

Taupō District Council

Recommendations of the Independent Hearings Panel

Recommendation Report 1

Plan Change 39: Residential Building Coverage

31 October 2023

This report is the first in a suite of reports in relation to 'Bundle One' Plan Changes to the Operative Taupō District Plan, which consists of six separate Plan Changes in relation to the following:

- Plan Change 38: Strategic Directions
- Plan Change 39: Residential Building Coverage
- Plan Change 40: Taupō Town Centre
- Plan Change 41: Removal of Fault Lines
- Plan Change 42: General Rural and Rural Lifestyle Environments
- Plan Change 43: Taupō Industrial Land

This report only contains the recommendation for Plan Change 39. Recommendations for the remaining five Plan Changes of 'Bundle One', along with an overarching Index Report will be released in due course at the completion of each respective hearing and Panel's subsequent deliberations.

This Recommendation Report contains the following appendices:

Appendix 1: Summary table of recommendations on each submission point.

Appendix 2: Recommended provisions.

The Hearings Panel for the purposes of hearing submissions for Plan Change 39 comprised:
Commissioner David McMahon (Chair)
Commissioner Elizabeth Burge
Councillor Yvonne Westerman

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Index of Abbreviations

Throughout our Recommendation Reports, we have adopted several acronyms and abbreviations for the sake of brevity. The table below provides a list of these terms.

Abbreviation	Means
"the Act"	Resource Management Act 1991
"BoPRC"	Bay of Plenty Regional Council
"Bundle One"	Collective name of PC38-43
"The Council"	Taupō District Council
"Horizons"	Horizons Regional Council
"HBRC"	Hawkes Bay Regional Council
"HNZPT"	Heritage New Zealand Pouhere Taonga
"NBA"	Natural and Built Environment Act
"TDC"	Taupō District Council
"NPS"	National Planning Standards 2019
"ODP"	Operative Taupō District Plan
"PC38"	Proposed Plan Change 38: Strategic Directions
"PC39"	Proposed Plan Change 39: Residential Building Coverage
"PC40"	Proposed Plan Change 40: Taupō Town Centre
"PC41"	Proposed Plan Change 41: Removal of Fault Lines
"PC42"	Proposed Plan Change 42: General Rural and Rural Lifestyle Environments
"PC43"	Proposed Plan Change 43: Taupō Industrial Land
"TDP"	Operative Taupō District Plan (2007)
"the RMA"	Resource Management Act 1991
"the RPS"	The Regional Policy Statement part of the Horizon Regional Council's One Plan
"s[#]"	Section Number of the RMA, for example s32 means section 32
"s42A report"	The report prepared by TDC pursuant to s42A, RMA in relation to PC38
"WRC"	Waikato Regional Council

Recommendation Report

Plan Change 39: Residential Building Coverage

1 INTRODUCTION

Report purpose

- 1.1 This report considers the provisions, and records our recommendations on the submissions, relating to Plan Change 39: Residential Building Coverage (**PC39**) which seeks to increase the percentage of maximum building coverage in the Residential Environment and Nukuhau General Residential, from 30% to 35%.
- 1.2 This report is the first report in relation to Plan Change 'Bundle One'¹ to the Operative Taupō District Plan (**TDP**), which consists of six separate Plan Changes, in relation to the following:
- Plan Change 38: Strategic Directions
 - Plan Change 39: Residential Building Coverage
 - Plan Change 40: Taupō Town Centre
 - Plan Change 41: Removal of Fault Lines
 - Plan Change 42: General Rural and Rural Lifestyle Environments
 - Plan Change 43: Taupō Industrial Land
- 1.3 We were appointed as Hearings Panel members by Council on 27 April 2023.² Our delegation included all necessary powers under the RMA² to hear the submissions made on the 'Bundle One' Plan Changes and to make recommendations to the Council on the provisions contained within each of the six Plan Changes on all matters raised in those submissions to each relevant Plan Change.
- 1.4 A separate report for each of the Plan Changes, along with an overarching Index Report will be prepared in due course once the respective hearings and Panel deliberations have been completed. The report for **PC39** is the first to be released, due to a streamlined process with no hearing being held and the Panel deliberating the outcome 'on the papers'. The reason for this streamlined process is discussed in further detail in paragraphs 2.35-2.37 below.
- 1.5 The purpose of this report and the subsequent reports relating to each of the six Plan Changes included in 'Bundle One' is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.
- 1.6 We will canvass the Plan Change's background in due course. It has been the subject of a s32³ report⁴, consultation with stakeholders, and, of course, the public notification and culminating in our decision.
- 1.7 Before setting out the details of the Plan Change, the submissions to it and our substantive evaluation, there are some procedural matters that we will address, beginning with our role as a Hearing Panel.

¹ PC38-43

² Delegated authority under s34A of the RMA, Council resolution dated 27 April 2023

³ Section 32 of the RMA sets out the requirements for preparing reports that evaluate the appropriateness of a plan change.

⁴ Section 32 Report, prepared by Taupō District Council, undated.

Role and report outline

- 1.8 Our role is to make a recommendation about the outcome of the Plan Change on the Council's behalf. The authority delegated to us by the Council includes all necessary powers under the RMA to hear and recommend on the submissions received on the Plan Change.
- 1.9 The purpose of this report as mentioned is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.
- 1.10 Having familiarised ourselves with the Plan Change and its associated background material, read all submissions, we hereby record our recommendation.
- 1.11 In this respect, our report is broadly organised into the following two parts:
- a. Factual context for the Plan Change:
This non-evaluative section (comprising **Section 2** in this report) is largely factual and contains an overview of the land subject to the Plan Change and an outline of the background to the Plan Change and the relevant sequence of events. It also outlines the main components of the Plan Change as notified. This background section provides the relevant context for considering the issues raised in submissions to the Plan Change. Here, we also briefly describe the submissions received to the Plan Change and provide a summary account of the post notification process itself and our subsequent deliberations. We also consider here various procedural matters associated with the submissions received.
 - b. Evaluation of key issues:
The second part of our report (comprising **Sections 3 to 5**) contains an assessment of the main issues raised in submissions to the Plan Change and, where relevant, amplification of the evidence/statements presented (in **Section 3**). We conclude with our decision (in **Section 5**), having had regard to the necessary statutory considerations that underpin our considerations (in **Section 4**). All these parts of the report are evaluative, and collectively record the substantive results of our deliberations.
- 1.12 This Recommendation Report contains the following appendices:
- a) **Appendix 1: Summary table of recommendations on each submission point.** For each submission point and further submission point we provide a recommendation as to whether it should be accepted or rejected.
 - b) **Appendix 2:** Recommended amendments to Plan Change 39 provision wording.

Comments on the parties' assistance to us

- 1.13 In advance of setting out the Plan Change context, we would like to record our appreciation at the manner in which the proceedings were conducted by all the parties taking part even though there was no need for a hearing.
- 1.14 The further information provided to us through Panel minutes assisted us in assessing and determining the issues, and in delivering our recommended decision.
- 1.15 These initial thoughts recorded, we now set out the factual background to the Plan Change.

2 PLAN CHANGE CONTEXT

Background

- 2.1 Proposed Plan Change 39 (**PC39**) to the Taupō District Plan was prepared and notified in accordance with Section 79 of the RMA, and the first part of Schedule 1 to review its District Plan every 10 years. The Act allows Council to review the District Plan in full or in sections. The Council decided to undertake the review of the District Plan in sections (i.e. a sectional district plan review).
- 2.2 As set out above in paragraph 1.2, **PC39** is one of six Plan Changes known as “Bundle One” to the Taupō District Plan.
- 2.3 **PC39** seeks to increase the percentage of maximum building coverage in the Residential Environment and Nukuhau General Residential Environment, from 30% to 35%. **Table 1** below identifies what parts of the Residential Environments are included and excluded from this Plan Change.

RESIDENTIAL ENVIRONMENT	INCLUDED IN THIS PLAN CHANGE
All properties in the district zoned Residential Environment (See the district plan map for more information).	✓
Nukuhau General Residential	✓
Kinloch Residential, Kinloch Low Density and Kinloch Rural Residential	✗
Low Density Residential	✗
High Density Residential	✗
Nukuhau Medium Density Residential	✗
Lake Ohakuri Development Zone	✗
Pukawa C Development Zone	✗
Neighbourhood shops	✗
Properties with site specific coverage requirements (i.e through consent notices)	✗

Table 1: The table above identifies what parts of the Residential Environment Chapter are included and excluded from this Plan Change

Operative District Plan (ODP)

- 2.4 The Residential Environment chapter has a suite of performance standards that manage bulk and location of buildings through Performance Standards and Development Controls for the Residential and Nukuhau General Residential Environments, of which building coverage is set at a maximum of 30%.
- 2.5 Other development standards in the Residential Environment chapter include plot ratio, total coverage, minimum setbacks, maximum height and height in relation to boundary standards. It is important to note that PC39 does not seek to change any other performance standard within the Residential Environment chapter.
- 2.6 There are also other residential environments namely, Kinloch Residential, Kinloch Low Density, Kinloch Rural Residential, Low Density Residential, High Density Residential, Nukuhau Medium Density Residential, Lake Ohakuri Development Zone, Pukawa C Development Zone and Neighbourhood shops that all provide building coverage standards. PC39 does not apply to these areas.

Other Proposed Plan Changes to the District Plan

- 2.7 As set out above in paragraph 1.2 and 2.2, **PC39** is one of six plan changes known as 'Bundle One' to the Taupō District Plan as part of a rolling review accordance with Section 79 of the RMA.
- 2.1 Each recommendation report for all six plan changes is essentially self-contained.
- 2.2 However, where there are matters that require integration across the plan changes, such as Plan Change 38: Strategic Directions, the Panel have been cognisant of these matters and have ensured that all of Bundle One Plan Changes align and are integrated with PC38 and are consistent with the wider resource management approach of the Operative District Plan and the sectional District Plan review process.
- 2.8 Where relevant, each report will record any integration and connectivity matters between the six plan changes.

Other Non-Statutory Documents

- 2.9 There are no non-statutory documents considered relevant to this Plan Change

Plan Change: Reasons, Purpose, and Evaluation Criteria

Context

- 2.3 Part 2 of the RMA's First Schedule sets out various requirements for plan changes such as PC39. Under clause 22, any plan change proposal must:
- explain in writing the purpose of, and reasons for, the proposed change;
 - contain the required evaluation under s32 of the Act; and
 - describe the anticipated environmental effects of the proposal in such detail that corresponds with the scale and significance of the effects.
- 2.4 Each of these are discussed further below, followed by a summary of the proposed Plan Change provisions.

Purpose and Reasons for the Plan Change

- 2.10 As notified, PC39 proposed to amend Performance Standard 4a1.1 of the Residential Environment, in relation to all properties in the district zoned Residential and Nukuhau General Residential Environments.
- 2.11 The background and rationale for PC39 is set out in the Section 32 Report.⁵ The key issues PC39 seeks to address are:
- 40% of all land use consents granted from 2014-2018 related to non-compliances exceeding the maximum building coverage of 30% within the residential environment
 - The majority of the land use consents sought and approved were for between 30% and 36% building coverage, with the most exceedances sought between 32-33%
 - In 2021, the most common exceedance sought consent were between 34% - 35%.⁶

⁵<https://www.taupodc.govt.nz/repository/libraries/id:25026fn3317q9slgygym/hierarchy/Council/Consultation/District%20Plan%20Changes%2038-43/Residential%20Coverage/S32/Plan%20Change%2039%20%E2%80%93%20Residential%20Coverage%20Section%2032%20Evaluation%20Report.pdf>

⁶ Section 32 Report, paragraph 2.3.2

- 2.12 The Council considered the assessment of consents sought for building coverage non-compliances and the percentage of building coverage that had been granted, and concluded that the 5% increase in permitted building coverage from 30% to 35% would not provide for a substantial amount of change in terms of building size relative to the size of the site, but enough change to allow landowners the ability to create space they require without additional costs and delays incurred through the resource consent process.
- 2.13 Again, we reiterate that no changes to any of the other bulk and location development standards such as site coverage or lot size, or any other areas/zones were sought as part of this plan change and that PC39 only applies to Residential and Nukuhau General Residential Environments.

Evaluations - Section 32 and 32AA Reports

- 2.14 Before notifying a proposed plan change, the Council is required to prepare an evaluation report in accordance with Section 32 of the Resource Management Act 1991.
- 2.15 The Section 32 Report (undated) did not include an evaluation of the objectives as there were no proposed objectives or amendments to objectives and stated that *"an assessment of the objectives against the Purpose of the Act was not required."*⁷
- 2.16 However, the Section 32 Report undertook an assessment of four options as follows:
- Option 1: Status quo
 - Option 2: Increase building coverage to 35%
 - Option 3: Increase building coverage to 40%
 - Option 4: Delete the standard for building coverage and rely instead on the 50% maximum total coverage.
- 2.17 An assessment of the four options in terms of "How effective are the provisions in achieving the objective" was provided although it was not clear what the objective the assessment related to.⁸
- 2.18 Option 2 was identified as the preferred option due to the Council's s32 evaluation finding that it *"will meet the objective as the proposed amendment is already accepted and evaluated as part of the Residential Area through granting of previous resource consents. Analysis of resource consent data has shown 35% as being the general level of non-compliance."*⁹
- 2.19 The s32 Report provided an assessment of the preferred option in relation to the environmental, economic, social and cultural costs and benefits.¹⁰
- 2.20 Overall, the s32 Report considered Option 2 to be the most appropriate option for the following reasons:

*"A 5% increase will balance the demand for extra space without significantly altering building coverage or having adverse effects on character or amenity. While the proposed change may not provide for a substantial amount of change in terms of building size relative to the size of the site, it allows more flexibility to create additional space without additional costs and delays incurred through the resource consent process."*¹¹

⁷ Section 32 Report, Section 3.3

⁸ Section 32 Report, Table 6

⁹ Section 32 Report, Option 2, Table 6

¹⁰ Section 32 Report, Section 3.4

¹¹ Section 32 Report, Section 4

Notification and submissions

- 2.24 The Plan Change was publicly notified on 14 October 2022. The closing date for submissions was 9 December 2022.
- 2.25 A total of 19 submissions were received by the Council with a total of 26 submission points.
- 2.26 A summary of submissions was prepared and subsequently notified for further submissions on 17 March 2023 with the closing date for receiving further submissions being 7 April 2023. No further submissions were received.
- 2.27 **Table 2** below provides a list of submitters to the proposed Plan Change, together with their broad positions. We provide a full summary of the submissions received in **Appendix 1**, including our decisions on the relief sought by each submitter.

Submissions		
Submission number	Submitter	Position
OS17.4	Jennifer MolloyHargraves	Support
OS24.1	Classic Builders Lakes District	Support
OS29.22 & .28	Waikato Regional Council	Support with amendments
OS36.1	Peter Hill	Support
OS38.2	Terry Palmer	Support
OS40.1-2	Tūwharetoa Settlement Trust	Support
OS55.1	Ryman Healthcare Limited	Support
OS61.2	McKenzie & Co	Support
OS63.5	Debs Morrison	Support
OS65.4	Richard Thompson	Support
OS79.1	Cheal Consultants	Support
OS98.11	Retirement Villages Association of New Zealand Incorporated	Support
OS115.16, 22 & 28	Te Kotahitanga o Ngāti Tūwharetoa	Amendment sought
OS2.1-3	Melvin Dinn	Amendment sought
OS46.1	Tukairangi Trust	Amendment sought
OS48.1	Linda Smeaton	Amendment sought
OS101.9	LWAG	Amendment sought
OS104.10	Kāinga Ora	Amendment sought
OS114.8	Taupō Climate Action Group	Amendment sought

Table 2: List of submitters to the Plan Change 39

- 2.28 Without taking away from the finer detail provided in the submissions, the matters raised in those submissions to the Plan Change fall into one of more of the following categories:
- General support for proposed provisions
 - Need to review lot sizes
 - Retention of green spaces and impermeable surfaces
 - Further increase in building coverage
 - Recognition of regional and national planning documents
 - Recognition of Te Kaupapa Kaitiaki and Te Tiriti
- 2.29 We discuss these issues (and the submissions underpinning them) in greater detail under our key issue evaluation in **Section 3** of this report below.

Panel directions and procedures

- 2.30 The Panel issued a minute (**Minute 1**)¹² to the parties to address various administrative and substantive matters in relation procedural matters for all six plan changes. This minute, and the others we issued through the course of the deliberations processes are available on Council's plan change website.¹³
- 2.31 Some minutes were in relation to all six plan changes of Bundle One and others related specifically to PC39.
- 2.32 The website contains a list and copies of all of the Panel's minutes on the six plan changes. The following Minutes are of general and/or specific relevance to PC39:
- a. Minute 1** (15.06.2023) – this covered:
 - i. Introduction of the hearings panel
 - ii. Procedural matters
 - iii. Date and venue of hearings
 - iv. Circulation dates for evidence before the hearing
 - v. Brief summary of the hearing process
 - vi. Panels approach to site visits
 - vii. Process for further communication and questions

 - b. Minute 2** (04.07.2023) – this covered:
 - i. Clarification on expert evidence and legal submissions;
 - ii. Process for next steps

 - c. Minute 4** (20.07.2023) – this covered:
 - i. Proposed hearing update, setting out that a hearing in person is not necessary for PC39 and PC41.

 - d. Minute 5** (26.07.2023) – this covered:
 - i. Confirmation that submitters were happy to forgo attendance at a hearing for PC39 and PC41

 - e. Minute 7** (01.08.2023) – this covered:
 - i. Confirmation that Panel will decide the outcomes of PC39 and PC41 'on the papers' and that a hearing will not be held
 - ii. Set out minor matters that the Panel sought a response from the s42A author in relation to:
 - Activity status for building coverage breaches
 - Reasonings behind expected increased in building coverage applications
 - Clarification on building coverage provisions in other residential zones
 - Confirmation of other bulk and location standards in relation to green space
 - Confirmation of the Waikato RPS PC1 status and weighting
 - An assessment of NPS-UD against PC39

¹² Minute 1 issued 15 June 2023

¹³<https://www.taupodc.govt.nz/council/consultation/taupo-district-plan-changes-38-43>

- An assessment of the objectives and policies in terms of a wiring diagram
- A date for this response was set for 16 August 2023

g. **Minute 13** (20.08.2023) – this covered:

- i. State of play of PC39 and PC41 setting out that the Panel had undertaken preliminary deliberations
- ii. Rescheduling of hearings for PC40 and PC43

h. **Minute 16** (28.08.2023) – this covered:

- i. An update on the response to Minute 7 for PC39
- ii. Other procedural matters relating to PC38, PC40, PC41 and PC42.

2.33 **Minute 16** signalled that we considered we were in receipt of sufficient information to allow us to commence deliberations. Accordingly, we closed the 'hearing'. In the lead up to the Panel's deliberations, the following reports and evidence were available to the Panel:¹⁴

- a. Overarching s42A officer's report for Plan Changes 38-42, prepared by Council Planner, Hilary Samuel, dated 3 July 2023
- b. S42A officer's report for Plan Change 39, prepared by Consultant Planner, Rowan Sapsford, dated 3 July 2023
- c. Response to Panel's Minute 7 from Rowan Sapsford, dated 15 August 2023

2.34 There were no site visits undertaken as the Panel did not deem this necessary.

Decision not to hold a hearing

2.35 A hearing for PC39 was originally scheduled for Friday 28 July 2023. Although there were nineteen original submitters, of which some of these submitters requested to be heard at the hearing at the time of lodging their submission, the Council liaised with these submitters, to confirm whether their request to present to the hearing was still required. Furthermore, with the release of the Section 42A report it enabled submitters to see how their submissions had been addressed.

2.36 As a result, all the submitters consequently confirmed they were happy to forgo their actual attendance at a hearing, however, all submitters were given the opportunity to table a written statement in support of their submission. One submitter¹⁵ provided a statement for the Panel's consideration.

2.37 The Panel confirmed that the outcome of PC39 would therefore be decided 'on the papers' in **Minute 4**.¹⁶ The Panel carried out their final deliberations on 14th September 2023.

¹⁴ As set out in the relevant Minutes 1, 2, 7 and 8

¹⁵ Letter from Taupō Climate Action Group, undated.

¹⁶ Minute 4, dated 20 July 2023

3 EVALUATION

Overview/Context

- 3.1 For the purpose of this evaluation, we have grouped our discussion based on common topic matters raised by submitters rather than assessing each issue on a submitter-by-submitter basis. Our decision should be read in conjunction with the s42A report¹⁷ which addresses all the submissions and further submissions received on PC39.
- 3.2 As set out in paragraphs 2.35-2.37 above, submitters confirmed that they did not seek to be heard and therefore the Panel did not consider that a hearing was necessary. Accordingly, we carried out our deliberations 'on the papers'.
- 3.3 However, in response to particular matters raised by some submitters¹⁸ and reviewing the s42A Report, the Panel was prompted to request clarification on several matters and therefore further questions and analysis were sought of the s42A author, Mr Sapsford, which were set out in detail in **Minute 7**.¹⁹
- 3.4 The response²⁰ to **Minute 7** was provided by Mr Sapsford within the timeframe required. That response was useful in allowing us to determine the scale of issues raised by submitters and ultimately we were satisfied that sufficient information had been provided to carry out our deliberations in order to make a sound recommendation on PC39.
- 3.5 The following key themes/issues were raised by submitters and we provide our evaluation in further detail in relation to each of these issues below:
- **Issue 1: Lot Sizes**
 - **Issue 2: Retention of Green Spaces and Impermeable Surfaces**
 - **Issue 3: Further Increase in Coverage**
 - **Issue 4: Recognition of Regional and National Planning Direction**
 - **Issue 5: Recognition of Te Kaupapa Kaitiaki and Te Tiriti**
- 3.6 Our assessment on the questions and further assessment sought in **Minute 7** are detailed under each of the relevant Issues below.

Issue 1: Lot Sizes

- 3.7 One submitter²¹ sought amendments to lot sizes as part of PC39.
- 3.8 Mr Sapsford canvassed this matter in his s42A Report stating that this matter was out of scope of the notified plan change given that PC39 only seeks to amend building coverage and not lot size. Furthermore, Mr Sapsford highlighted that the TDP already provides for a variety of lot sizes and therefore the concerns raised by the submitter are already provided for by the TDP.²²
- 3.9 We accept and adopt the s42A Report assessment to reject this submission.²³

¹⁷ S42A Report, prepared by Rowan Sapsford, dated 3 July 2023

¹⁸ Melvin Dinn (OS2.1, OS2.2 and OS2.3), Tukairangi Trust (OS46.1), LWAG (OS101.9) and the Taupō Climate Action Group (OS114.8), Kainga Ora (OS104.10)

¹⁹ Minute 7 dated 1 August 2023

²⁰ Response to Minute 7 by Rowan Sapsford, dated 15 August 2023

²¹ Melvin Dinn (OS2.1, OS2.2 and OS2.3)

²² S42A Report, section 4.2, page 9, dated 3 July 2023

²³ Melvin Dinn (OS2.1, OS2.2 and OS2.3)

Issue 2: Retention of Green Spaces and Impermeable Surfaces

- 3.10 This matter was the subject of our further information direction set out in **Minute 7**,²⁴ which arose from submitters²⁵ who were concerned that the increase of building coverage would lead to an inappropriate increase in impermeable surfaces within the Residential Environment and within the Lake Taupō catchment.
- 3.11 In response to these submitter' concerns, the Panel sought clarification from Mr Sapsford as to whether there is any standard (such as the stormwater standard - 4a.1.23) in the District Plan rules that controls the minimum amount of green space on an allotment or whether there are any bulk and location standards that control the minimum amount of green space for each site in the Residential Environment.²⁶
- 3.12 Mr Sapsford's response confirmed that there are no such standards that require green space however, there is a stormwater standard 4a.1.23.i that requires all stormwater from buildings and impermeable surfaces to be disposed of onsite to meet a 10 year return period of 1 hour duration (45mm).²⁷
- 3.13 Furthermore, Mr Sapsford reiterated that the existing total coverage rule (4a.1.3) will remain capped at 50% and therefore any proposed increase in Building Coverage enabled by the plan change would not result in an increase in the Total Coverage of a residential site. Mr Sapsford usefully provided a table illustrating different site size scenarios to show the resultant building coverage area and total site coverage under the existing and proposed provisions.²⁸
- 3.14 The Panel carried out further analysis on Mr Sapsford's table (Refer **Table 3** below) comparing the existing and proposed building coverage standard in relation to the total site coverage standard.

Property Size	30% Building Coverage		35% Building Coverage		Panel's assessment - Difference in coverage	
	Maximum Permitted Building Coverage	Maximum Permitted Total Coverage	Maximum Permitted Building Coverage	Maximum Permitted Total Coverage	Increase in Permitted Building Coverage	Difference in Permitted Total Coverage as a result of PC39
900m ²	270m ²	450m ²	315m ²	450m ²	+ 45m ²	0
600m ²	180m ²	300m ²	210m ²	300m ²	+ 30m ²	0
400m ²	120m ²	200m ²	140m ²	200m ²	+ 20m ²	0

Table 3: Analysis of building and total site coverage provisions – existing and proposed

- 3.15 As the far-right column of **Table 3** above shows, there will be no change in the total permitted site coverage as a result of PC39 given the maximum permitted total coverage standard will remain at 50%. Although there is an increase in the permitted building coverage under the plan change, because it is a percentage control the proportion of a site occupied by a building will always be commensurate with the lot size.
- 3.16 The Taupō Climate Action Group²⁹ tabled a statement in lieu of hearing attendance which stated that "*given that these key standards remain, we are comfortable that the proposed increase in the residential coverage from 30% to 35% will not lead to increased adverse flooding events*" concluding that "*We therefore support the increase residential building coverage, as it will help reduce housing costs by requiring fewer resource consent applications and may enable more efficient use of existing infrastructure in currently*

²⁴ Minute 7 dated 1 August 2023

²⁵ Tukairangi Trust (OS46.1), LWAG (OS101.9) and the Taupō Climate Action Group (OS114.8)

²⁶ Minute 7, paragraph 7e, dated 1 August 2023

²⁷ Response to Minute 7, prepared by Rowan Sapsford, page 4, dated 15 August 2023

²⁸ Response to Minute 7, prepared by Rowan Sapsford, section 7f. page 5, dated 15 August 2023

²⁹ Submission OS114.8)

*developed areas, with reduced commuting distances rather than greenfield developments.*³⁰

- 3.17 Therefore, on the basis of the scenario analysis provided by Mr Sapsford and the further support of the submitter (Taupō Climate Action Group), we are satisfied that PC39 will not materially alter the potential to provide for greenspace on residential sites and nor will it result in any improper proportion of impermeable surfaces on residential sites such that there would be the creation of adverse effects from flooding.

Issue 3: Further Increase in Coverage

- 3.18 One submitter³¹ sought an increased building coverage to 40%, citing that “*40% is a more appropriate threshold, as this would provide for more development potential on a site, housing typology option and is more efficient use of land.*”³²
- 3.19 In contemplating this submission, the Panel posed two questions:
- a. whether there is sufficient evidence to support the coverage being set at 35%; and
 - b. whether other zones provide for higher coverage to provide for greater development potential and housing typology that is being sought by the submitter³³.
- 3.20 In doing so, in **Minute 7**³⁴ the Panel posed these questions regarding past resource consents for the breach of building coverage and whether there were other variations of building coverage for the other residential zones.
- 3.21 In respect of question a. above, Mr Sapsford’s response to **Minute 7**, reiterated the past trends of consent data of s42A and s32 Reports, highlighting that “*the data illustrates that TDC continues to receive applications for residential development with a Building Coverage which is greater than 30%*”³⁵, with the data from consents for building coverage non-compliance in 2021 showing that the majority of consents sought (and granted) were for building coverage of 35%.³⁶
- 3.22 With respect to question b. Mr Sapsford’s response provided a table illustrating the different Maximum Building Coverage of the other nine Residential Zones in the TDP, with three other zones, being the High Density Residential, Neighbourhood Shops and Nukuhau Medium Density Residential, which provide for 50-55% coverage.³⁷
- 3.23 On the basis that higher building coverage is provided for in more appropriate residential zones within the TDP, as set out in paragraph 3.22 above, we are satisfied that the request of the submitter³⁸ seeking higher building coverage, is already provided for within the TDP High Density Residential, Neighbourhood Shops and Nukuhau Medium Density Residential zones. Therefore, we accept and adopt the recommendations in the s42A Report in relation to this issue and reject this submission.³⁹

³⁰ Letter from Taupō Climate Action Group, undated

³¹ Kainga Ora (OS104.10)

³² Kainga Ora (OS104.10), Appendix 1, page 4, dated 8th December 2022

³³ Kainga Ora (OS104.10)

³⁴ Minute 7, paragraph 7d, dated 1 August 2023

³⁵ Response to Minute 7 prepared by Rowan Sapsford, para 7.3, page 3, dated 15 August 2023

³⁶ S42A Report, Figure 3, page 6, dated 3 July 2023

³⁷ Response to Minute 7, page 3-4, dated 15 August 2023

³⁸ Kainga Ora (OS104.10)

³⁹ Kainga Ora (OS104.10)

Issue 4: Recognition of Regional and National Planning Direction

- 3.24 Two submitters⁴⁰ sought assurances that PC39 gave regard to Plan Change 1 to the Waikato Regional Policy Statement (**WRPS PC1**) and reflected the wording of the National and Built Environment (NBE) and Spatial Planning (SP) Bills.⁴¹
- 3.25 In light of these submissions, the Panel asked the following two questions contained in **Minute 7**.
- a. Could you provide an update as to where PC1 to the Waikato RPS is in the process – is it fully operative? And if not, how much weight should be attributed to it?
 - b. Do you consider that PC39 gives effect to the NPS-UD? How?⁴²
- 3.26 In respect to question a. above, we accept Mr Sapsford’s assessment contained in his s42A report⁴³ and his response to Minute 7, that **WRPS PC1** has not had decisions issued as yet and therefore has limited weight but that in any event PC39 is consistent with the provisions it seeks to introduce into the RPS.
- 3.27 In respect to question b. above, Mr Sapsford provided a full analysis of the relevant policies and objectives of the NPS-UD, noting that Taupō District is an NPS-UD Tier 3 local authority which is a relevant factor in identifying what provisions are directly relevant to PC39.⁴⁴
- 3.28 We accept and adopt his findings on this matter that conclude PC39 gives effect to NPS-UD to the extent the scope of the plan change allows.
- 3.29 Further assessment is also made in **Section 4**, paragraphs 4.17-4.20 below with respect to the relevant Regional Policy Statements.

Issue 5: Recognition of Te Kaupapa Kaitiaki and Te Tiriti

- 3.30 One submitter⁴⁵ sought that the proposed plan changes have additional provisions added that recognise and provide for the vision, objectives, values, and desired outcomes in Te Kaupapa Kaitiaki and the principles of Te Tiriti.⁴⁶
- 3.31 We accept and adopt the s42A Report assessment of this matter, in particular that the Stormwater (4a.1.23) and Total Coverage (4a.1.3) standards will remain the same and therefore PC39 is not anticipated to impact on the Taupō catchment. Furthermore, we were advised that iwi were engaged with during the development of PC39, with no specific feedback given.
- 3.32 Therefore, we consider that PC39 is not inconsistent with the principles of Te Kaupapa Kaitiaki and Te Tiriti.

Summary of the issues

- 3.33 Overall, and based on the forgoing analysis and findings, we conclude that the plan change to alter building coverage in selected residential zones from 30% to 35%:
- a. will not have any impact on lot sizes (**Issue 1**)

⁴⁰Waikato Regional Council (OS29.22) and Te Kotahitanga o Ngāti Tūwharetoa (OS115.28)

⁴¹ S42A Report, section 4.5, page 11, dated 3 July 2023

⁴² Minute 7, paragraph 7g. and h, dated 1 August 2023

⁴³ S42A Report, section 4.5, paragraph 56, page 11, dated 3 July 2023

⁴⁴ Response to Minute 7 prepared by Rowan Sapsford, para7h, page 6, dated 15 August 2023

⁴⁵Te Kotahitanga o Ngāti Tūwharetoa (OS115)

⁴⁶ S42A Report, section 4.6, page 12, dated 3 July 2023

- b. in terms of impermeable surfaces and green space provision, will not increase building coverage or reduce green space provision such that they are not commensurate with the total size of each site (**Issues 2 and 3**):
 - c. will appropriately recognise and give effect to the relevant Regional and National planning directions (**Issue 4**):
 - d. will give appropriate recognition and effect to Te Kaupapa Kaitiaki and Te Tiriti to the extent that these are relevant (**Issue 5**).
- 3.34 Overall, and from an 'issues' perspective, we conclude that PC39 is an appropriate response in terms of section 32 of the RMA. We now turn to our checklist of the proposal against the wider statutory requirements of the RMA.

4 STATUTORY CONSIDERATIONS

Summary of statutory requirements

- 4.1 The statutory requirements for the preparation and consideration of the contents of a District Plan are set out in s31, 32, and 72-77D of the RMA.
- 4.2 In *Colonial Vineyard Ltd v Marlborough District Council*,⁵ the Environment Court updated the framework of matters to be evaluated when preparing a plan, albeit by reference to the version of the RMA that applied prior to 3 December 2013. The RMA has been amended a number of times since that date, the most relevant for our purposes being the substantial rewriting of s32 and the introduction of s32AA and the National Planning Standard. Other minor amendments to words and phrases have also been made.
- 4.3 In these circumstances we prefer to set out the statutory requirements that we consider apply specifically to the preparation and consideration of PC39, drawing on *Colonial Vineyard*, where it is appropriate to do so, but supplementing as necessary where amendments have been made.

Part 2 of the RMA

- 4.4 The Act's purpose and principles are set out in Part 2 of the Act. Section 5 explains that the Act's purpose is to promote the sustainable management of natural and physical resources.
- 4.5 The Panel does not consider there a need to revert to Part 2 in order to determine this Plan Change, given there are no changes proposed to the relevant objectives and policies in the Plans.
- 4.6 PC39 was competently prepared with express assessment and implementation of the matters in Part 2.
- 4.7 Furthermore, there was no evidence before us to suggest there are areas of invalidity, incomplete coverage or uncertainty in the Plans or intervening statutory documents such that any detailed evaluation of Part 2 is required.

Council's function and purpose of PC39

- 4.8 The Council has extensive functions under s31 of the RMA for the purpose of giving effect to the Act's sustainable management purpose, as follows:
 - a. The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use,

development, or protection of land and associated natural and physical resources of the district (section 31(1)(a)).

- b. The establishment, implementation, and review of objectives, policies and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district (section 31(1)(aa)).
- c. The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of - (i) the avoidance or mitigation of natural hazards; and (ii) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land: (iii) the maintenance of indigenous biodiversity: (d) the control of the emission of noise and mitigation of the effects of noise: (e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes: (f) any other functions specified in this Act (section 31(1)(b)).
- d. The methods used to carry out any functions under subsection (1) may include the control of subdivision (section 31(2)).

4.9 The purpose of PC39 – to enable a slight increase in site coverage for buildings in nominated residential zones - is to assist the Council in carrying out the above functions in order to achieve the purpose of the Act. For completeness, the other Plan Changes of Bundle One fulfil the same functions.

Relevant Policy Considerations

4.10 We have also given consideration to PC39 consistency with Section 75(1) of the RMA, which requires a District Plan to state the objectives for the district, any policies to implement the objectives, and the rules (if any) to implement the policies. We accept and adopt Mr Sapsford's s42A assessment that PC39 offers a clear connection between resource management issues that have been identified, the policies to address those issues, and the rules to implement the policies.

4.11 As set out in paragraph 2.4-2.6 above, the Panel has been mindful through the post notification process to ensure that PC39 is consistent with the wider resource management approach of the Operative District Plan and the sectional District Plan review process, including the other Plan Changes of 'Bundle One'.

National Policy Statements

4.12 When Bundle One Plan Changes were notified on 14 October 2022, the following National Policy Statements (NPSs) were in force:

- NPS for Renewable Electricity Generation 2011;
- New Zealand Coastal Policy Statement 2010;
- NPS on Electricity Transmission 2008; and
- NPS for Freshwater Management 2020;
- NPS on Urban Development 2020

4.11 By virtue of s75(3) of the RMA, PC39 is required to give effect to the provisions of these documents, where relevant.

4.12 In the period between the close of submissions and the commencement of hearings of the Bundle One Plan Changes 2023, three days after the Plan Changes were notified, a new NPS for Highly Productive Land (**NPS-HPL**) came into force on 17 October 2022.

4.13 However, we consider that **NPS-HPL** does not have any relevance to PC39.

4.14 We consider that the NPS on Urban Development 2020 (**NPS-UD**) is the only directly relevant NPS to PC39. We consider the following objectives and policies of the NPS-UD relevant to PC39. We accept and adopt the s32 assessment that there are no other relevant NPS's in relation to PC39.⁴⁷

- Objective 1
- Objective 2
- Objective 4
- Policy 1(f)
- Policy 5(b)
- Policy 6(i)

4.15 The Panel raised this matter in **Minute 7**,⁴⁸ and posed the question "Do you consider that PC39 gives effect to the NPS-UD, how?" Mr Sapsford provided a response to this question, which agreed with the initial 32A assessment stating that PC39 is in accordance with Objectives 1 and 2 of NPS-UD but also considered that Objective 4, Policy 1(f), Policy 5(b) and Policy 6 (f) are also relevant.⁴⁹ Mr Sapsford stated that increased coverage provides for greater density of development and provides for an increase in greater housing demand and therefore gives effect to the NPS-UD.

4.16 We therefore accept both his responses to **Minute 7**, alongside the initial s32 assessment that PC39 gives effect to **NPS-UD** by enabling a variety of homes that meet the needs, in terms of type, price, and location, of different households. We also find that PC39 is responding to the changing housing needs of the community while enabling an efficient use of the urban land resource in accordance with Policy 1 of the NPS-UD.⁵⁰

The Regional Policy Statements

4.17 As with the NPS's, the Regional Policy Statements (**RPS**) must be given effect to by PC39. We acknowledge that there is a level of complexity in relation to the RPS given that there are four relevant RPS's in relation to the six Plan Changes as follows:

- Waikato Regional Policy Statement
- Horizons Regional Policy Statement
- Bay of Plenty Regional Policy Statement
- Hawkes Bay Regional Policy Statement

4.18 However, we accept the findings of the s32 and s42A reports in relation to the relevant **RPS** in terms of the following objective and policies of the Waikato Regional Policy Statement:

- Objective 3.10: Sustainable and efficient use of resources
- Objective 3.12(h) Built Development
- Objective 3.21 Amenity
- Policy 6.1 Planned and co-ordinated subdivision, use and development
- Policy 6.11 Implementing Taupo District 2050
- Policy 6A General development principles

4.19 As set out above in paragraphs 3.24-3.29 above under **Issue 4**, there is limited relevance to the relevant RPS given the narrow scope of PC39. Furthermore, no further evidence was lodged in respect to this issue.⁵¹

4.20 Overall, we consider that PC39 adequately gives effect to the Waikato RPS as set out above in paragraph 4.18.

⁴⁷ Section 32 Report, Section 2.1.3, undated.

⁴⁸ Minute 7, dated 1 August 2023

⁴⁹ Response to Minute 7, dated 15 August 2023

⁵⁰ Section 32 Report, Section 2.1.1, undated.

⁵¹ S42A Report, section 4.5, page 11, dated 3 July 2023

National Environmental Standards

- 4.21 There are nine National Environmental Standards (**NES**) currently in force:
- NES for Storing Tyres Outdoors 2021;
 - NES for Freshwater 2020;
 - NES for Marine Aquaculture 2020;
 - NES for Plantation Forestry 2017;
 - NES for Telecommunication Facilities 2016;
 - NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
 - NES for Electricity Transmission Activities 2009;
 - NES for Sources of Human Drinking Water 2007; and
 - NES for Air Quality 2004.
- 4.22 Each of these documents provides for nationally consistent management of the respective topics to which the standards relate and include technical standards and other methods. These standards will usually override provisions in a district or regional plan; however, the Act enables provisions in a plan or a resource consent to prevail in relation to certain uses and where expressly enabled by a particular NES.
- 4.23 Although no assessment in relation to any of the National Environmental Standards were made in either the s32 or s42A assessment, the Panel are satisfied that given there were no submissions or evidence presented to the contrary, we consider that there is no relevant **NES** in respect of PC39.

Other statutory considerations

- 4.24 The requirement under s74 of the RMA to give regard to matters when preparing a plan extends beyond those documents referred to above to include:
- a. national planning standards;
 - b. management plans and strategies prepared under other Acts;
 - c. relevant entries on the New Zealand Heritage List / Rārangī Kōrero;
 - d. the plans or proposed plans of adjacent territorial authorities; and
 - e. iwi management plans.
- 4.25 The Council has demonstrated its regard to these matters in preparing PC39 and the s42A Report of the RMA has specifically detailed relevant information relating to s74 matters, and the Panel has also had regard to the relevant matters to the extent relevant to our role.
- 4.26 The purpose of the first set of National Planning Standards that came into force in 2019 is to improve the efficiency and effectiveness of New Zealand's planning system by providing a nationally consistent structure, format, definitions, noise and vibration metrics and electronic functionality and accessibility for district and other RMA plans.
- 4.27 Within the Taupō District there are the following iwi management plans:
- Central North Island Forests Iwi Collective (CNI) He Mahere Pūtahitanga (2018)
 - Te Arawa River Iwi Trust (TARIT) Environmental Management Plan (2021)
 - Ngāti Tūwharetoa Environmental Iwi Management Plan (EIMP) (2003)
 - Ngāti Tahu - Ngāti Whāoa Iwi Environmental Management Plan (IEMP): Rising above the mist - Te aranga ake i te taimahatanga (2019)
 - Raukawa Environmental Management Plan: Te Rautaki Taiao a Raukawa (2015)

- 4.28 The s32 and s42A reports for PC39 sets out the analysis of how each of the Iwi Management Plans have been taken into account and we accept and adopt that PC39 is consistent with the iwi management plans listed above in paragraph 4.27.⁵²

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

- 4.29 The Government has recently amended the RMA to oblige Councils to introduce medium density residential standards (MDRS) into their district plans, as a means to give effect to the NPS-UD.
- 4.30 As a 'Tier 3' local authority, TDC is not required to introduce the MDRS. However, the Taupō township is considered an 'urban environment'⁵³ which is relevant to PC39. As set out above in paragraphs 4.12-4.16, a further assessment was provided on the NPS-UD through Mr Sapsford's response to **Minute 7** and we accept and adopt this assessment.⁵⁴

Summary of Statutory Requirements

- 4.31 Overall, we accept and adopt the s32, s42A assessments and additional response to **Minute 7**, that PC39 is consistent with the policy framework of the NPS-UD, RPS, iwi management plans and the Resource Management Amendment Act.

⁵² Section 32 Report, Section 2.15 and 2.5.1, undated, Section 42A Report, para 63, page 12, dated 3 July 2023

⁵³ NPS-UD Section 1.4 Interpretation

⁵⁴ Response to Minute 7 of the Independent Hearing Panel, prepared by Mr Sapsford, dated 15 August 2023

5 CONCLUSION

- 5.1 For the reasons summarised above, we recommend the adoption of the proposed increase in building coverage from 30% to 35% as proposed by PC39. We do not recommend any changes to the provisions as notified.
- 5.2 Overall, we find that these changes will ensure the PC39 to be the most appropriate means of achieving the purpose of the Act. We also find that it better balances the demand for increased housing choice without resulting in adverse effects on character, amenity or the environment and is consistent with the Council's statutory functions under s31 of the RMA.
- 5.3 Our recommended decisions in terms of the acceptance or rejection of submissions are shown in **Appendix 1**.
- 5.4 **Appendix 2** contains the amended provisions as notified and recommended by the Panel.

DATED THIS 31st DAY OF OCTOBER 2023



DJ McMahon
Chair



EA Burge
Independent Commissioner



YJ Westermann
Councillor

Appendix 1: Summary table of Panel recommendations on each submission point

Appendix 2 – Provisions as recommended by the Panel.