDC wished to constrain the extent of additional “new” Rural Lifestyle Environment to be created from the Rural Environment, how it could do so on a jurisdictional or scope basis when PC42 is promoted as a “full review’ of the existing Rural Chapters. This is even the case when the district growth strategy “signalled that through the review of the ODP ... consolidate[ing] rural lifestyle opportunities within existing areas ... would be considered in detail” (and noting that this strategy was implemented in Plan Change 19, and PC42 is a further evolution of that approach). Even if TDC’s focus is still on consolidating rural lifestyle within “existing areas” under PC42 through rezoning to Rural

Lifestyle, it cannot prevent a request for that zoning to be extended elsewhere beyond what it notified.

18. In the case of the site, the site is in fact contiguous to an area proposed for rezoning to Rural Lifestyle, and Rural Lifestyle is to be applied to a large number of areas in the wider vicinity of the site, as shown on the following plan (the site is outlined in turquoise, the brown areas are proposed to be Rural Lifestyle):



19. As the s32 Report records, in terms of the use of the National Planning Standards under PC42:

**Rural Lifestyle Environment** - Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General Rural and Rural Production environments, while still enabling primary production to occur.

The National Planning Standards also provide a number of optional tools that can be used, such as special purposes environments and the use of overlays.

20. The submitter’s preferred relief seeks the use of an overlay, as anticipated in the National Planning Standards. As proposed, this is also a more restrictive approach than that sought in its original relief.

**Whether the section 32 assessment did, or should have, assessed the land in question**

21. The s32 Report does not address the site in particular.
22. This might be considered an issue as to scope, but it is not determinative, as confirmed in the recent *Bluehaven* decision.<sup>8</sup> This is because, TDC in its s32 assessment “should have” assessed the site and included it in the Plan Change, as:
- (a) TDC did in fact consider other areas of land for inclusion (through its economic report<sup>9</sup>), being “Broadlands Road, a State Highway 1 location and a State Highway 5 location”.
  - (b) The site should have been in that list for consideration given that a resource consent had already been granted for its development for a cluster-style rural lifestyle development. While that consent has lapsed, it demonstrated that the type of development consented was, at least at the time of its consent, consistent with the sustainable management purpose of the RMA.

**The proximity/context of the submission land to the plan change area – eg whether it is geographically connected**

23. The site is within the PC42 area, as the plan change covers all existing Rural Zoned land (which the site presently is). In addition, the site is contiguous to land that is proposed for rezoning to Rural Lifestyle and is in an area that is more widely surrounded on three sides (obviously, not on the side of Lake Taupō) by land proposed for rezoning to Rural Lifestyle as identified above. The rezoning the land would represent something of a logical extension to an area already proposed for Rural Lifestyle rezoning.

**Whether the change would be viewed as “out of left field”**

24. It can hardly be considered surprising – for anyone – that some landowners (or those with an interest in land) might seek inclusion of “their” land into a newly proposed Rural Lifestyle zone, from existing Rural Zoning. Many in fact did (ie not just this submitter). Not could it be surprising if submitters

---

<sup>8</sup> *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191.

<sup>9</sup> *Taupō Rural Lifestyle Economic Assessment*, Property Economics Limited, June 2019.

were to seek different standards and activity statuses through submissions, such as what this submitter did (in seeking to make all subdivision under 10ha discretionary with no minimum lot sizes).

25. The original relief in the submission was very clear as to what it was seeking for the site (albeit brief). Nor can it be a surprise considering the previous consent that had been granted (as previously mentioned). Accordingly, there can be no criticism of the original relief being “out of left field”. While the preferred relief may be at a level of detail that was not originally signalled in the original relief, it is more constraining, and also cannot therefore be considered “out of left field”.

### **New directly affected parties and their appreciation of the change**

26. There are a limited number of directly affected parties, and all would have been aware of the previous consent and development aspirations for the site.

27. All could have examined the summary of submissions and made a further submission. It seems as if the Regional Council did (but no others), opposing the rezoning sought:

... due to the potential for land fragmentation, loss of productive capacity, increase in greenhouse gas emissions and issues associated with transport and infrastructure.

28. While the “accessibility” of the relief sought can be debated at a philosophical level, within the process dictated by the current system, the original relief sought was clearly signalled, as the preferred relief is more restrictive than the original relief, there can be no complaint from any perceived “newly affected parties” (as there are, in fact, none – outside those who would have had notice through the submission/ summary of submission process).

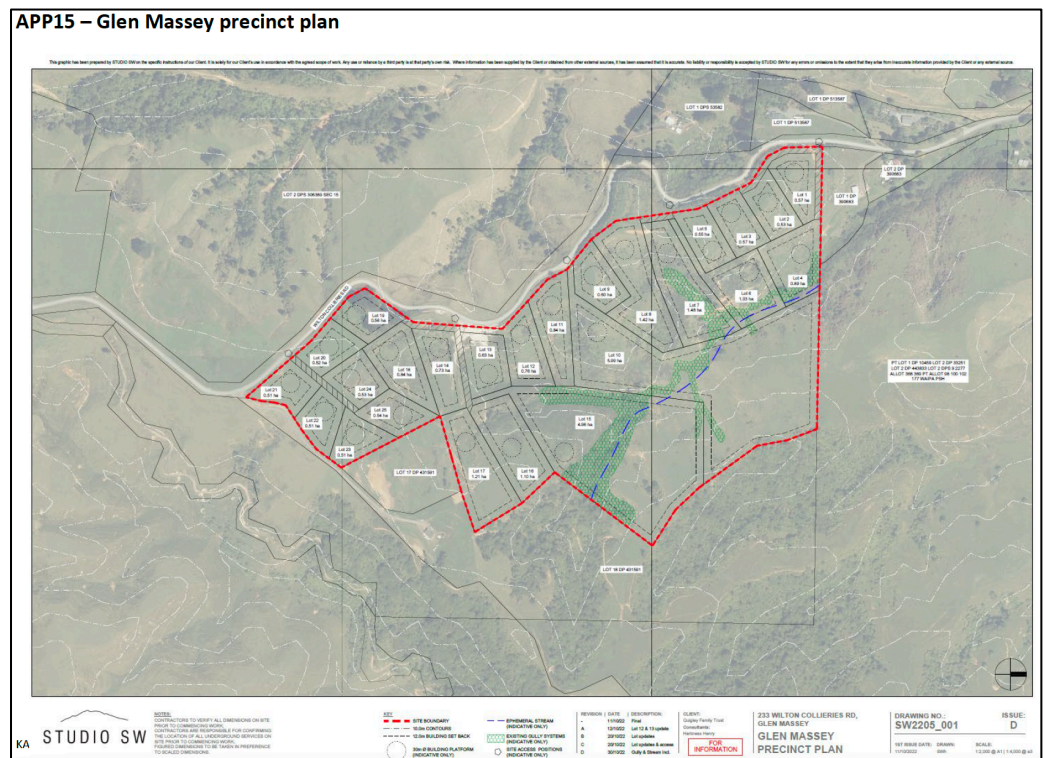
### **A RECENT EXAMPLE**

29. The recent decision of the Environment Court in *Quigley v Waikato District Council* [2023] NZEnvC 136 is also instructive.
30. In that case, the original submission in question sought for the property in question to be zoned either Country Living or Village Zone, rather than Rural as proposed. It remained Rural in the Council’s decisions, and the



submitter appealed, seeking the same zoning either Country Living Zone or Village Zone. The National Planning Standards led to the renaming of these zones as Rural Lifestyle Zone (RLZ), Settlement Zone (SETZ) and Large Lot Residential Zone (LLRZ).

- 31. At the appeal stage, the parties agreed to rezone the property to RLZ and apply a precinct over the Property to guide development within the precinct. In this case, the overlay over the Property was known as “PREC33 – Glen Massey Precinct”. A new objective and rules were also inserted into the Plan.
- 32. While the submission was a little more detailed than the present one, it did not seek a precinct or structure plan, yet that is what the Environment Court was happy to approve (without demur), as follows:



**FORWARD PROGRESS**

- 33. The submitter wishes to assist the Panel, and reporting officers, in providing as much information as possible for the Panel’s consideration of the substantive matters raised (as well as any jurisdictional question, if this memorandum does not sufficiently address that issue).



34. To that end, the submitter welcomes expert conferencing, including on the plan amendments proposed under their preferred relief. This is without prejudice to the reporting officers' opinions on the merits of the rezoning request; but with a view to providing the Panel with a way to accommodate the outcomes sought by the submitter in the District Plan, if the Panel were persuaded that the outcomes were "most appropriate" in terms of the relevant RMA tests it must apply.

**25 July 2023**  
**James Gardner-Hopkins**  
**Project Manager**

**Attachment 1**  
**Proposed Amendments to**  
**Plan Change 42 to the Taupō District Plan**

Preferred Relief - Preliminary Drafting

## **3b RURAL ENVIRONMENT CHAPTER**

### **3b.1 Introduction**

The Rural Environment makes up most of the land within the District and has been categorised into two distinct areas, being the General Rural Environment and the Rural Lifestyle Environment. [Within the Rural Lifestyle Environment the Te Tuhi Development Area sets a more restrictive subdivision and development framework for an identified site.](#) These separate areas highlight the increasing need to protect the open space characteristics of the Rural Environment and its production values, while also providing for the growth of the District and the demand for rural lifestyle living in specific locations.

The Rural Environment also contains sites that are of significance, some of these are identified as Outstanding Landscape Areas. The Rural Environment objectives and policies seek to manage subdivision and land use activities in a way that reflects the productive nature of the land, the rural level of infrastructural services and the amenity values of the landscape, as well as managing effects and enabling rural lifestyle living in appropriate areas. Other activities that are anticipated in the Rural Environment are tourism activities, visitor accommodation and renewable electricity generation and transmission. It is important that all such activities do not affect the ability of the rural environment to function effectively. It is also important to acknowledge that existing, lawfully established activities in the Rural Environment are able to continue operating and that activities that choose to locate in close proximity to these activities are aware of the effects they can generate and that the Rural Environment is the best location for these activities. It is expected in the Rural Environment that all properties are self-servicing in terms of the provision of potable water and the disposal of stormwater and wastewater.

The papakāinga provisions recognise the intent of Part 2 of the RMA and provide for the occupation by whanau, hapū or iwi members on Māori land. The provisions recognise the importance of enabling Māori to settle on their ancestral lands.

Papakāinga development will often be at higher densities than other residential land uses in the rural environment. Papakāinga may also have associated social, cultural or commercial aspects to support the community who reside there.

In addition to papakāinga there is a wide range of cultural activities and activities of importance to Māori which are appropriate to occur within the rural environment.

#### **General Rural Environment**

The General Rural Environment is predominantly characterised by large open space and vegetated areas including productive farmland and forest, ridgelines, native bush, lakes, rivers and their margins. Other prime characteristics of the General Rural Environment are the diverse range of land uses including farming, horticulture, energy and plantation forestry activities, with dispersed buildings and rural roads. There is also a wide range of development associated with tourism activities, recreation, and the District is one of New Zealand's most significant for the generation, storage and transmission of renewable electricity.

The purpose of separating the General Rural Environment from the Rural Lifestyle Environment is to preserve the productive potential of the land within the General Rural Environment by retaining large property sizes and limiting the extent of housing provided for. Yet allowing appropriate development to occur while preserving the 'openness' of the General Rural Environment. The creation of the General Rural Environment aims to support primary productive uses and rural industry, meaning an activity that directly supports, services, or is dependent on primary production and has a locational need to be within the General Rural Environment (rather than an urban environment).

Primary production activities in the General Rural Environment will produce effects that are different from urban areas, such as noise, odour, vibration, spray drift and dust. Allowing these activities to operate in a more suitable environment, along with compatible activities, aims to protect rural land uses from unnecessary restrictions.

The General Rural Environment provisions seek to limit the scale of commercial and industrial activities unless they are dependent on primary production and have a locational need to be within the General Rural Environment. This is to avoid the uptake of General Rural Environment land by activities which are provided for in other Environments and may therefore impact on the land available for primary production activities within the General Rural Environment.

## **Rural Lifestyle Environment**

The Rural Lifestyle Environment has been created to address the increasing demand for rural lifestyle living within the Rural Environment. The Rural Lifestyle Environment aims to provide for rural residential development in specific locations for those who want the benefits of rural living without necessarily undertaking a productive rural activity.

By creating separate areas in appropriate locations within the Rural Environment, the Rural Lifestyle Environment creates areas for rural living on smaller property sizes, whilst retaining separation from the rural production activities predominating in the General Rural Environment. This separation of activities serves to minimise reverse sensitivity issues. By concentrating rural residential development within the Rural Lifestyle Environment this serves to preserve the open space characteristics and productive potential of the rest of the Rural Environment, and to reduce the potential for land use conflict.

The Rural Lifestyle Environment will be less populated than a Residential Environment, with standards in place for minimum lot sizes to preserve the rural residential aspect of the area. Limited provision is also made for home business and commercial activity to occur, but not of a scale or extent that changes the predominantly rural residential amenity and character intended. The Rural Lifestyle Environment areas are located closer to urban areas to allow for access to community facilities within the district's townships.

### **Te Tuhi Development Area**

[The Te Tuhi Development Area is a site-specific Development Area that modifies and restricts the site's Rural Lifestyle Environment provisions to give effect to the Te Tuhi Development Area Structure Plan. The Te Tuhi Development Area Structure Plan sets an integrated subdivision layout and built development requirements that deliver a tourism lodge complex, an equestrian centre, clustered rural lifestyle allotments and over 200 hectares of replanted native forest.](#)

## **3b.2 Objectives and Policies – General Rural Environment**

...

## **3b.3 Objectives and Policies – Rural Lifestyle Environment**

### **Objective 3b.3.1 Maintain the character of the Rural Lifestyle Environment**

The character of the Rural Lifestyle Environment is maintained and protected from incremental subdivision and development.

### **Objective 3b.3.2 Avoid reverse sensitivity**

Adverse reverse sensitivity effects, including conflict with permitted and legally established activities in neighbouring Environments, are avoided.

### **Objective 3b.3.3 Commercial and industrial activities**

The establishment of commercial and industrial activities that have no functional need to locate and are incompatible with the rural residential activities occurring within the Environment are avoided.

### **Objective 3b.3.4 Consolidate rural lifestyle activities**

Rural lifestyle activities within identified areas are consolidated to encourage more efficient use of the rural land resource and avoid the fragmentation of land in the General Rural Environment.

### **Objective 3b.3.5 Allotment sizes**

That allotments are maintained at sizes to:

- a) Enable small scale primary production to occur; and
- b) Avoid the cumulative impacts on community infrastructure and services arising from an increase in demand or increases to level of service.

### **Objective 3b.3.6 Impacts on community infrastructure**

The impacts on community infrastructure arising from subdivision and development are managed.

### **Objective 3b.3.7 Papakāinga**

Whanau, hapū and iwi can use and develop ancestral land for Papakāinga.

Papakāinga are of a form and scale that considers the functioning of the Rural Lifestyle Environment.

### **Objective 3b.3.8 Tāngata Whenua**

The important relationship that mana whenua have with their ancestral lands and the wider Rural Environment is recognised and provided for.

### **Objective 3b.3.9 Subdivision and Development in the Te Tuhi Development Area**

Subdivision and development in the Te Tuhi Development Area give effect to the Te Tuhi Development Area Structure Plan in Appendix 1 to realise:

- (a) A subdivision layout and built development that are integrated and compatible with the physical and environmental features of the site; and
- (b) An expansive, indigenous forest landscape that encases and dominates a tourism lodge complex, an equestrian centre and occasional clusters of rural residential buildings.

### **Policy 3b.3.9 Character of the Rural Lifestyle Environment**

Manage the anticipated character of the Rural Lifestyle Environment as defined by:

- a) Buildings on different sites are separated from each other in a way that creates a sense of privacy.
- b) Accessory buildings that do not dominate the landscape.
- c) Dwellings may be large but are surrounded by open space and do not dominate the landscape.
- d) A general absence of urban infrastructure including community stormwater and wastewater services.
- e) An environment which includes residential activities, rural productive activities and home business activities.
- f) Noise related to production activities during the day but low levels of noise at night.
- g) Low levels of light spill.
- h) Limited signage that directly relates to the activity operating on the site.

### **Policy 3b.3.9A Subdivision, use and development in the Te Tuhi Development Area**

Require subdivision, use and development to give effect to the Te Tuhi Development Area Structure Plan in Appendix 1 through comprehensive, integrated subdivision and land use proposals that achieve the subdivision layout, the built development requirements and the mitigation and enhancement planting.

### **Policy 3b.3.10 Lot sizes and setbacks for allotments adjoining the General Rural Environment**

Require larger lot sizes and greater building setbacks for allotments adjoining the General Rural Environment to manage reverse sensitivity.

### **Policy 3b.3.11 On-site servicing**

- i. Require properties to manage its services on-site in terms of the provision of potable water and the disposal of stormwater and wastewater.

### **Policy 3b.3.12 Minor residential unit**

Manage the scale and location of minor residential units to ensure it is near the principal dwelling on the allotment, is of a suitable size, and to further protect the character of the rural Lifestyle Environment.

### **Policy 3b.3.13 Papakāinga**

- ii. Provide for the development of Papakāinga on Māori land within the Rural Lifestyle Environment.
- iii. Recognise the social and cultural benefits of the development of papakāinga on Māori land within the Rural Lifestyle Environment.

Allow for Papakāinga on General Land owned by Māori where there is a historical ancestral connection to the land and it can be demonstrated that the land will remain in Māori ownership or be converted to Māori freehold title.

### **Policy 3b.3.14 Māori Cultural Activities**

- i. Support Māori cultural activities undertaken by or associated with whanau, hapū or iwi that are in accordance with their tikanga.
- ii. Recognise the importance of mātauranga Māori, kaitiakitanga and tikanga Māori in land use and management activities.

## **4b.3 General Rules – Rural Lifestyle Environment**

### **4b.3.1 Activities in the Rural Lifestyle Environment**

- i. Any activity that:
  - a. complies with all of the Performance Standards for the Rural Lifestyle Environment; and
  - b. complies with all the District Wide Performance Standards; and
  - c. is not identified as a controlled, restricted discretionary, discretionary or non-complying activity within the Rural Lifestyle Environment; and
  - d. is not identified as a controlled, restricted discretionary, discretionary or non-complying activity within the District Wide Rules;is a **permitted activity**.

- ii. Any activity that is not a permitted, controlled, restricted discretionary or a non-complying activity is a discretionary activity.

#### **4b.3.2 Minor residential units**

- i. A minor residential unit which complies with the performance standards is a **permitted activity**.
- ii. A minor residential unit which does not comply with the performance standards is a **restricted discretionary activity**.
- iii. In the Te Tuhi Development Area a minor residential unit is a **non-complying activity**.

**When considering activities under Rule 4b.3.2 Council restricts the exercise of its discretion to the following matters:**

- a. The extent to which the residential unit and vehicle access point design, siting and external appearance adversely affects rural character and amenity.
- b. Site topography and orientation and whether the residential unit(s) and vehicle access point can be more appropriately located to minimise adverse visual amenity effects.
- c. Effect on nearby sites, including outlook and privacy.
- d. Whether the residential unit and the vehicle access point can be more appropriately located to maintain, enhance or restore indigenous biodiversity values.
- e. The ability to mitigate adverse effects through the use of screening, planting, landscaping and alternative design.

#### **4b.3.3 Home business, commercial, and retail activities**

- i. A home business, commercial and retail activity which complies with performance standards is a **permitted activity**.
- ii. A home business, commercial and retail activity which does not comply with performance standards is a **restricted discretionary activity**.

**When considering activities under Rule 4b.3.3 Council restricts the exercise of its discretion to the following matters:**

- i. The effect of the activity on the Rural Lifestyle Environment character.
- ii. The effects of the activity's vehicle movements, parking, loading and access on the network.
- iii. Any nuisance effects such as odour, noise and glare are managed within the site.

#### **4b.3.4 Intensive indoor primary production**

- i. An intensive indoor primary production activity which complies with performance standards is a **permitted activity**.
- ii. An intensive indoor primary production activity which does not comply with performance standards is a **discretionary activity**.
- iii. In the Te Tuhi Development Area an intensive indoor primary production activity is a **non-complying activity**.

#### **4b.3.5 Temporary Activities**

- i. Any temporary activity, being an activity of up to a total of four operational days in any 6 month period, which exceeds any performance standard(s), is a **permitted activity**, provided that:

- a. There are no new permanent structures constructed; and
- b. Once the activity has ceased, the site (including vegetation and the surface of the ground of the site) is re-instated to its condition prior to the activity commencing; and
- c. An allowance of 14 non-operational days in any six month period associated with the activity is not exceeded.

#### **4b.3.6 Papakāinga**

- i. Papakāinga on Māori customary land and Māori freehold land which complies with all of the performance standards in 4b.4 is a **permitted activity**
- ii. Papakāinga on Māori customary land and Māori freehold land which does not comply with one or more performance standard in 4b.4 is a **Restricted Discretionary activity**
- iii. Papakāinga on general land owned by Māori is a **Restricted Discretionary activity**
- iv. Applications under Rules 4b.3.6 ii or iii will not be notified.

**When considering activities under Rule 4b.3.6 ii and iii Council restricts the exercise of its discretion to the following matters:**

- a. Those performance standards in 4b.4 which the proposal did not comply with.
- b. Any effects on the functioning of the rural environment including effects on rural infrastructure.
- c. For 4b.1.3 iii, in addition to a and b:
  - a. Historical reasons why the land was given general title
  - b. Whether the land can be converted to Māori title under Te Ture Whenua Act 1993
  - c. Any documents or mechanisms provided by the applicant to demonstrate that the land will be secured for permanent Māori administration and maintenance of the land title.

#### **4b.3.7 High voltage transmission lines**

- i. Any building (except network utilities) located within 0 – 12m of a high-voltage transmission line is a **restricted discretionary activity**.

**When considering activities under Rule 4b.1.7 Council restricts the exercise of its discretion to the following matters:**

- a. The location of the structure in relation to high-voltage transmission line.
- b. Any effects on the safe and efficient functioning of the transmission line.

**The Council restricts the exercise of its discretion to the following matters:**

- a. The effect of the activity on the rural character of the area, having regard to visual effects and lighting effects.
- b. The effect of the activity on surrounding land uses and how these effects can be managed onsite and/or mitigated.
- c. The hours of operation for the activity.
- d. The proposed signage associated with the activity.

#### **4b.3.9 Buildings and Structures in the Te Tuhi Development Area**

- i. [A building or structure in the Te Tuhi Development Area that is generally in accordance with the Te Tuhi Development Area Structure Plan in Appendix 1 is a discretionary activity.](#)



- ii. [A building or structure in the Te Tuhi Development Area that is not generally in accordance with the Te Tuhi Development Area Structure Plan in Appendix 1 is a \*\*non-complying activity\*\*.](#)

#### **4b.4 Performance Standards – Rural Lifestyle Environment**

##### **4b.4.1 Vehicle movements**

- i. 50 equivalent vehicle movements per day for the allotment.
- ii. Papakāinga: 100 vehicle movements per day for the allotment or 24 per dwelling, whichever is the greater.

EXCEPTION: This performance standard shall not apply to traffic movements involved in forest harvesting operations.

##### **4b.4.2 Maximum building coverage**

- i. 10% of the total allotment area.

##### **4b.4.3 Maximum building size**

- i. 500m<sup>2</sup> gross floor area for a single building.

##### **4b.4.4 Maximum density of residential units**

- i. One residential unit per two hectares.
- ii. One residential unit per four hectares for lots adjoining the General Rural Environment.

EXCEPTION: Papakāinga.

##### **4b.4.5 Minor residential units**

- i. No more than one minor residential unit per primary residential unit is permitted.
- ii. All minor residential units shall:
  - a. Be no larger than 100m<sup>2</sup> in size (inclusive of garaging).
  - b. Be located no greater than 20 metres from the primary residential unit.
  - c. Share an accessway/driveway with the primary residential unit.

EXCEPTION: Papakāinga.

NOTE: Minor residential units also include accommodation activities, tiny homes/houses, caravans and other structures used for accommodation for more than two consecutive months in a calendar year on the allotment.

##### **4b.4.6 Maximum building height**

- i. The maximum height of a building shall not exceed 10 metres.

##### **4b.4.7 Minimum building setbacks**

- i. 30 metre setback for dwellings and minor residential units from the front boundary.
- ii. 15 metres from all other boundaries.
- iii. Dwellings and minor residential units shall be setback a minimum of 50 metres from the General Rural Environment.

**EXCEPTION:**

Water tanks are not required to comply with the setback requirements in this rule.

**4b.4.8 Intensive indoor primary production**

- i. Any intensive indoor primary production activity shall involve less than 100m<sup>2</sup> in gross floor area, or be within a building up to 100m<sup>2</sup> gross floor area per hectare within the allotment, up to a total of 250m<sup>2</sup> gross floor area.

**4b.4.9 Home business, commercial, and retail activities**

- i. Any indoor or outdoor space used for a home business, commercial or retail purposes, shall be less than 100m<sup>2</sup> in gross floor area for indoor activities, or 100m<sup>2</sup> of land area for outdoor activities.
- ii. For home businesses the principal operator of the home business must be a permanent resident on the site to which the home business relates.

EXCEPTION: Papakāinga.

**4b.4.10 Signage**

- i. Maximum one sign per allotment.
- ii. Maximum total face area - 1m<sup>2</sup>.
- iii. Signage must relate to the activity undertaken on the allotment.
- iv. No flashing, reflectorised or illuminated signs.
- v. One temporary sign per allotment, 2m<sup>2</sup> total face area, for the sale of land or buildings.

**4b.4.11 Parking Loading and Access**

In accordance with Section 6: Parking, Loading and Access.

**4b.4.12 Maximum Artificial Light Level**

- i. 8 LUX (lumens per square meter) at the boundary.

**4b.4.13 Maximum Noise – Limits**

- i. The noise levels shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008 Assessment of Environmental Sound.

7.00am – 7.00pm 50dBA Leq

7.00pm – 10.00pm 45dBA Leq

10.00pm – 7.00am 40dBA Leq and 70dBA Lmax

NOTE: The noise levels shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008 Assessment of Environmental Sound.

#### **4b.4.14 Maximum Noise - Construction Noise**

All construction noise shall meet the requirements of New Zealand Standard NZS 6803:1999 Acoustics Construction Noise.

#### **4b.5 Subdivision Rules**

##### **4b.5.2 Subdivision – Rural Lifestyle Environment that adjoins the General Rural Environment**

- i. Subdivision resulting in lots that are 4 hectares or larger adjoining the General Rural Environment is a **controlled activity**.
- ii. Subdivision resulting in lots that are smaller than 4 hectares adjoining the General Rural Environment is a **discretionary activity**.

##### **4b.5.3 Subdivision – Rural Lifestyle Environment that does not adjoin the General Rural Environment**

- i. Subdivision resulting in lots that are 2 hectares or larger that do not adjoin the General Rural Environment is a **controlled activity**.
- ii. Subdivision resulting in lots that are smaller than 2 hectares that do not adjoin the General Rural Environment is a **non-complying activity**.

**For the purposes of Rules 4b.5.1.i, 4b.5.2.i and 4b.5.3.i the matters over which the Council reserves control for the purpose of assessment are:**

- a) The design and layout of the subdivision to ensure safe and efficient access onto existing and/or proposed roads, multi-modal connectivity if appropriate, suitable building platforms to accommodate future complying buildings, and adequate management of stormwater.
- b) The identification of any natural hazards or contaminated sites and how these may affect the stability of the land and suitability of any future building sites, including any information provided by a suitably qualified person whose investigations are supplied with the subdivision application.
- c) Whether the desired environmental outcome with a consistent and appropriate standard of infrastructure is achieved such as through compliance with the Council's Development Guidelines and Structure Plans.
- d) The extent to which earthworks and vegetation removal is required to create vehicle tracks and building platforms.
- e) Any actual or potential effects on areas or features of cultural, historic, landscape or natural value as identified in the plan.
- f) The imposition of conditions in accordance with Sections 108 and 220 of the Resource Management Act 1991.
- g) Any potential adverse effects from Natural Hazards, including flood inundation or erosion from the District's waterways and Lakes.
- h) Any immediate adverse or potentially adverse effects, including cumulative effects, on the amenity and landscape values of the Rural Environment, and the methods by which such effects can be remedied or mitigated.

##### **4b.5.4 Subdivision – Default Activity Status**

Any subdivision which is not identified as controlled, restricted discretionary, or non-complying activity, is a **discretionary activity**.

#### **4b.5.5 Subdivision resulting in a new public road, or extension of existing public road**

- i. Any subdivision or activity which results in a new public road or extension of existing public roads, water, stormwater or wastewater utility services is a **restricted discretionary activity**.

#### **The Council restricts the exercise of its discretion to the following matters:**

- a. The impact of the resulting development on the ability of the wastewater, stormwater and drinking water infrastructure to service the existing service area as well as the new development;
- b. The impact of the resulting development on the ability of the roading networks to safely and sustainably operate and service the new development;
- c. The effect that the development will have on the stormwater catchment.

#### **4b.5.6 Subdivision – Other**

- i. Any subdivision of land for the sole purpose of providing for infrastructure, or access lots, or legal protection in perpetuity of Significant Natural Areas, is a **controlled activity**.

Provided that the activity has not been identified as a discretionary activity by another rule in the plan, any subdivision of land in the General Rural Environment and Rural Lifestyle Environment where:

- ii. the resulting allotments are 10ha or larger in the General Rural Environment, and 4ha or larger in the Rural Lifestyle Environment; and
- iii. for any subdivision of land in Area Y shown on Map D3, a covenant forms part of the documentation supporting the subdivision consent application (which shall be registered on the additional titles created) specifying that no complaints shall be made in relation to the effects of any geothermal power generation related activities and associated structures consented as at 15 September 2008, or lawfully occurring, including effects such as noise, vibration, odour or visual effects. Such covenant need not apply to:
  - a. the certificates of title that contain any dwelling that existed prior to any subdivision, or
  - b. in cases where there was no dwelling existing prior to subdivision, a single exempt title to be nominated by the subdivision applicant.

is a **controlled activity**.

- iv. Any subdivision of land in the General Rural Environment or Rural Lifestyle Environment that is located within Area X[1] on Planning Map D3 where the resulting lots are 4 hectares or larger, or is located in Area Y on Planning Map D3 where the resulting lots are between 4 hectares and 10 hectares, is a discretionary activity.
- v. Any subdivision of land in the General Rural Environment or Rural Lifestyle Environment that is located with Area X or Area Y on Planning Ma D3 where the resulting lots are less than 4 hectares is a **non-complying activity**.

NOTE: 4b.5.6 does not relate to the creation of Bonus Lots, but subdivision of all or part of a Significant Natural Area for reasons of covenanting or other form of legal protection of that Area.

#### **For the purposes of Rules 4b.5.6 the matters over which the Council reserves control for the purpose of assessment are:**

- a. Those matters of control identified in rules 4b.5.3 and 4b.5.5 above;
- b. The impact of the resulting development on the ability of the wastewater, storm water and drinking water infrastructure to service the new development;
- c. The impact of the resulting development on the ability of the roading networks to safely and sustainably operate and service the new development;
- d. Whether or not the lots will be adequately serviced for drinking water;

- e. The effect that the development will have on the storm water catchment.

#### 4b.5.7 Subdivision – Outstanding Landscape Areas

- i. Any subdivision of land in the General Rural Environment or Rural Lifestyle Environment that is located within an Outstanding Landscape Area where the resulting lots are less than 10 hectares, is a **non-complying activity**.

[Exception: This rule does not apply to the Te Tuhi Development Area. Refer to Rule 4b.5.10](#)

#### 4b.5.8 Subdivision – Bonus Lots

- i. The creation of one or more Bonus Lots 4ha or greater within the General Rural Environment is a **Restricted Discretionary activity** provided the subdivision complies with the following requirements:
  - a. Each Bonus Lot must correspond to no less than 4ha of a Nominated Significant Natural Area that is:
    - i. physically protected from livestock by a Stock Proof Fence where it is within 50m of farmed livestock,
    - ii. legally protected in perpetuity or, if on Māori land, a Nga Whenua Rahui kawanata with a tenure of no less than 20 years, from any form of indigenous vegetation clearance and physical development.
    - iii. the legal protection identified in ii occurs after the date this rule becomes operative.
    - iv. not already associated with a Bonus Lot
    - v. not public land
  - b. The Bonus lot(s) will be located in the General Rural Environment;
  - c. The Bonus Lot(s) will not be located within any of the following:
    - i. Significant Natural Area,
    - ii. Foreshore Protection Area
    - iii. Outstanding Landscape Area
    - iv. Amenity Landscape Area
    - v. in Area X on Planning Map D3
    - vi. in Area Y on Planning Map D3
  - d. A maximum of five Bonus Lots can be created on any one certificate of title;
  - e. A consent notice shall be placed on the lot(s) that the Nominated Significant Natural Area is located that include the following:
    - i. A map clearly showing the area of that lot within the Nominated Significant Natural Area which has been protected under 4b.5.8.i.a,
    - ii. The corresponding Bonus Lot(s) and the address and title number(s) of those Lots;

For the purposes of Rule 4b.5.8.i the Council restricts the exercise of its discretion to the following matters:

- i) The design and layout of the subdivision to ensure safe and efficient access onto existing and/or proposed roads, suitable building platforms to accommodate future complying buildings, and adequate management of stormwater.
- j) The identification of any natural hazards or contaminated sites within the Bonus Lot and how these may affect the stability of the land and suitability of any future building sites, including any information provided by a suitably qualified person whose investigations are supplied with the subdivision application.

- k) Whether the desired environmental outcome with a consistent and appropriate standard of infrastructure is achieved such as through compliance with the Council's Development Guidelines and Structure Plans.
- l) The extent to which earthworks and vegetation removal is required to create vehicle tracks and building platforms.
- m) Any actual or potential effects on areas or features of cultural, historic, landscape or natural value as identified in the plan.
- n) The imposition of conditions in accordance with Sections 108 and 220 of the Resource Management Act 1991.
- o) Any potential adverse effects from Natural Hazards, including flood inundation or erosion from the District's waterways and Lakes.
- p) The potential for reverse sensitivity effects on lawfully established or permitted activities within the General Rural Environment.
- q) Any immediate adverse or potentially adverse effects, including cumulative effects, on the amenity and landscape values of the Rural Environment, and the methods by which such effects can be remedied or mitigated.
- r) Any effects on the functioning of the Rural Environment including effects on rural infrastructure
- s) The development of other bonus lots in the similar area which may lead to urbanisation or more than minor adverse effects on the functioning of the Rural Environment.
- t) Those matters raised in Policy 3i.2.2 iv
- ii. The creation of Bonus Lots less than 10ha in size which do not meet the requirements in 4b.5.8.i is a **Non-Complying Activity**.

#### **4b.5.9 Subdivision – More than 12 allotments**

Any subdivision of land where more than twelve (12) allotments share a single common access in the General Rural Environment or Rural Lifestyle Environment is a discretionary activity.

#### **4b.5.10 Subdivision in the Te Tuhi Development Area**

- i. Subdivision in the Te Tuhi Development Area that is generally in accordance with the Te Tuhi Development Area Structure Plan in Appendix 1 is a **discretionary activity**.
- ii. Subdivision in the Te Tuhi Development Area that is not generally in accordance with the Te Tuhi Development Area Structure Plan in Appendix 1 is a **non-complying activity**.

The Structure Plan will include the following:

<ul style="list-style-type: none"> <li>• Overall Site Plan</li> <li>• Site plans showing             <ul style="list-style-type: none"> <li>• Allotment boundaries</li> <li>• Building platforms</li> <li>• Mitigation planting areas</li> <li>• Wastewater treatment and disposal area</li> <li>• Roads</li> <li>• Trails</li> </ul> </li> <li>• Te Tuhi Lodge             <ul style="list-style-type: none"> <li>• Site plan</li> <li>• Building platforms</li> <li>• Mitigation planting areas</li> <li>• Access and parking</li> <li>• Building plans</li> </ul> </li> <li>• Te Tuhi Equestrian Centre             <ul style="list-style-type: none"> <li>• Site plan</li> <li>• Building platforms</li> <li>• Horse arenas</li> <li>• Grazing areas</li> <li>• Mitigation planting areas</li> <li>• Access and parking</li> <li>• Building plans</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Statements of required outcomes for             <ul style="list-style-type: none"> <li>• Te Tuhi Lodge Area</li> <li>• Te Tuhi Equestrian Centre Area</li> <li>• Lifestyle Cluster Area</li> <li>• Native Bush Area</li> </ul> </li> <li>• Statement of requirements for buildings:             <ul style="list-style-type: none"> <li>• Building bulk, location and appearance</li> </ul> </li> </ul>
--	---