

STATEMENT OF PLANNING EVIDENCE ON PLAN CHANGE 74

1.0 INTRODUCTION

- 1.1 My full name is Jacqueline Mary McNae. I hold the qualifications of a Bachelor of Regional Planning (Hons) from Massey University.
- 1.2 I have over 30 years' experience as a Planner and Resource Management Consultant. This experience includes as a Council Planner with the Waimea County Council, and then the amalgamated authority Tasman District Council from 1984 through to mid-1990, when I moved into private practice. I am employed as the Planning Manager at Staig & Smith Ltd which is a Surveying, Land Development and Planning Consultancy based in Nelson.
- 1.3 My Planning Consultancy work is predominantly undertaken in the '*Top of the South*' covering the Tasman District, Nelson City and Marlborough District area. Throughout my time in planning consultancy, I have provided a range of planning advice in relation to the Tasman Resource Management Plan (TRMP), including when this Plan was first notified.
- 1.4 In relation to Pohara, I have been involved in the range of planning processes extending back to 2007 advising the Submitter on the planning process and options for future development of their landholding. I provided advice to the Submitter through the Council's policy development work arising from their Takaka Eastern Golden Bay settlement policies which culminated in the Council's Variation to the TRMP in 2007. During that period of time the Submitter, in conjunction with my Company, developed a broad Structure Plan of the development potential and attributes requiring protection over the land, to support their participation in the Council's Planning Policy considerations for urban growth in the Eastern Golden Bay area which included Pohara.
- 1.5 I co-ordinated a Resource Consent Application for a portion of the subject site in December 2014. The Application went through various amendments and went part way through the process, but was placed on hold to enable further consideration of flood modelling.
- 1.6 In 2018 I co-ordinated and lodged the Resource Consent Application under the Housing Accord and Special Housing Areas (HASHA) Act 2013 following the gazetting of a portion of the submitters land as a Special Housing Area (SHA). This Application replaced the earlier Application. Resource Consents were issued under HASHA Act in December 2019.
- 1.7 I am familiar with, and confirm that I have read, the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and I have complied with the Code of Conduct in preparing this evidence.

2.0 THE SUBMISSION

2.1 In the submission as lodged I confirmed the submitters land ownership at Pohara being a 34.1403ha property, a portion of which is subject to a gazetted Special Housing Area. Below in Figure 1 is the extent of the gazetted SHA and in Figure 2 the extent of the proposed rezoning on the submitters land.

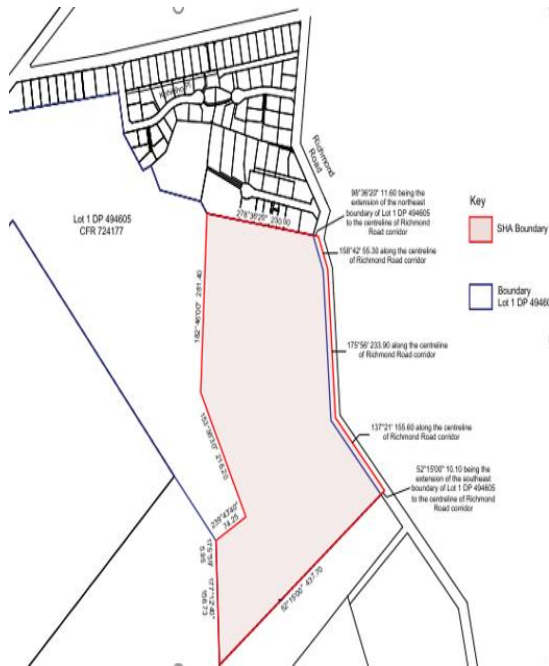


Figure 1: Gazetted SHA extent shown with red line

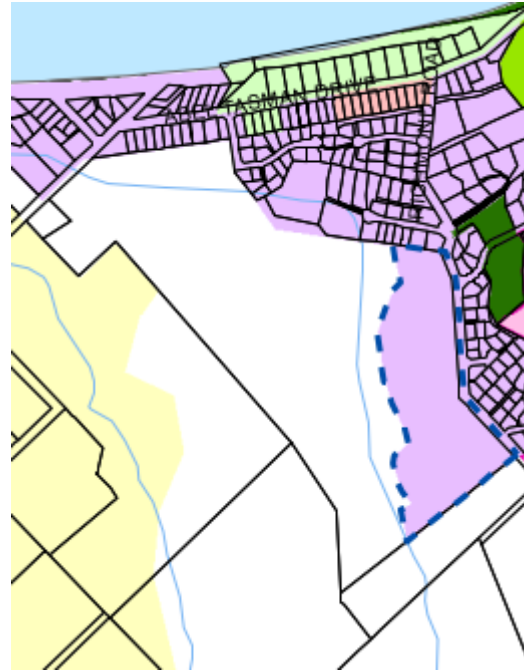


Figure 2: Proposed Plan Change area to be rezoned

- 2.2 The submitters have supported Plan Change 74 in part, supporting the rezoning of a portion of the landholding at Pohara to Residential. In the Section 42A report the recommendation is to reject the submission. The recommendation is that all points in the submission are to be rejected and recommends the further submissions are allowed.
- 2.3 It is assumed that there is an error in the recommendation as it does not align with the evaluation undertaken in the Section 42A report.
- 2.4 The submitters opposition to the Plan Change related to the extent of zoning on their Pohara site and the non-inclusion of the SHA site in Marahau for which a Resource Consent Application has been lodged, but has not progressed to the point of a Resource Consent.

3.0 REASONS FOR THE SUBMISSION

- 3.1 The submission as lodged outlined the background to the submission traversing the submitters engagement in planning processes with the Council in respect of the Tasman Resource Management Plan and summarising the Resource Consent Application history which culminated in the Resource Consents issued for the residential subdivision within the gazetted SHA area under the HASHA Act.
- 3.2 A significant period of time has now lapsed from 2007/2008, when Council first identified the subject location as an urban growth area for Eastern Golden Bay. This Planning policy work resulted in Variation 57 confirming the policy framework for future development at this location. It has been 14 years since the confirmation of this area as an Urban Growth area and while PC74 Zones part of the SHA site, a significant proportion of the area at Pohara identified for Urban Growth in 2007 remains Rural.
- 3.3 I acknowledge though the progress Council has made in respect of infrastructure, including significant upgrades in the wider wastewater network, including a new pump station on Abel Tasman Drive and the modelling work in relation to existing stormwater and flood issues which resulted in Council proposing mitigation in the lower catchment area. Council's subsequent Resource Consent Application for those mitigation works, includes a bund on the Submitters land adjacent to Bartlett Creek as well as other downstream works on other landholdings. The Resource Consent was issued to the Council for those works on 2 August 2021.
- 3.4 In the reasons for the submission as lodged, it was acknowledged that there was not scope to increase the Plan Change beyond the SHA areas. However, the submission sought to take the opportunity through this process to record the history from 2007 when Council first identified this area as an urban growth area for Pohara and encourage through this process, commitment to taking action in respect of zoning over the wider property as part of the review of the Tasman Resource Management Plan.
- 3.5 The submission, in respect of extending the zoning to the gazetted area of the SHA, is a matter in terms of scope that is not so clear cut. Section 4.0 of my evidence addresses this issue of scope further.

4.0 SECTION 42A ASSESSMENT

- 4.1 The Section 42A assessment notes the support for PC74 for rezoning Richmond Pohara Holdings Ltd land, but as I have noted the recommendations are that the submission be rejected in its entirety. At the same time, the Section 42A report recommends that the further submissions be allowed. However, the Section 42A report states that there are no plan amendments required, as such, acknowledging the rezoning proposed through Plan Change 74 would remain.

- 4.2 The submission of support for the Plan Change, as far as it goes in respect of Residential zoning, must be upheld as the recommendation is to maintain the Plan Change for this land with no plan amendments. It follows therefore, the Further Submissions, as they relate to the rezoning set out in Plan Change 74, must be rejected.
- 4.3 The Section 42A report in respect of the Pohara landholding considers that any rezoning beyond the area of land that holds Resource Consent is beyond the scope of Plan Change 74. I agree the rezoning of the full landholding is beyond the scope of the Plan Change, however the circumstances of the Gazetted SHA can be distinguished from the wider area of the landholding.
- 4.4 I acknowledge that the purpose of the Plan Change is to rezone land that has been approved and consented through the HASHA Act for residential development, but is not currently zoned Residential. The Subdivision Consent held, includes the land that is Gazetted as an SHA, as well as the land beyond the gazetted area as this forms an allotment on the Consented subdivision plan, being Lot 74 of the Subdivision Consent.
- 4.5 I acknowledge that Lot 74 is effectively the balance allotment. Notwithstanding this, the creation of this allotment as part of the Subdivision Consent means that Lot 74 gains the right to a Residential Unit, as the original dwelling on the underlying title is being subdivided onto a separate allotment, Lot 75. Lot 75 is part of Stage 1 of the subdivision. As such, the Subdivision Consent held, does enable residential development on Lot 74, that was not the case prior to the Subdivision Consent being issued as the overall underlying title contained a dwelling. The Rural 2 zone allows as a permitted activity one dwelling per site. In addition to one principle dwelling, a minor dwelling is provided for as a Controlled Activity.
- 4.6 The Section 42A report, while concluding there is not sufficient scope for PC74, confirms the opportunity anticipated out of the process of the review of the TRMP for further assessments for extension of Residential Zoning. This is acknowledged and is one of the reasons for the submitter taking this opportunity under Plan Change 74, to ensure that the Council does address the zoning over the wider property as part of the TRMP review.
- 4.7 While it is accepted there is no scope for the Hearing Authority to rezone the wider property through this process, there is the opportunity as an '*other action*' for the Hearing Commissioner to recommend to the Council, as part of their TRMP review process, to consider this landholding for rezoning in light of the long history of identification of this area for urban growth and the need for additional land for urban development.
- 4.8 In respect of the Marahau SHA site, the Section 42A report considers that rezoning this is outside the scope of the Plan Change, because while it is acknowledged that the land is gazetted and there is a Resource Consent Application lodged, there is at this point, no Resource Consent issued.
- 4.9 The Section 42A report notes that the Marahau site zoning is Rural 1 Deferred Residential and that built into the TRMP zone framework are rules that enable the deferral to be uplifted once Resource Consents have been granted and required services are provided. It is correct that the Zoning framework does allow the land to be zoned Residential once services are provided. At that point all that is required is a resolution of Council to uplift the deferral.

- 4.10 The issue though with the Marahau site zoning is that, at the time when Council first introduced the Deferred Residential zoning they intended constructing a reticulated wastewater system for the township. However, in the intervening years the Council has confirmed they no longer intend to install a reticulated wastewater system. There is no provision under the Council's Long-Term Plan for this infrastructure and as unserviced land there is no process for the uplifting of the deferred zoning.
- 4.11 The deferral can only be uplifted when reticulated services are provided and as noted the Council has now changed their position, they no longer intend to provide a reticulated wastewater system. The current Resource Consent Application under the HASHA Act is on the basis of on-site servicing. As such the only option for rezoning for the Marahau land, when Resource Consents are granted under HASHA, will be through the TRMP or alternatively Council undertaking a further 'tidy up' Plan Change.
- 4.12 It is my view that the limitation on the scope of this Plan Change process has been very inefficient and ineffective for the Marahau site, because the remedy that the Section 42A report assumes the submitter has, is not the case.
- 4.13 I acknowledge the lack of scope in relation to the Marahau site given that Resource Consent is still not in place. It is accepted that the Hearing Commissioner has no option but to reject the rezoning of the Marahau site. However, recommendations can be made to Council in terms of a further Plan Change when Resource Consents issue or a recommendation that the land be zoned Residential as part of the TRMP process.

5.0 FURTHER SUBMISSIONS

- 5.1 I acknowledge the further submissions lodged by Mr English and Mr Rogers. Essentially those further submissions consider the Richmond Pohara Holdings Ltd submission out of scope and oppose the submission.
- 5.2 As I have already noted in my evidence the first point of our submission was to support the rezoning introduced by Plan Change 74. I have already highlighted that there seems to be an oversight in the Section 42A report in terms of the recommendations, as the recommendation is to reject the entire submission of Richmond Pohara Holdings Ltd but that is not intent of the Section 42A report. The recommendation in terms of Plan Amendments, is that no plan amendments be undertaken, which confirms the recommendation is to retain the proposed zoning as notified.
- 5.3 Following on from the above point, the Further Submissions, to the extent that they oppose the rezoning proposed under PC74, must be rejected.
- 5.4 While the Submitter did not lodge Further Submissions to other original submissions, it is noted that the content of the original submission of Mr English is brought into his Further Submission as he references his original submission points in his reasons for opposition. Therefore, there is a right for Richmond Pohara Holdings Ltd to speak to the issues raised.

- 5.5 I acknowledge the Section 42A report in respect of the request to place any development of the subject site on hold until a range of issues are addressed, where it is confirmed such an action is beyond the scope of Plan Change 74, as the Resource Consents have already been granted and are beyond challenge.
- 5.6 The broad issues that are raised in the Submissions and Further Submissions relate to issues of flood modelling and stormwater effects. These matters were dealt with in detail in the Resource Consent Application Assessments and the Resource Consent conditions contained in the suite of consents issued.
- 5.7 The Further Submitters seek that the downstream flood mitigation works to be undertaken by Council should be completed before Plan Change 74 is implemented. Elsewhere in the submissions, there is comment that the developer in part relied upon flood mitigation works that are going to be undertaken by the Council as part of their current Consent and the proposed Plan Change, is premised on this. This is not correct.
- 5.8 The assessment of effects by Tonkin & Taylor of stormwater arising from the proposed subdivision, including the modelling, was undertaken both with the Council's flood mitigation works proposed for the existing flood hazard, as well as undertaking the modelling and assessment without the Council's mitigation works being implemented. The assessments confirmed that the effects on the flood hazard were minor with no further works lower in the catchment.
- 5.9 It should be noted that this issue, of whether the subdivision is reliant on Council flood mitigation works, was a specific matter of further information sought by the Consent Processing Consultant Planner. I can confirm that Tonkin & Taylor responded that their findings were not dependant on Council works downstream. I co-ordinated the response to that further information request. I can confirm that Tonkin & Taylor confirmed that their findings, in respect of the assessment of the Richmond Pohara Landholdings Ltd Resource Consent Application under the HASHA Act, did not rely on any Council works being carried out downstream of the proposed development. They confirmed the second detention dam can be designed to ensure that post-development peak flows are detained and attenuated to ensure post development flooding is no greater than pre-development flooding, regardless of the timing of any downstream flood mitigation works.
- 5.10 Given Resource Consents have issued for the subdivision of Richmond Pohara Holdings Ltd land and that these Consents are now beyond challenge Richmond Pohara Holdings Ltd has the right to give effect to the consents issued. I agree with the Section 42A report confirming that the Plan Change 74 process has no ability to change, remove or place on hold, the rights of Richmond Pohara Holdings Ltd to give effect to those Consents.

6.0 OUTCOMES SOUGHT

6.1 The following summarises the outcomes sought from this process:

- (i) That the proposed Residential Zoning over Richmond Pohara Holdings Ltd land set out in Plan Change 74 be retained.
- (ii) That the Residential Zoning on Richmond Pohara Holdings Ltd land be extended to the full gazetted SHA on their landholding.
- (iii) In the event that the Commissioners conclude that there is no scope to extend the Residential Zoning to the full Gazetted SHA, that the issue of extension of the zoning to the full gazetted area and over the wider site, is a matter that the Commissioners recommend to the Council be considered as part of the review of the Tasman Resource Management Plan.
- (iv) Acknowledging that there is no scope to Rezone the Marahau SHA, we seek that the Commissioners recommend to the Council to either pursue a further Plan Change for that landholding to be rezoned Residential when Resource Consents issue or rezone this land as Residential as part of the TRMP review.

6.2 Thank you for the opportunity of presenting this evidence in respect of the submission lodged. I am happy to answer any questions.