

Taupō District Council

Proposed Plan Change 'Bundle One' incorporating:

- **PLAN CHANGE 38: Strategic Objectives**
- **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 Environments**

to the

Taupō District Council in relation to:

Recommendation of the Hearings Panel

Index Report

Introduction, Procedural Matters and Report Format

30 April 2024

This report contains an explanation of how the recommendations have been presented in **Recommendation Reports 2 to 7**. It does not contain any recommendations per se.

The Hearings Panel for the purposes of hearing submissions and further submissions on all the Proposed Plan Changes comprised Commissioner David McMahon (Chair), Commissioners Elizabeth Burge, Councillor Yvonne Westerman and Councillor Kevin Taylor

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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 Direction
"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

Index Report

Introduction, Procedural Matters and Report Format

1 Introduction

Report outline and approach

- 1.1 This Index Report has been prepared by the Hearings Panel appointed to hear and make recommendations with respect to submissions on Plan Change 'Bundle One' to the Operative Taupō District Plan (**TDP**), which consists of six separate Plan Changes, in relation to the following:
- Plan Change 39: Residential Building Coverage (**Report 1**)
 - Plan Change 38: Strategic Direction (**Report 2**)
 - Plan Change 40: Taupō Town Centre (**Report 3**)
 - Plan Change 41: Removal of Fault Lines (**Report 4**)
 - Plan Change 42: General Rural and Rural Lifestyle Environments (**Report 5**)
 - Plan Change 43: Taupō Industrial Land (**Report 6**)
- 1.2 The **Index Report** is a generic report that is common and relevant to five of the six individual Plan Change reports (**Reports 2-6**). It should be read in conjunction with each subsequent recommendation report. For completeness, it is noted that the Hearings Panel completed and released **Report 1** on Plan Change 39: Residential Building Coverage on 31 October 2023. At the Council meeting on 28 November 2023, elected members approved the notification of the decision on the plan change, as recommended by an independent hearing panel. The panel recommended the plan change be approved unchanged.
- 1.3 As Plan Change 39 was discrete in its changes, the Council decision was released before the other plan changes to allow the benefits to take effect as soon as possible. It is noted that the Council team is planning on looking at a full review of the residential chapter as one of the next steps in keeping the District Plan current. Further details can be obtained by emailing the Council at: districtplan@taupo.govt.nz
- 1.4 The remaining five plan changes are being released together in the first quarter of 2024 and this introductory generic index report is relevant to each of those five plan changes.
- 1.5 The report does not include any recommendations of the Panel. Rather it:
- a. records several background and procedural matters of relevance to our recommendations;
 - b. describes the statutory framework for our consideration of the Bundle One Plan Change provisions and matters raised in submissions¹ and our reporting thereon;
 - c. provides a guide to the format and approach adopted for each of the subsequent recommendation reports; and
 - d. records some general comments regarding Bundle One Plan Changes as a whole.

- 1.6 The material in this report is largely factual and provides context that each of the subsequent recommendation reports draw upon. Our aim in centralising these contextual matters within this introductory report is to avoid duplication of the same common material in the subsequent recommendation reports. To that same end, readers of the subsequent recommendation reports on each of the five plan changes should have regard to this report.
- 1.7 In some instances, there are cross references between **Reports 2-6**, which we will signal within the relevant reports and in these instances, those reports should also be read in conjunction with each other.

2 Procedural matters

Matters considered in this section

- 2.1 This section of the report addresses various matters of process and procedure leading up to the completion of the hearings. Specifically, the matters we address here are a description of:
- a. our role and the purpose of our reports;
 - b. the background to the Proposed Plan Changes 'Bundle One';
 - c. the hearing streams and the specific Plan Changes they addressed;
 - d. procedural matters arising during the course of the hearings.
- 2.2 Much of the information relating to submissions and further submissions is contained in the relevant s42A Reports prepared by Council officers. Accordingly, we only provide a brief summary here of the submission process and rely on the s42A Reports, where the details of individual submissions and further submissions are concerned.

The Panel's role and the purpose of reports

- 2.3 We were appointed as Hearings Panel members by Council on 27 April 2023.¹ Our delegation included all necessary powers under the RMA² to hear the submissions made on the 'Bundle One' Plan Changes² and to make recommendations to the Council on the provisions contained within each of the Plan Change on all matters raised in those submissions to each relevant Plan Change.³
- 2.4 The purpose of this report and the subsequent reports relating to each of the Plan Changes included in 'Bundle One' is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.

Background to 'Bundle One' Plan Changes

- 2.5 In accordance with Section 74 of the RMA, and the first part of Schedule 1, a Council is required to commence a review of each provision in its District Plan no later than 10 years after the provision was made operative. 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).
- 2.6 In 2018 the Council initiated a comprehensive District Plan review of the Taupō District Plan (**TDP**), that was made operative in 2007. The review initial commenced with a desktop review of the Natural Values sections of the plan, updating fault lines, initiating consultation on the rural chapter and commencing iwi engagement.³
- 2.7 However, in 2021, Council agreed to change the approach from a comprehensive review of the **TDP** to a more refined series of plan changes in the context of wider statutory reform and moving to a regional planning model under the Natural Built Environment Act (**NBA**). Council recommended that six plan changes were selected as part of the first "bundle" of revisions to Operative District Plan (**ODP**).

¹ Delegated authority under s34A of the RMA, Council resolution dated 27 April 2023

² PC38-43

³ Overarching Section S42A Report, page 3, dated June 2023

2.8 "Bundle One" included the following Plan Change topics:

- a. PC38: Strategic Directions
- b. PC39: Residential Building Coverage
- c. PC40: Taupō Town Centre Environment
- d. PC41: Fault lines removal
- e. PC42: General Rural and Rural Lifestyle Environments
- f. PC43: Taupō Industrial Rezoning

2.9 Council commencement "Bundle One" of the above six plan changes in July 2021. Pre-consultation and key stakeholder engagement was undertaken in early 2022. All Bundle One Plan Changes were publicly notified on 14 October – 9 December 2022.

2.10 Although these Plan Changes were developed as a 'bundle' they have each been carried out separately in accordance with Section 74 of the RMA, and the first part of Schedule 1. As such, each of the Plan Changes has been heard separately.

2.11 A total of 476 submissions were received by the closing date of 13 June 2022. A summary of submissions was notified on 17 March 2023. The period for making further submissions closed on 7 April 2023.

2.12 **Table 1** below shows the breakdown of submissions and further submissions on each of the Plan Changes.

Plan Change	Number of Submissions Received	Number of Further Submissions Received
PC38	38	17
PC39	19	0
PC40	17	1
PC41	11	4
PC42	97	27
PC43	19	6
Total	201	55

Table 1: Submissions and Further Submission numbers received on Bundle One Plan Changes.

Clause 16(2) Amendments

2.13 Several minor errors in Plan Change 38 (Strategic Directions) and Plan Change 40 (Taupō Town Centre) were picked up during the notification process. Council staff corrected these under staff delegation as allowed for by clause 16(2) of the First Schedule of the Resource Management Act 1991) and were therefore not re-notified.

2.14 The corrections related to:

- a. Minor corrections to the Te Reo section within the Strategic Directions (PC38), this included corrections in capital letters, macrons and spelling.
- b. Change in a layer on two maps within the Taupō Town Centre Plan Change (PC40). The wrong town centre environment base layer was used on this map.

¹ Unless stated otherwise the term "submissions" refers to both primary submissions and further submissions.

² Under s34A(1), RMA

³ Cl 10, Sch 1, RMA

The hearings

- 2.15 Hearings on submissions and further submissions for “Bundle One” Plan Changes were held between 17-August and 12 September 2023. The Hearings were conducted at the Suncourt Hotel and Conference Centre, Taupō. Online attendance was provided for those that could not attend in person and a livestream of the hearing was also provided.
- 2.16 Plan Change 39: Residential Building Coverage and Plan Change 41: Deletion of Fault Line were considered by the Panel, ‘on the papers’ with confirmation from the Council and submitters who were all happy to forgo the need to be heard in person and therefore no hearing was held for these two plan changes.
- 2.17 **Table 2** below provides a summary of the hearing, and the dates each was conducted in relation to each of the Plan Changes.

Hearing	Plan Change	Dates
1	PC 38: Strategic Direction	17- 18 August 2023
2	PC 42: General Rural and Rural Lifestyle Environments	21-25 August 2023
3	PC 40 & PC43	11-12 September 2023
4	PC39 and 41	N/A (refer paragraph 2.15)

Table 2: Summary of Hearings

- 2.18 As we set out in further detail below, individual recommendation reports have been prepared for each of the Plan Changes in relation to the hearings. The hearings were organised to facilitate an efficient hearing process, whereas our recommendation reports are focused squarely on topics. In Section 4 of this report, we provide an outline of each recommendation report by topic.
- 2.19 Each recommendation report contains an ‘Appendix 1’, which comprise schedules of attendances for the hearing on the respective topic. We refer to those parties throughout the recommendation reports where relevant. Evidence tabled during the course of the hearings is also referred to in the relevant recommendation report, where it is particularly germane to our subsequent recommendations. All hearings were recorded and can also be accessed via the relevant webpage.
- 2.20 As part of the management of the hearing process, the Panel has issued a series of procedural minutes, as set out in **Table 3**. Each minute served a different purpose, but in broad terms, they:
- set out procedures to be followed by the parties in preparing their evidence and in readiness for their attendance at the hearings;
 - sought advice from various parties on legal and/or other substantive matters relevant to a given hearing topic;

- c. commissioned further assessment to assist our deliberations and reporting, and provided procedures for parties to receive and respond to those assessments;
- d. made provision for expert conferencing on various matters to narrow and articulate matters in contention, and to assist our deliberations and reporting; and
- e. resolved various administrative matters arising over the course of proceedings, including (for example) the granting of waivers and time extensions for receiving information.

Minute #	Summary	Relevant PC	Date
1	Draft hearing procedures, hearing procedures conference, hearing process and site visits	All	15 June 2023
2	Scheduling of evidence and hearing stream dates	All	4 July 2023
3	Extension of time for evidence for PC43	PC43	12 July 2023
4	Cancellation of hearings for PC 39 and 41. Notification that decision will be made 'on the papers'	PC39 and PC 41	20 July 2023
5	Hearing schedule and clarification on experience evidence requirements and expert planning evidence requirements.	PC 38, 40, 42 and 43	26 July 2023
6	Panel response to memorandum received by submitter and direction for Council to provide legal opinion, conferencing between submitter and Council and supplementary planning assessment.	PC42	27 July 2023
7	Summary of matters arisen during initial deliberations for PC39 and 41. Direction seeking a wiring diagram for PC39 and further questions and s32AA analysis requested for PC41.	PC39 and PC 41	1 August 2023
8	Notification of additional submission that was missed for PC43. Request for an extension of time for evidence or PC 38, 42 and 43 and updated hearing schedule for PC40 and 43.	PC 38, 40, 42 and 43	8 August 2023
9	Request of extension of time in relation to submitter for PC43 and direction for conferencing between submitters and Council.	PC43	13 August 2023
10	Administrative matter relating to Minute 6, setting out timeframe for supplementary planning assessment.	PC42	14 August 2023
11	Confirmation of receipt of joint legal statement in relation to PC43 and anticipation of supplementary planning statement in relation to PC42.	PC40, 42 and 43	16 August 2023

Minute #	Summary	Relevant PC	Date
12	Provide confirmation of verbal direction and subsequent agreement from 'Energy Section' participants to provide an agreed version of provisions, 32A analysis and wiring diagram for PC38.	PC38	19 August 2023
13	Provided 'state of play' for PC 39 and PC 41 deliberations and additional information requirement update and revised hearing schedule for PC 40 and 43	All	20 August 2023
14	Reiterated the outputs required in Minute 12 and provided revised dates for information deadlines in respect to PC38, 42 and 43	PC38, 42 and 43	22 August 2023
15	Direction for Submitter 21 to PC38, 42 and 43.	PC38, 42 and 43	22 August 2023
16	Provided an update on the response to Minute 7 for PC39 and procedural matters relating to PC38, PC40, PC41 and PC42.	All	28 August 2023
17	Panel response of Submitter 74 and Council's request for further evidence, along with dates for filing evidence in respect to PC 42	PC42	28 August 2023
18	Provided an update on the outputs required for PC 40 and PC43 and dates for delivery.	PC40 and PC43	18 September 2023
19	Provided a determination of further evidence in relation to Submitter 74 and provided an extension of time for the s42A Report requested by Council.	PC42	4 October 2023
20	Panel sought further clarification from Council reporting officer on PC38 deliberation matters.	PC38	5 October 2023
21	Response to a memorandum received from Taupo Industrial Estate Limited legal counsel.	PC43	9 October 2023
22	Response to a further memorandum received from Taupo Industrial Estate legal counsel	PC43	25 October 2023
23	Panel sought further s32 assessment from Council's reporting officer.	PC41	12 November 2023

Table 3: Summary of Minutes issued

3 Statutory Context

Matters considered under this section

- 3.1 Here we provide an outline of the relevant statutory considerations for our reporting.
- 3.2 The matters outlined below will not be repeated in subsequent reports, but nonetheless have been the reference point for each of our evaluations in the topic-based recommendation reports.

Summary of statutory requirements

- 3.3 The statutory requirements for the preparation and consideration of the contents of a District Plan are set out in ss 31, 32, and 72-77D of the RMA.
- 3.4 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 Standards. Other minor amendments to words and phrases have also been made.
- 3.5 In these circumstances we prefer to set out the statutory requirements that we consider apply specifically to the preparation and consideration of Bundle One, drawing on *Colonial Vineyards*, where it is appropriate to do so, but supplementing as necessary where amendments have been made.

General requirements

- A. The District Plan (change) should be designed to accord with and assist Council to carry out its functions so as to achieve the purpose of the RMA (ss31, 72 and 74(1) RMA).
- B. When preparing its District Plan, an evaluation report in accordance with s32 RMA must be prepared (s74(1)(d) RMA) and be given particular regard to (s74(1)(e) RMA).
- C. The District Plan must be prepared in accordance with and give effect to national policy statements and the New Zealand Coastal Policy Statement (ss74(1)(ea) and 75(3) RMA).
- D. The District Plan must be prepared in accordance with the National Planning Standard (s74(1)(ea) RMA).
- E. The District Plan must give effect to any operative regional policy statement and not be inconsistent with a regional plan for any matter specified in s 30(1) RMA (ss 75(3)(c) and 75(4)(b) RMA).
- F. When preparing its District Plan the Council must also:
 - have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations (s74(2)(2)(b) RMA) to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities (s74(2)(c) RMA);

- take into account any relevant planning document recognised by an iwi authority (s 74(2A) RMA); and
 - not have regard to trade competition or the effects of trade competition (s74(3) RMA).
- G. A District Plan must state its objectives for the district, the policies to implement the objectives and the rules (if any) to implement the policies (s75(1) RMA) and may state other matters (s75(2) RMA).
- H. In making a rule for the purpose of carrying out its functions and achieving the objectives and policies of the District Plan, the Council must have regard to the actual or potential effect of activities on the environment, including, in particular, any adverse effect (s76(1) and (3) RMA).

Section 32 and 32AA evaluations

- A. The s32 evaluation report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from the implementation of the Proposed District Plan (s32(1)(c) RMA).
- B. Each proposed objective in a District Plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the RMA (s 32(1)(a)) RMA Act.
- C. The policies and other provisions are to be examined to ascertain whether they are the most appropriate to achieve the objectives by (s32(1)(b) and (2) RMA):⁶
- identifying other reasonably practicable options for achieving the objectives and assessing their efficiency and effectiveness in doing so; and
 - identifying and assessing, and if practicable, quantifying, the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions; and
 - assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- D. A further evaluation in accordance with s32 RMA of any changes proposed to be made to the objectives and other provisions of the District Plan since the first evaluation report was prepared must be prepared at a level of detail that corresponds to the scale and significance of the changes (s32AA(1) RMA).

3.6 We expand upon some aspects of these below.

Part 2 of the RMA

3.7 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. In that context sustainable management means:

... managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

3.8 In achieving the RMA's purpose, section 6 directs all persons exercising functions and powers under the Act to recognise and provide for matters of national importance, being:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights:*
- (h) *the management of significant risks from natural hazards.*

3.9 Section 7 of the Act sets out matters that all persons must have particular regard to, and includes:

- (a) *kaitiakitanga:*
- (aa) *the ethic of stewardship:*
- (b) *the efficient use and development of natural and physical resources:*
- (ba) *the efficiency of the end use of energy:*
- (c) *the maintenance and enhancement of amenity values:*
- (d) *intrinsic values of ecosystems:*
- (e) *[Repealed]*
- (f) *maintenance and enhancement of the quality of the environment:*

(g) any finite characteristics of natural and physical resources:

(h) the protection of the habitat of trout and salmon:

(i) the effects of climate change:

(j) the benefits to be derived from the use and development of renewable energy.

3.10 Section 8 of the RMA requires all persons exercising functions and powers under the Act to take into account the principles of the Treaty of Waitangi.

Council's functions and purpose of the Proposed Plan Changes

3.11 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 (ia) 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)).

3.12 The purpose of Bundle One Plan Changes is to assist the Council to carry out the above functions in order to achieve the purposes of the Act.

National Policy Statements

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

- a. NPS on Urban Development Capacity 2016;
- b. NPS for Renewable Electricity Generation 2011;
- c. New Zealand Coastal Policy Statement 2010;
- d. NPS on Electricity Transmission 2008; and
- e. NPS for Freshwater Management 2020;

f. NPS on Urban Development 2020

- 3.14 By virtue of s75(3) of the RMA the Bundle One Plan Changes were required to give effect to the provisions of these documents, where relevant.
- 3.15 In the period between the close of submissions and the commencement of hearings in 2023, three days after the Plan Changes were notified, a new NPS on Highly Productive Land (**NPS-HPL**) came into force on 17 October 2022.
- 3.16 Despite the addition of the **NPS-HPL** coming into effect three days after the notification of all Plan Changes, and the submissions thereon, obligation in s75(3) of the RMA remains relevant consideration to PC38 and PC42 in particular and therefore we discuss the extent of that obligation and how it has been fulfilled in relation to this NPS in Recommendation **Reports 2 and 5** for Strategic Directions and General Rural and Rural Lifestyle Environments where they have relevance.
- 3.17 National Policy Statement for Indigenous Biodiversity (NPS-IB) was gazetted on 7 July 2023 and came into force on 4 August 2023. All local authorities are required to give effect to it as soon as possible. Given that NPS-IB came into force prior to the hearing of PC42, it is a relevant matter for our decision-making.
- 3.18 Local authorities must identify and protect areas of high biodiversity values. WRC will undertake a regional mapping exercise in collaboration with territorial authorities, but in the interim publicly notify any changes to their policy statements and plans that are necessary to give effect to the NPS-IB within eight years after the commencement date, and for provisions for Significant Natural Areas (SNAs), within five years of the commencement date. Although the identification of SNAs is outside of the scope of PC42, it is a relevant consideration in relation to the Rural Environment subdivision and 'bonus lot' provisions where an SNA is being protected via a covenant as part of a subdivision process. Therefore, we consider there is limited relevance of the NPS-IB to PC42 decision-making.

The Regional Policy Statements

- 3.19 As with the NPSs, the Regional Policy Statements (**RPS**) must be given effect to by Bundle One Plan Changes. 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 Plan Changes as follows:
- Waikato Regional Policy Statement
 - Horizons Regional Policy Statement
 - Bay of Plenty Regional Policy Statement
 - Hawkes Bay Regional Policy Statement
- 3.20 **Table 4** below sets out the relevant RPS's and relevant Plan Changes and which Bundle One Plan Change they are relevant to.

RPS	Operative Date	Relevant Plan Changes to the RPS	Relevant to Bundle One Plan Changes
Waikato Regional Policy Statement	2016	Plan Change 1, notified October 2022	PC40 PC41 PC42 PC38

RPS	Operative Date	Relevant Plan Changes to the RPS	Relevant to Bundle One Plan Changes
Horizons Regional Policy Statement	2014	Plan Change 2, notified October 2019 Plan Change 1, notified 2016	PC42
Bay of Plenty Regional Policy Statement	2015	NA	PC42
Hawkes Bay Regional Resource Management Plan (includes the RPS)	2006	NA	PC42

Table 4: Relevant RPS's to Bundle One Plan Changes

3.21 Accordingly, we refer to specific provisions of each relevant operative RPS as relevant to each Plan Change in subsequent recommendation reports.

National Environmental Standards

3.22 There are nine National Environmental Standards (NESs) currently in force:

- a. NES for Storing Tyres Outdoors 2021;
- b. NES for Freshwater 2020;
- c. NES for Marine Aquaculture 2020;
- d. NES for Plantation Forestry 2017;
- e. NES for Telecommunication Facilities 2016;
- f. NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
- g. NES for Electricity Transmission Activities 2009;
- h. NES for Sources of Human Drinking Water 2007; and
- i. NES for Air Quality 2004.

3.23 Each of these documents provide 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.

3.24 We address the substance of the NESs in the respective recommendation reports where relevant.

Other statutory considerations

- 3.25 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 / Rārangi Kōrero;
 - d. the plans or proposed plans of adjacent territorial authorities; and
 - e. iwi management plans.
- 3.26 The Council has demonstrated its regard to these matters in preparing each of the Plan Changes and each report prepared by the Council under s42A 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.
- 3.27 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.
- 3.28 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)
 - Ngati Tahu - Ngati Whaoa 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)
- 3.29 The respective Section 32 and 42A reports for each of the six Plan Changes sets out the analysis of how each of the Iwi Management Plans have been taken into account.

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

- 3.30 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.
- 3.31 As a 'Tier 3' local authority, the Taupō township is considered an 'urban environment'⁴ which is relevant to both PC40: Taupō Town Centre and PC43: Taupō Industrial Environments. NPS-UD has been addressed through each of the individual Section 32 and s42A reports for these particular plan changes and we make further comments on this in Recommendation Reports **2, 4 and 6**.

⁴ NPS-UD Section 1.4 Interpretation

4 Report format and approach

Guide to report format

- 4.1 As noted at the outset of this report, we have produced seven Recommendation Reports on Bundle One Plan Changes. **Table 5** below provides a full list of each Recommendation Report title and topic.

Hearing	Report #	Plan Change/Topic
N/A	1	PC39: Residential Building Coverage
1	2	PC38: Strategic Direction
3	3	PC40: Taupo Town Centre
2	4	PC42: General Rural and Rural Lifestyle Environments
N/A	5	PC41: Deletion of Fault Lines
3	6	PC43: Taupo Industrial Environments

Table 5: Recommendation Report Index

- 4.2 Each recommendation report is essentially self-contained; however, where there are matters that require integration across multiple topics/hearing streams, the relevant reports record this.
- 4.3 As noted in **Table 5** above Recommendation **Report 2** relates to the Strategic Direction associated with PC38. The Strategic Direction objectives and policies within PC38 in some instances has implications on the objectives and policies for other Plan Changes. This has involved evaluating them in a comprehensive manner, often referred to in planning jargon as taking both a 'top down' and 'bottom up' approach to their formulation. That is, we have endeavoured to ensure that the objectives and policies role in assisting the Council to address the key issues it has identified for the district so as to achieve the purpose of the RMA is clearly stated, while ensuring that all of the non-strategic objectives, policies and other provisions proposed by all of Bundle One Plan Changes align with these objectives. Our approach has been to ensure that all Bundle One Plan Changes are integrated with PC38.
- 4.4 For efficiency, we record that, except as otherwise identified in the respective decision reports and as noted in the recommended provisions for each plan change, we have accepted all recommendations set out by the reporting planners contained in the s42a reports. It should be noted that we have also generally adopted changes in recommendations following each hearing. These recommendations and the associated changes are outlined within each 42a Reply Statement.
- 4.5 The basis of these recommended decisions in terms of evaluation and findings can be found in our findings on the issues identified and evaluated in each report. Consequently, although every individual submission point is not specifically discussed in the issues evaluation section of each report the recommended decision on every such point can be found in the table in Appendix 2 of each recommendation report or where the panel decision varies from the reporting planners recommendation, then

this will be discussed within the decision.

- 4.6 The outcome of our recommendations are the annotated chapters of Bundle One showing the final amendments in 'track change' format to the provisions made since notification.⁸ The amended provisions are attached as 'Appendix 3' of our respective recommendation reports. Each report also contains an 'Appendix 4' which is a clean copy of the provisions as they appear following the amendments shown in Appendix 3 having been implemented.

Our overall approach in making recommendations

- 4.7 Section 32 of the RMA requires:
- a. the provisions to be examined as to whether they are the most appropriate way to achieve the objectives; and
 - b. as part of that examination, that:
 - c. reasonable alternatives within the scope afforded by submissions on the provisions and corresponding evidence are considered;
 - d. the efficiency and effectiveness of the provisions is assessed;
 - e. the reasons for our recommendations are summarised; and
 - f. our report contains a level of detail commensurate with the scale and significance of the changes recommended.
- 4.8 With respect to our role as a Panel, s32AA additionally requires that our evaluation to be focused on changes to the proposed provisions arising since the notification of Bundle One Plan Changes and the associated s32A reports.
- 4.9 The s42A Reports prepared by Council staff provide a comprehensive summary of submissions made on Bundle One in respect of each Plan Change and the issues they raised in respect of the provisions proposed. The s42A Reports summarise the submission points and assess them under a series of headings that (following some introductory comments and background material) correspond to the key issues raised in submissions associated with the relevant chapter (or mapping content) of the Plan Changes. To assist readers, we have structured our recommendation reports using that same format.
- 4.10 To avoid unnecessary repetition or duplication, we have adopted the approach of focusing our written analysis on those aspects of each s42A Report where:
- a. we disagreed with the reasoning and/or recommendations in the s42A Report;
 - b. material provided to us by submitters, either in the form of evidence or representations, called into question the reasoning/recommendations in the s42A Report; and/or
 - c. the Council Reporting Officer, having considered the evidence or representations of submitters, and following questioning from the Panel, altered their initial recommendations to us, as set out in their Reply Statements.

- 4.11 If we do not refer to an individual submission or group of submissions on a particular matter addressed during the relevant hearing, or discuss the reasons for our recommendations in relation to it, that is because, having reviewed the submissions alongside the written and oral evidence and representations from submitters, and the commentary, recommendations and reasoning in the relevant s42A Report and associated Reply Statements, we have accepted (and accordingly adopted) the s42A authors' final recommendations to us.
- 4.12 This means that our recommendation reports must be read in conjunction with each relevant s42A Report and Reply Statement. Those s42A Reports and Reply Statements are part of the public record and are available on the Council website.
- 4.13 Our recommendation reports, accordingly, take the form of an 'exceptions' report.
- 4.14 It follows also that where we accept the recommendation in a s42A Report or Reply Statement that provisions in the relevant Plan Change should be amended, we accept and adopt the evaluation contained in the s42A Report for the purposes of s32AA of the RMA, unless otherwise stated.
- 4.15 Where we do not accept the recommendations of the s42A Report and consider that a provision in the Plan Change should be changed, our recommendations have been specifically considered in terms of the obligation arising under s32AA of the RMA to undertake a further evaluation of the amended provision. Our evaluation for this purpose is not contained in a separate evaluation document or tabulated evaluation within our reports. Rather the evaluation required by s32AA is contained within the discussion and reasoning leading to our conclusions.

Parties' assistance to Us

- 4.16 We wish to acknowledge the efforts of all parties in assisting us in our role. Plan review processes are demanding for all parties involved and we are grateful for the professionalism, patience and helpfulness we have received.
- 4.17 The hearings were conducted professionally and as set out in our Hearings Procedures in **Minute 1 and 5**, in some instances where this was appropriate, we encouraged and facilitated further dialogue and narrowing of issues between the s42A authors and their expert colleagues, and planners and experts representing submitters. This was either in the form of facilitated expert conferencing or further clarification discussions convened by the s42A authors. In each case the outcomes of this further discussion and dialogue were recorded for to us to consider in either the relevant s42A Report or Reply Statement.
- 4.18 We also sought legal submissions from counsel representing various parties' regarding a number of matters and record our appreciation of that advice.

5 Scope of amendments to Bundle One Plan Changes

- 5.1 In some instances, we have recommended changes to the provisions for some of the Plan Changes that differ from the provisions that were notified. Our power to do so is expressly contemplated by clause 10(2)(b) of the First Schedule of the RMA which confirms that our recommendations on the provisions for each Plan Change of Bundle One and matters raised in submissions may include matters relating to any consequential alterations necessary to the proposed Plan Changes arising from submissions, as well as any other matter relevant to the proposed Plan Changes arising from submissions.
- 5.2 This does not limit our power to merely accepting or rejecting a submission, but to adapting the drafting of the plan changes to deal with the realities of multiple and often conflicting and cross-cutting submissions across all or some of the Plan Changes, including submissions prepared without professional help.⁵
- 5.3 Our ability to recommend amendments to the Plan Changes is not unlimited, however, as any amendment must be within scope, or otherwise permissible. In this regard, it is well established that a substantive modification to a proposed plan must be raised by and within the ambit of what was reasonably and fairly raised in submissions.⁶
- 5.4 Any recommended amendment “will usually be a question of degree to be judged by the terms of the proposed plan change and the content of the submissions”.⁷
- 5.5 The limitations on the scope to modify a plan change after it has been notified are also designed to ensure that, procedurally, there is an opportunity for the matter to be addressed in a further s32 evaluation, and that there has been an opportunity for those potentially affected by the change to participate.⁸
- 5.6 The clarity of the summary of submissions required by cl 7 of the First Schedule plays an important role in this regard. We have kept these principles in mind when considering recommending any changes.
- 5.7 If recommended changes are not able to be identified as a specific form of relief in a submission it is because we have been satisfied that, when read as whole, the submission effectively raised the issue in substance,⁹ the proposed amendment to the respective plan change in response did not go beyond what was fairly and reasonably raised in the submissions,¹⁰ and no person would be prejudiced (in a procedural sense) by the amendment proposed.

⁵ *Environmental Defence Society v Otorohanga District Council* [2014] NZEnvC 070, affirming *Countdown Properties (Northlands) Limited v Dunedin City Council* (1993) 2 NZRMA 497

⁶ *Vernon v Thames-Coromandel District Council* [2017] NZEnvC 2, at [11], summarising *Environmental Defence Society v Otorohanga District Council* [2014] NZEnvC 070

⁷ *Vernon v Thames-Coromandel District Council*, at [11], summarising *Environmental Defence Society v Otorohanga District Council* and citing *Countdown Properties (Northlands) Ltd v Dunedin City Council* (1994) 1B ELRNZ 150; [1994] NZRMA 145 (HC), at pages 171-172 and 166. This has been adopted in a number of cases including by the High Court in *Royal Forest and Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408 (HC) and *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ 59 (HC)

⁸ *Vernon v Thames-Coromandel District Council*, at [11], summarising *Environmental Defence Society v Otorohanga District Council*, citing *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003

⁹ See *Johnston v Bay of Plenty RC EnvC A106/03*

¹⁰ For example *Atkinson v Wellington RC EnvC W013/99*

6. General observations and comments by the Panel

Overview

- 6.1 In this final section of this report, we wish to record some of our general observations about the first “bundle” of revisions to Operative District Plan (ODP), and some common themes about the ODP as a whole. It is not to be critical of the process or any individuals involved in the preparation or evolution of the Plan changes. Indeed, we are aware from our collective experience that even the clearest RMA plans in New Zealand are not without complexity and all RMA plans have imperfections to one degree or another.
- 6.2 That said, we have found that there are aspects of the process associated with the first “bundle” of Plan Changes that are worth capturing in the formal hearing record. Where relevant, we address these matters in individual recommendation reports.

Concluding comments and observations of the Panel

- 6.3 The release of these decision reports marks a long and comprehensive process by several entities, which the Panel wish to acknowledge.
- 6.4 This process had its inception in 2007 when the Taupō District Plan was made operative and included the following key decision points:
- a. Between 2007 and 2018 there were several significant rounds of plan changes, primarily to bring the Taupō District Plan (**TDP**) in line with the TDC’s growth planning and also to address RMA Part 2 matters such as Natural Values.
 - b. Having reached its 10 year milestone, in 2018 the Council conducted a comprehensive review of the Plan – but with one eye on the RMA reform that was gaining momentum at the time. However, in 2021, Council decided to change the approach from a comprehensive review of the TDP to a more refined series of plan changes in the context of wider statutory reform and moving to a regional planning model under the (then proposed) Natural Built Environment Act (**NBA**).
 - c. Choices for what the initial review would focus on were driven by the work already done and the key issues identified by the community. Council recommended that the six plan changes subject to this current process be selected as part of the first “bundle” of revisions to Operative District Plan (**ODP**).
- 6.5 The Panel also acknowledge that engagement on the Plan Review/Plan Changes has been extensive and ongoing. We note and have viewed the full history of the engagement with all key stakeholders which is well documented in the background and engagement reports which formed part of the section 32 evaluation for each of the plan changes.
- 6.6 We were interested and encouraged to hear that at the very start of the process Council established a register for those interested in the District Plan, which was drawn on in process up to and including notification. We understood that this captured a significant ‘representative percentage’ of those interested in the District Plan. We also took comfort that there was regular engagement with iwi partners including several iwi authorities within District. This included:
- a. Te Kotahitanga Ngāti Tūwharetoa
 - b. Tūwharetoa Maori Trust Board
 - c. Ngāti Tūrangitukua

- d. Te Arawa River Iwi Trust
 - e. Ngati Tahu/Ngati Whaoa
 - f. Raukawa
- 6.7 We commend the Council on that process which included an 'open door' policy and reached out to numerous key groups and stakeholders through open days, sector meetings, working groups and many individual meetings or phone calls.
- 6.8 The end result of this first tranche of the sectional review is a TDP, for the topics it includes (particularly the rural resource), that is more representative and reflective of the current national and regional policy framework and more recent challenges facing the district since the last version of the TD2050 Growth Management Strategy, which was last updated in 2018. In this respect, the TDC has, in the Panel's view, achieved some valuable 'runs of the board' that many other Councils who pushed pause on Plan reviews in light of the previous (and now abandoned) NBA reform have not been able to achieve. This is a commendable achievement.
- 6.9 Looking forward, maintaining momentum of the review of the ODP will be important as a number of submitters have requested changes in Bundle 1 that are more appropriately addressed through comprehensive plan changes in successive bundles. For the record, we note that Council officers have advised that further Plan Changes are anticipated to be developed as part of Bundle 2 or potentially additional bundles if necessary.
- 6.10 We were encouraged to hear that looking beyond this first bundle of plan changes, and in parallel with work on the National Planning Standards Framework, the Council has begun background work to review the Residential Chapter, the creation of a Māori Purpose Zone and an update of Designations. Whilst these are likely to be the priority for Council to lead and implement through the Plan Change process, we also heard that there are a number of other areas where sectors are pushing for development of specific chapters. These include:
- a. An Energy Chapter
 - b. Quarry zone
 - c. Hospital zone
- 6.11 We also heard that it is likely that the Council will lean hard on the sectors for development of these chapters given limited resourcing funding, and as we recorded in Report 2 on PC38 representatives of the energy and quarrying sectors indicated strong support for that approach. In particular, the energy sector were of the view that the provisions introduced by PC38 and PC42 regarding Strategic Objectives and the Rural Production Zone respectively represented, in their view, an interim approach and a precursor to a fully developed energy chapter containing bespoke objectives, policies and rules to enable and manage that topic. We endorse that view and while it is expected that the Council would lead the process we definitely heard that the Energy sector would assist.
- 6.12 Officers also explained that there are projects underway for spatial planning exercises, including at Turangi and also the Rangatira E and Paenoa Te Akau Trust blocks. As set out in Report 5 (PC42) it is anticipated that Council plan changes would follow to implement this work. In particular, given the diverse views we heard and have recorded in Report 5 regarding the Rangatira E and Paenoa Te Akau Trust blocks, we encourage a structure plan process alongside associated iwi and stakeholder engagement, prior to any Plan Change being advanced for those areas.

- 6.13 Our two final comments concern PC38 and PC41.
- 6.14 In Report 2 (PC38) we have recommended removing the reference to the TD2050 2018 in the objectives within *Strategic Direction 3: Urban Form and Development*. We adopted that approach because TD2050 – which is the Council’s Growth Management Strategy - was last updated in 2018 and needs another review. Our recommendation avoids codifying elements of TD2050 into the District Plan that are already outdated. We also found that the risk of acting (referencing TD2050 in the District Plan) outweighs the risks of not acting (not referencing the TD2050) and will assist in ensuring that there is consistency between the objectives and policies pertaining to urban form and management.
- 6.15 We are aware that TD2050 2018 will be reviewed over the life of the TDP and in fact Ms Samuel indicated that a ‘refresh’ of that document is imminent. To this end, we endorse that review and encourage the Council to consider how any new direction in the growth strategy may need to be reflected in changes to the TDP.
- 6.16 In Report 4 (PC41) dealing with the removal of mapped fault lines and associated rules in the TDP, we decided after careful consideration and comprehensive input from the Councils’ reporting officers, that on balance the retention of the existing fault line provisions was too problematic and the mapped fault lines and associated rules in the District Plan should be deleted. We also determined that the replacement to the fault lines provisions with more recent information commissioned by TDC was not able to proceed at this stage which was not within our remit to recommend.
- 6.17 The outcome is largely a reliance on the building consent process to address this hazard matter as opposed to land use provisions in the TDP. We consider that leaves a moderate risk over the short to medium in terms of allowing land use activity to establish under the TDP which is potentially affected by a fault hazard. Accordingly, we endeavoured to ascertain what the Council’s appetite and/or plans for progressing a medium to long term solution under the TDP in light of the content of the draft NPS Natural Hazards which promotes a precautionary approach toward hazard planning. The advice we received was that TDC do recognise the need to initiate a First Schedule process that would likely involve adding the most up-to-date fault data into the Plan along with a relevant policy/rule framework.
- 6.18 On the above basis, whilst we have recommended approval of PC41 as notified (resulting in the existing outdated mapped fault lines and associated rules in the TDP be deleted), our decision comes with a strong recommendation to Council, that a priority for ‘Bundle 2’ changes should include a full provision and mapping update in relation to Natural Hazards. That recommendation is aligned with the emerging Natural Hazard NPS and GNS’s recommendation to replace any active fault datasets currently held and being used by Taupō District Council with those identified in their 2020 study and/or subsequent updated fault line mapping.

