

**BEFORE AN INDEPENDENT COMMISSIONER APPOINTED
BY THE NEW PLYMOUTH DISTRICT COUNCIL**

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

AND

IN THE MATTER an application under s221(3) of the RMA to vary
a consent notice condition applying to the
property at 263 Weld Road Lower, Oakura

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF JENNIFER CARVILL
(PLANNING)**

15 JULY 2025

INTRODUCTION

1. My name is Jennifer Carvill. I am a Technical Director – Planning at Tonkin & Taylor Limited. I prepared planning evidence which was filed on 30 June 2025 and this statement provides the following:
 - (a) A summary of my primary statement of evidence (**SOE**);
 - (b) A response to the planning evidence of Kathryn Hooper, on behalf of the submitters, including in relation to conditions; and
 - (c) Additional comment regarding the water easement.

SUMMARY OF STATEMENT OF EVIDENCE OF JENNIFER CARVILL

2. The applicants seek to vary a consent notice condition to reposition the authorised location for a dwelling within the site at 263 Weld Road Lower from location 'Area Z' (2,834 m²) to 'Area A' (216 m²). This is an application for a discretionary activity and it is to be assessed using the standard Resource Management Act 1991 (**RMA**) decision making process that applies to resource consent applications, and in particular section 104.
3. In my opinion, any adverse effects associated with the proposed repositioning of the authorised location of the habitable dwelling on the site will be less than minor and the proposal is wholly consistent with the relevant objectives and policies of the Proposed New Plymouth District Plan (**PNPDP**) and the Taranaki Regional Policy Statement. My conclusions include consideration of the original purpose of the consent notice, and a comparison of effects of the consented dwelling location (Area Z) and the proposed dwelling location (Area A) (among other matters).
4. I also note that the establishment of a dwelling in Area A would be a permitted activity under the Proposed Plan. It is only the Consent Notice condition that needs to be varied to authorise a dwelling in Area A. The existing building in this location complies with all relevant effects standards in the Proposed Plan as well as all of the other applicable requirements of the Consent Notice.
5. While I generally concur with the conclusions of the s42A Report, in my opinion the effects of the proposal are acceptable without recommended Conditions 1(b), and 2 to 4 from the s42A Report. Notwithstanding this, the applicants are willing to accept most of the recommended conditions and therefore my SOE set out recommended amendments to Attachment D of the s42A Report.

6. Since preparing my SOE I have had the opportunity to review the evidence of Kathryn Hooper, including suggested amendments to conditions attached as Appendix 4 to her evidence.¹ I will discuss the amendments proposed by Ms Hooper in more detail shortly, and I include a revised set of conditions as **Attachment A** to this supplementary evidence.

RESPONSE TO EVIDENCE OF KATHRYN HOOPER

Retrospective nature of the application

7. At paragraphs 26 to 31 Ms Hooper provides discussion of case law in relation to retrospective applications. I confirm that my assessment and opinions expressed in my SOE and this supplementary evidence have been undertaken in accordance with the case law as expressed in Ms Hooper's evidence.

Extent to which Proposed New Plymouth District Plan is now more stringent

8. At paragraph 149 Ms Hooper notes that at the time the original subdivision consent was considered the PNPDP had been notified. Therefore the PNPDP objectives and policies were relevant (along with the Operative Plan objectives and policies). Ms Hooper provides a comparison of the Notified Version (September 2019) of the PNPDP that applied when the original subdivision consent was granted with the Appeals Version (May 2025) of the PNPDP relevant to the current application in Appendix 6 to her evidence.
9. At paragraph 150 Ms Hooper then goes on to state that *"the policy direction and settings relating to land use and subdivision in the rural zone have moved towards being more stringent, which is to be expected as the PNPDP has increasing weight and operability."*
10. Based on my own experience² and my review of the comparison provided by Ms Hooper in Appendix 6 to her evidence, I disagree that the policy direction in the PNPDP has moved to be more stringent since the subdivision consent was granted. In particular, clause 2 of RPROZ-O4 which refers to low density rural living forming part of the predominant character and amenity of the Rural Production Zone remained unchanged through the hearing and appeal process, and 'residential visitor accommodation' was added to the policies through this process as an activity specifically allowed for as being

¹ Evidence of K Hooper, pages 203 to 207 of PDF.

² I presented evidence to the PNPDP Hearing 17(b) in relation to Rural Zones, and participated in Environment Court assisted mediation for resolution of appeals on Topic 23 – Rural Zones.

*“compatible with the role, function and predominant character of the Rural Production Zone”.*³

11. Further to this, I note that the relevant objectives and policies⁴ of the Operative New Plymouth District Plan (which was the plan that held the most weight at the time the subdivision consent was granted) make no specific mention of residential dwellings forming part of the character of the rural environment, whereas the PNPDP objectives and policies identify low density rural living as a key feature of the predominant character of the Rural Production Zone, and make specific provision for residential activities, as I discuss in paragraphs 45 and 46 of my SOE.
12. On this basis, I consider that the current policy framework of the PNPDP provides greater recognition of and support for residential activities in the Rural Production Zone than the policy framework of the ONPDP that applied at the time the subdivision consent was granted.

Permitted activity status and consistency with policy direction

13. At paragraph 117 Ms Hooper states that she considers it incorrect to rely on the assertion that the site of a dwelling on Area A complies with the permitted activity rules to confirm consistency with policy direction. She refers to paragraph 11 of my SOE.⁵
14. I disagree with Ms Hooper that I have relied on the permitted activity status of a dwelling in Area A to confirm consistency with policy direction. My comments regarding consistency with objectives and policies are concluded in paragraph 47 of my SOE where I state:

I consider that the proposed repositioning of the authorised location for a dwelling on the Site from Area Z to Area A will be wholly consistent with these objectives and policies. In particular, the low density built form of the Site will be maintained, and the authorisation of a dwelling in Area A will remain consistent with the role, function and predominant character of the surrounding rural area as the number of dwellings authorised on the Site will remain unchanged.

³ PNPDP: RPROZ-P1(3).

⁴ ONPDP: Objective 4 and Policy 4.1.

⁵ I note that paragraph 11 is in my Executive Summary, and that this matter is dealt with more fully in paragraph 32 of my SOE.

Cumulative effects

15. At paragraphs 127 to 129 of her evidence Ms Hooper addresses cumulative effects and concludes that consent should not be granted due to cumulative effects.
16. In our statements of evidence Mr Bain and I have assessed all of the actual and potential effects of the proposal, including cumulative effects. In particular, based on the evidence of Mr Bain, I do not consider that the proposal will result in any cumulative effect on the rural character of the surrounding environment that is unacceptable or represents a “tipping point”. Therefore, I disagree with Ms Hooper’s conclusion in relation to cumulative effects.

Consistency with Taranaki Regional Policy Statement and Proposed New Plymouth District Plan

17. At paragraphs 130 to 141 Ms Hooper provides discussion of the proposal in relation to the objectives and policies of the Taranaki Regional Policy Statement (**RPS**), concluding that the consented Area Z is more consistent with the RPS than the proposed Area A. At paragraph 144 Ms Hooper states that it is her opinion that the proposal is not consistent with the objectives and policies of the Rural Production Zone.
18. I strongly disagree with these conclusions, as I have set out in paragraphs 43 to 47 of my SOE, I consider that the proposal is wholly consistent with the applicable planning framework.

Applicable statutory assessment

19. Throughout her evidence Ms Hooper states that the proposed Area A must be equal to or better than the consented Area Z. For example, at paragraph 104 she states:

“The fact remains through that we must weigh the status quo (‘Area Z’) against the proposal (‘Area A’) and determine which option better avoids, remedies or mitigates effects.”

20. And at paragraph 140 she states:

“...the applicant must demonstrate that the proposed varied platform would sit equally well, or better than the one currently secured by way of consent notice against the policy framework.”

21. I refer to paragraphs 25 to 28 of my SOE where I set out the applicable statutory framework. To summarise, the RMA clearly provides for an owner to apply to vary any condition specified in a consent notice, and specifies that sections 88 to 121 and 127(4) to 132 apply, with all necessary modifications, to any such application. That is, the standard RMA decision making process that applies to resource consent applications is also relevant to this application.
22. Therefore, I disagree with Ms Hooper that the RMA specifies a test in terms of effects or policy framework such as that which she opines applies.

Conditions

23. I have reviewed the conditions attached to Ms Hooper's evidence at her Appendix 4, discussed her amendments with Mr Bain, and reviewed the supplementary evidence of Mr Bain. My comments on conditions rely on the evidence of Mr Bain where relevant.
24. To reiterate my conclusions from paragraph 51 of my SOE, I consider that the effects of the proposal are acceptable without recommended Conditions 1(b), and 2 to 4 from the s42A Report. However, the applicants are willing to accept most of the conditions recommended in the s42A Report which in my view results in further mitigation of effects.
25. My opinion in relation to the amendments to conditions proposed in Ms Hooper's evidence is that they are generally out of proportion to the level of effects of the proposal, and they are also not justified to appropriately manage the effects of the proposal. Notwithstanding this, the applicants are also willing to accept many of the conditions proposed in Ms Hooper's evidence.
26. I briefly discuss each of Ms Hooper's proposed amendments below. A consolidated set of proposed conditions⁶ is set out at **Attachment A**.

Condition 1(a)

27. Ms Hooper proposes the addition of wording to clarify that a Minor Residential Unit would be considered a second habitable dwelling and is not permitted. The applicants are willing to accept this condition as proposed by Ms Hooper.

6 Noting that Condition 1 relates to changes to the Consent Notice conditions, and Conditions 2 to 4 are proposed as conditions of consent.

Condition 1(b)

28. Ms Hooper proposes the addition of a definition of “obscured glass”. The applicants are willing to accept this condition, I have proposed inserting the definition at the end of the condition rather than in the middle.

Condition 1(c)

29. Ms Hooper proposes the addition of a restriction on all balconies and decks more than 300 mm above ground level on the Site. The applicants are willing to accept this condition subject to clarification: I have proposed the addition of wording “in either case” to the 300 mm restriction, to ensure that it is clear that this applies to both balconies and decks.

Condition 1(d)

30. Ms Hooper proposes the addition of requirements in relation to windows associated with living areas. The applicants are willing to accept this in principle. I have proposed amendments to Ms Hooper’s wording to ensure that the condition is clear and that the requirements are amended slightly for practical reasons, including as follows:
- (a) The physical barrier shall be no more than 3.5 m from the window (rather than 3 m);
 - (b) The physical barrier shall extend at least 1 m to each side of the glassed window or to the extent of the building, whichever is the lesser, to accommodate a scenario where the window extends to the corner of the building (rather than 1 m to each side of the window in all circumstances);
 - (c) Removal of Ms Hooper’s suggested requirement that the physical barrier is glazed with obscured glass as it does not make sense for a physical barrier (such as a trellis or similar structure, as proposed by Ms Hooper) to be glazed, and additional screening is also provided in this location by the existing broadleaf hedge (which is required to be retained by Condition 3(a)(iv)).

Condition 1(e)

31. Ms Hooper proposes the addition of a restriction so that no outdoor living areas can be located on the Western elevation of the dwelling, including gardens. The applicants are willing to accept this condition subject to amendment so that the restriction is limited to decks, pools, spas and barbeque areas only.

32. In my view restricting any “outdoor living areas” and “gardens” on the Western side of the dwelling would be disproportionate to the effects, difficult to define, and unnecessary restrictions.

Condition 1(f)

33. Ms Hooper proposes the addition of a restriction that no building or structure of any type or size may be built within 50 m of the entire western boundary of the Site.
34. Again, I consider this to be an inappropriate restriction that is out of proportion to the effects, and which has the potential to unnecessarily impact on the efficient and effective use of the Site for rural activities.
35. Notwithstanding this, the applicants are willing to accept a similar condition which restricts buildings within 15 m of the Western boundary of the Site.

Condition 1(g)

36. Ms Hooper proposes a restriction on the use of the Site for Sport and Recreation Activities unless the written approval of the owners and occupiers of neighbouring sites is obtained.
37. I do not consider that this condition is in any way relevant to the proposal or related to mitigating the potential effects of a dwelling. Further, Sports and Recreation Activities in the Rural Production Zone require resource consent and any application for such an application would be assessed for affected parties on its merits. On this basis I consider this condition is not necessary and I note that the applicants are not willing to accept this condition.

Condition 3(a)

38. Ms Hooper proposes replacing the requirements for a double row of native planting with 25 m wide native planting strips for a greater extent of the boundary, with a maximum height for the plants of 3 m, as well as a 5 m wide native planting strip for the remainder of the boundary.
39. I consider that a requirement for 25 m wide planting strips is not proportionate to the effects and that a maximum height limitation of 3 m for native plants is unnecessary and difficult to monitor and enforce. On this basis I consider that the planting requirements

should remain as proposed in Attachment A to my SOE. I note that the applicants are not willing to accept Ms Hooper's proposed amendments to this condition.⁷

Condition 3(d)

- 40. Ms Hooper proposes amendments to Condition 3(d) to provide for maintenance requirements during establishment of planting (in clause (i)) and ongoing maintenance requirements (in a new clause (ii)).
- 41. Based on the evidence of Mr Bain, I consider that the ongoing maintenance requirements proposed by Ms Hooper are unnecessary as the intention of the establishment period is to ensure that the planting is well established and that ongoing maintenance of the type detailed in Ms Hooper's new clause (ii) is not required. To ensure planting is well established, the applicants are willing to accept implementation of the maintenance tasks during establishment of planting for 36 months (which is an additional 12 months to the originally proposed 24 months).

Condition 3(e)

- 42. Ms Hooper has proposed including a requirement that the Detailed Landscape Plan (DLP) be provided to owners and occupiers of neighbouring properties for comment. While I do not consider this to be necessary given the level of detail in the conditions, the applicants are willing to accept this condition subject to clarification.
- 43. I have proposed that minor amendments are made to clarify that it is the draft that should be provided for comment, and that this should be done a reasonable time prior to the DLP being submitted to GDC for certification.

Condition 6

- 44. Ms Hooper proposes the addition of a new Condition 6 requiring a no complaints covenant to be registered against the title of the Site.
- 45. I do not consider that this condition is in any way relevant to the proposal or related to mitigating the potential effects of a dwelling. It is very broad in scope, and disproportionate to the effects as Mr Bain and I, and the Council's reporting team, have assessed them. On this basis I consider this condition is not appropriate and I note that the applicants are not willing to accept this condition.

⁷ With the exception of minor wording changes as detailed in Attachment A to this supplementary evidence.

WATER EASEMENT

46. At paragraph 61(d) of my SOE I stated that I considered that requirements in Condition 3(a)(ii) relating to the water easement at the Site, as recommended in the s42A Report, could be deleted on the basis that the water easement no longer exists.
47. On reviewing a recently searched copy of the record of title for the Site I have confirmed that the water easement is currently still in place. Notwithstanding this, the applicant has confirmed that a double row of mixed native evergreen planting can be undertaken in the vicinity of the existing Poplar shelterbelt in a position that is well clear of the water easement and therefore there is no issue with retaining the wording in relation to the water easement as it was recommended in the s42A Report.
48. I have shown Condition 3(a)(ii) below with the reinstated water easement wording in red text:

ii Southwestern ~~Eastern~~ site boundary adjoining Lot 1 DP 432478:

A double row of mixed native evergreen planting in the vicinity of the existing Poplar shelterbelt, for the length of the common boundary from the northern end of the existing Poplar shelterbelt to where it meets the planting required in 3(a)(i).

the Poplar shelterbelt shall be removed and replaced with a 5 metre wide native planting strip running parallel to the length of the boundary. The planting shall be located clear of the water easement running parallel to the boundary line such that the integrity of the easement remains unaffected.

Jennifer Carvill
Tonkin & Taylor Limited

15 July 2025

Attachment A to Supplementary Planning Evidence of Jennifer Carvill

Base document – Attachment D of s42A Report

30 June 2025 – Amendments proposed in planning evidence shown underlined and in ~~strike-through~~ in blue text.

15 July 2025 – Amendments proposed in supplementary planning evidence in response to evidence of Kathryn Hooper shown underlined and in ~~strike-through~~ in red text.

ATTACHMENT D – DRAFT RECOMMENDED CONDITIONS

1. Consent Notice 12565106.1 shall be varied to read:

- a. *A maximum of one habitable dwelling shall be permitted on Lot 2 LT 582431. This building shall be located within the Area marked 'A' on Lot 2 LT 582431 as shown on the Site Plan by BTW Company, Drawing No. 230274-SU-01, Sheet 1, Rev B2. The habitable building shall not be erected outside of the Area marked 'A' on Lot 2 LT 582431. For the avoidance of doubt, a Minor Residential Unit ("MRU" or "Granny Flat") would be considered a second habitable dwelling and is not permitted.*
- b. *Any glazing shall be obscured glass within the habitable dwelling where positioned 2.4 metres or more above ground level at the time the consent notice was originally registered on the Record of Title for Lot 2 DP 582431. For the purposes of this condition, "obscured glass" means glass that has been treated, patterned, textured, frosted, etched, sandblasted, or otherwise manufactured so that it limits visibility through the glass from one side to the other, while still permitting the passage of natural light. The obscuration must be sufficient to prevent clear views through the glass in both directions, typically to a minimum of Level 3 obscuration on the Pilkington scale or an equivalent standard).*
- c. *No balconies or decks (in either case, more than 300mm above ground level) shall be established on the habitable dwelling or other structure within Lot 2 LT 582431.*
- d. *Windows associated with any living areas (including any living room, lounge, dining room or dining area, library, or similar space for general living purposes) within the dwelling shall be either or both of the following:*
 - i. *Oriented to the North; and/or*
 - ii. *Oriented to the East and screened with a physical barrier (such as a trellis or similar structure) located adjacent to the window and positioned no more than 3.5 m from the window of any living area on a habitable dwelling. The screening*

shall extend at least 1 m to each side of the glassed area of the window, or to the edge of the building (whichever is the lesser). The screening shall be at least level with the top of the glassed area of the window.

- e. No decks, pools, spas, or barbeque areas shall be located on the Western elevation of the dwelling.
- f. No additional buildings or structures of any type or size may be built within 15 m of the entire Western boundary of the site.

2. No later than ~~20~~ 40 working days¹ from the date of commencement ~~grant~~ of this consent, the Consent Holder must submit a Detailed Landscape Plan (DLP) prepared by a landscape architect, or other suitably qualified and experienced person, to Council's Monitoring and Enforcement Officer for written certification in accordance with the information requirements set out in Condition 3.

The purpose of the DLP is to create a visual representation of the landscape for the site that addresses viewshafts, privacy, light, and noise mitigation in respect of adjoining properties.

- a. Where Council is unable to certify the DLP on the basis that the information requirements in Condition 3 have not been met, the Consent Holder shall submit a revised DLP for certification.
- b. Any change(s) to the certified DLP must be submitted to Council's Monitoring and Enforcement Officer for certification in accordance with Condition 2.
 - i. Any change(s) to the DLP shall not be undertaken until certification of the change(s) by Council has occurred in writing.¹
 - ii. Conditions 4(a) to (c) apply post certification of amendments; Implementation of certified amendments shall be undertaken by the Consent Holder within 10 working days of certification, or within such other timeframe as specified in the certified DLP, where the Consent Holder shall implement within 10 workings days of certification

Advice Notes

- The *PROCESS* related to certification in respect of Condition 2 will occur in consultation with and on advisement by Council's Landscape and Urban Design Advisor at the Consent Holder's cost.
- Council will either certify or refuse to certify the DLP within 10 working days of receipt based on the parameters contained within Condition 3.
- Should Council refuse to certify the DLP then the Compliance and Monitoring Enforcement Officer will provide in writing an outline as to why certification is refused based on the parameters contained within Condition 3.
- Provided that the information requirements within Condition 3 are addressed in the DLP, certification will not be withheld.

3. The DLP required by Condition 2 must ~~address~~ provide for the following to achieve its purpose:
- a. Extent of all landscape elements within the site including for the:
 - i. Southwestern ~~Eastern~~ site boundary facing Lot 2 DP 432478 (247B Weld Road Lower);

A double row of mixed native evergreen planting in the vicinity of the existing Poplar shelterbelt at the top of the embankment, for the extent of the built form of both the dwelling within Area A and the ancillary buildings.

¹ Working days as defined within the Resource Management Act 1991

~~the Poplar shelterbelt shall be removed and replaced with a double row of mixed native evergreen planting for that extent of the built form of both the dwelling within Area A and ancillary buildings.~~

- ii. Southwestern Eastern site boundary adjoining Lot 1 DP 432478 (247D Weld Road Lower):

A double row of mixed native evergreen planting in the vicinity of the existing Poplar shelterbelt, for the length of the common boundary from the northern end of the existing Poplar shelterbelt to where it meets the planting required in 3(a)(i).

~~the Poplar shelterbelt shall be removed and replaced with a 5-metre-wide native planting strip running parallel to the length of the boundary. The planting shall be located clear of the water easement running parallel to the boundary line such that the integrity of the easement remains unaffected.~~

- iii. ~~Western part of site adjoining Lot 3 DP 582431 (271 Weld Road Lower) at or near boundary the Poplar planting shall be removed.~~

- iv. Eastern Western side of Area A and habitable building and associated outdoor living area:

~~(within the proximity of t~~The existing broadleaf hedge (or similar) is retained~~) isolated mounding and planting or a line of clear-stemmed, pleached Hornbeam trees (or similar).~~

- v. Extent of site contained within Land Covenant Area Y on DP 582431:

~~Removal of~~ any the existing planting that is not consistent with the land covenant and replacement with species consistent with the land covenant.

- b. The species, location, spacing, size (at time of planting), and quantity of all plants to be physically installed, with a particular focus of appropriateness of species for survival for their location,
- c. A full schedule of all plants to be physically installed including botanical name, common name, planter bag size, and quantities,
- d. Detailed landscape maintenance plan indicating:

- i. all maintenance tasks to be undertaken per calendar month for a minimum period of 24 36 months during establishment of the landscape planting. Maintenance tasks during establishment shall include watering, feeding, mulching, re-staking, and pest and disease management, and control of all plant pests and wild sown species.

- ii. the minimum height for pruning of the existing broadleaf hedge of 2.5 m.

- e. Evidence that the draft DLP has been provided to the owners and occupiers of the following neighbouring properties for feedback and comment at least 15 working days prior to the DLP being submitted for certification, including a record of feedback received from these parties and the changes (if any) made to the plan in response to the feedback.

- i. 271 Weld Road Lower (Lot 3 DP 582431) – Greg & Katy Sheffield or future landowner(s);
- ii. 263 Weld Road Lower (Lot 1 DP 432478) – James Dinnis & Claire Frost or future landowner(s);
- iii. 247C Weld Road Lower (Lot 1 DP 500285) – Steven & Angela Blair or future landowner(s);
- iv. 247B Weld Road Lower (Lot 2 DP 432478) – Nicholas & Abigail Hackling or future landowner(s); and,

- v. 255 Weld Road Lower (Lot 1 DP 484251) – Rebecca & Leanne Shaw or future landowner(s).

4. Within 3 months from the date of certification of the DLP, the Consent Holder must establish all planting on the site in accordance with the certified DLP.
- a. The landscaping shall be retained and maintained in accordance with the certified DLP.
 - b. Any plants that are removed, damaged, or fail shall be replaced at the sole expense of the Consent Holder as soon as possible, but no later than the next planting season, in accordance with the certified DLP.
 - c. The Consent Holder shall contact Council's Monitoring and Enforcement Officer within two (2) weeks of planting being fully implemented so the initial monitoring visit can occur.

Advice Notes:

- *The plantings will be monitored by Council's Monitoring and Enforcement Officer:*
 - ~ *At the completion of the physical installation of the planting and associated works, and*
 - ~ *24 months after the planting is first installed and completed.*
- *Additional monitoring may take place thereafter if required.*