

Notice is given that a Tasman Resource Management Plan (TRMP) hearing will be held on:

Date: 19 November 2018
Time: 9.30 am
Venue: Council Chambers, 189 Queen St, Richmond

Environment and Planning Committee Tasman Resource Management Plan

Hearing 76

Change 68: Omnibus

AGENDA

MEMBERSHIP

Chairperson

Cr T King

Deputy Chairperson

Cr S Brown

Members

Mayor R G Kempthorne

Cr P Canton

Cr S Bryant

Cr M Greening

Cr P Hawkes

Cr K Maling

Cr D McNamara

Cr D Ogilvie

Cr P Sangster

Cr T Tuffnell

Cr A Turley

Cr D Wensley

(Quorum 7 members)

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TIMETABLE

9.30 am	Opening, Apologies, Welcome Confirmation of Order and Submission Timetable Decision on any Late Submissions
9.45 am	Hearing of Submissions / Presentation of Reports

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627 Change 68: General: Overview and Section 42A Report

Evaluation Overview

Purpose of the Report

This report is prepared under Section 42A of the Resource Management Act 1991 (RMA) to advise on matters raised in submissions and related further submissions following the public notification of proposed Plan Change 68 Omnibus Amendments on 14 July 2018.

In addition, Section 32AA of the RMA requires a further evaluation if any changes are to be made to the proposal since notification. This report will provide this further evaluation, at a scale that corresponds to the scale and significance of the change, should any be recommended as a result of submissions and further submissions.

Many of the submissions received are in support of various topics within the Plan Change, and the remainder are submissions seeking changes to that notified, or are in opposition to the changes notified. The supporting submissions are identified and discussed in this report. Those in opposition, or seeking changes are discussed in separate staff evaluation reports that form part of this wider Section 42A report.

Reporting Officer

My name is Reuben Peterson and I have been engaged by Tasman District Council, as a consultant planner, to assist with preparing this Section 42A report. I have also assisted with the preparation of the Plan Change and associated section 32 report. I also carried out much of the consultation during this process. Maxine Day, Team Leader – Urban and Rural Development Policy, has led the development of PC68.16 being the proposed rezoning of 104 Waimea West Road, Brightwater. Ms Day acts as the reporting officer for that portion of this Plan Change.

I have a BRS Honours degree from Lincoln University and am a full member of the New Zealand Planning Institute. I have worked in the resource management field for the last 15 years, both for local authorities and in my current role with WSP-Opus.

I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014 and these reports and my appearance at the hearing will be carried out in accordance with that Code of Conduct.

Plan Change Background and Content

Proposed Plan Change 68 – Omnibus Amendments – sets out a number of changes to the Tasman Resource Management Plan which have been collated together for administrative efficiency. The changes are minor amendments to outdated text, the correction of errors or anomalies, or simple adjustments to improve clarity of jurisdiction, interpretation or enforcement. Others relate to zoning and overlay changes that correct errors or anomalies that have generally been created through other changes to the TRMP; or through sale, subdivision, or development of the affected land.

For additional detail on the proposed Plan Change as notified please refer to the Section 32 and the Explanatory Statement and Schedule of Amendments which are available on request or through Council's website at <http://www.tasman.govt.nz/policy/plans/tasman-resource-management-plan/plan-change-projects/proposed-changes-and-variations/proposed-change-68-omnibus-amendments/>

Plan Change Process

Council maintains a database of issues identified in the TRMP which require further consideration and possible inclusion in a plan change process. As noted above, a number of these issues have been included within Plan Change 68.

All issues have been investigated and consultation has been carried out with affected property owners, neighbours and other relevant interest groups prior to the proposed changes being finalised.

Mana whenua of Te Tau Ihu were also given the opportunity to comment on the draft changes prior to notification. Once consultation was completed, Council made the decision to formally notify and this occurred on 14 July 2018 to landowners, neighbours and the public generally. A specific notification letter went to over 500 landowners. It referred parties to previous correspondence on the Plan Change material, and summarised a number of topics, including a list of matters covered by the Plan Change.

A total of 16 submitters made a number of submission points on the Plan Change before the closing date of 13 August 2018. The submission points were a mix of support, support in part, and opposition. These submissions were then summarised and these were notified on 8 September 2018 with a closing date of 24 September 2018. Two further submissions were received.

This Sec42A and associated Staff Evaluation Reports (SERs) contained within this bundle of documents respond to the various submission points and the original section 32 evaluation in accordance with Sections 32AA and 42A of the RMA.

Late Submissions

Two submissions were received after the submission closing date of 13 August 2018. Decisions on these late submissions will be sought at the start of the hearing, i.e., submissions 1823 (NMDHB Public Health Service) and 4163 (Philip De Weck). The reason for the submissions being late is also recorded if one was given.

RMA Section 37(1)(b) gives the consent authority the ability to decide to 'waive a failure to comply with a requirement under this Act...'. Section 37A sets out items that the consent authority must take into account on making this decision.

These matters to take into account under RMA s37A (1) are:

A) The interests of any person who, in its opinion, may be directly affected by the extension or waiver.

No person is considered to be affected by the waiver of the time limit applying to these submissions as both were included within the summary of submission document which was notified on 8 September 2018 allowing further submissions to be made. Also the submission points within the De Weck submission no 4163 are similar to those of other original submitters meaning no new matters were raised through the late submission.

B) The interests of the community in achieving adequate assessment of the effects of a proposal, policy statement or plan.

Consideration of the submissions is in the interests of the community and ensures adequate assessment of the effects of the proposal.

C) Its duty under section 21 to avoid unreasonable delay.

There is no unreasonable delay created by this decision.

In accordance with RMA s37(1)(b), I recommend the consent authority waives the requirement for the two submissions noted above to be received by Council on the 13 August 2018. The submissions are therefore recommended to be accepted as being received on time and to form part of the decision making on this Plan Change.

Reporting

Submissions on a notified plan change are summarised by Council and grouped in relation to affected plan change provisions. The issues raised are then assessed by staff and recommendations for improvements to the plan change are made. The assessment, recommendations and reasons for the recommendation are contained in the s42A staff evaluation reports. This is a legal process. If a submission requests an action that was not subject to formal notification, it may be 'out of scope'. Or it may be an action more appropriately addressed through Council's Long Term Plan or by another Council process or agency.

This s42A report comprises five separate Staff Evaluation Reports (SERs) including SERs 627, 628, 631, 633 and 634. These reports respond to submissions and further submissions which oppose, or support in part, proposed Plan Change 68. Details of the SERs, the primary author involved, and a summary of topics covered and recommendations made within each report are listed below. The SERs contain more complete discussion and rationale for the recommendations. The SERs authored by different staff may vary in style, although the basic format is the same.

- SER 628 - PC68.3 Application of Network Utility Rules (Reuben Peterson)
This report responds to the single submission (supporting in part) that sought various additional changes to the rules that were involved in this section of the Plan Change. These relate to matters of clarity and interpretation, however no changes are recommended to the proposed Plan Change. The matters raised will be added to Council's Plan change database for further consideration in a separate plan change process in the future.
- SER 631 - PC68.8 Heritage Sites in the Coastal Environment Area (Reuben Peterson)
This report responds to the two submissions on this topic (one in support and one supporting in part). This latter submission sought clarity around the scope and potential implications of the proposed change. No changes to the additional matter of control are recommended.
- SER 633 - PC68.9 Rezoning of 18 Rata Ave, Tapawera (Reuben Peterson)
This report responds to the single supportive submission to the proposed change in the zoning of 18 Rata Ave, Tapawera, and a further submission in opposition to the original submission. No change to the proposed rezoning is recommended as a result of the further submission in opposition.
- SER 634 - PC68.16 Rezoning of 104 Waimea West Road, Brightwater (Maxine Day)
This report responds to the eight submissions received on this proposal to change the zoning of a portion of a property in Brightwater from Conservation Zone to Rural 1 deferred Residential Zone. The submissions received are a mix of support, support in part, and opposition. No change to the proposed rezoning is recommended as a result of the submissions.

Submissions in support of various topics are identified in the evaluation and recommendation section below.

Hearing, Deliberations and Decisions

Hearings of all submitters who have identified that they wish to present their requests to Council in person have been scheduled for 19 November 2018. Following this, staff may make further recommendations to the Council and these will be made available to all affected submitters. Submitters' requests, the verbal and written presentation material from the hearings, staff evaluations and further evaluations will all contribute to the deliberations process of Council. Following this, decisions will be made and publicly notified. There is an appeals process available in respect of these decisions, outlined within Part II Schedule 1 of the Resource Management Act.

Submissions Dealt with in this Report

C68.1445.1	Director-General of Conservation	Zones 2	Retain proposed rezoning of land in the Kaihoka Lakes area from Rural 2 Zone to Conservation Zone.
C68.1445.2	Director-General of Conservation	Zones 4	Retain proposed rezoning of land in the Whanganui Inlet area from Rural 2 Zone to Conservation Zone.
C68.1445.3	Director-General of Conservation	Zones 72	Retain proposed rezoning of land in the Milnthorpe Park Scenic Reserve from Rural 2 to Conservation Zone.
C68.1445.4	Director-General of Conservation	Zones 51	Retain proposed rezoning of land in the Motupipi area from Rural 2 Zone to Conservation Zone.
C68.1445.5	Director-General of Conservation	Zones 79	Retain proposed rezoning of land in the Awaroa area from Rural Residential Closed Zone to Conservation Zone.
C68.1445.6	Director-General of Conservation	Zones 10 & 11	Retain proposed rezoning of land in the Awaroa area from Rural 2 Zone to Conservation Zone.
C68.1445.7	Director-General of Conservation	Zones 82	Retain proposed rezoning of land in the Marahau area from Rural 2 Zone to Conservation Zone.
C68.1445.8	Director-General of Conservation	Zones 14	Retain proposed rezoning of land in the Takaka Hill area from Rural 2 Zone to Conservation Zone.
C68.1823.1	Nelson Marlborough District Health Board	Chapter 17	Retain proposed amendments to rules 17.1.2.1, 17.2.2.1, 17.2.3.1, 17.3.2.1, 17.4.2.1, 17.8.2.1 and 17.12.2.1.
C68.1823.2	Nelson Marlborough District Health Board	1.2.5	Retain proposed amendment to clause (e) to replace "have regard to" with "take into account".
C68.1823.3	Nelson Marlborough District Health Board	Maps 258 - 276	Retain proposed extension of the Fire Ban and Fire Sensitive Areas to reflect the extended urban boundaries.
C68.4159.2	Ngati Tama ki Te Waipounamu Trust	1.2.5	Retain proposed amendment to clause (e) to replace "have regard to" with "take into account".
C68.4160.1	The Oil Companies (Z, BP, Mobil)	Chapter 17	Retain proposed amendments to rules 17.1.2.1, 17.2.2.1, 17.2.3.1, 17.3.2.1, 17.4.2.1, 17.8.2.1 and 17.12.2.1.
C68.4161.1	Shone, Janet	Part II ZM	Retain proposed rezoning of Department of Conservation land from Rural 2 Zone to Conservation Zone.

Evaluation and Recommendations 627.1

A. Evaluation

1.0 Introduction

The evaluation in this section is limited to those submissions that have been received in support of various provisions within the proposed Plan Change. These submissions relate to the following Plan Change items:

- PC68.2 Odour and Dust provision review
- PC68.4 Update references to iwi management plans
- PC68.13 Rezoning of Conservation land
- PC68.14 Overlay adjustment Fire Ban and Fire Sensitive Areas

Each submitter, related submission points and actions sought are set out above under "Submissions Dealt with in this Report".

2.0 Submitters' Reasons

The various submitters above seek the retention of the Plan Change items specified as they were notified. The reasons given by the submitters for their requests are as follows:

2.1 Director General of Conservation

PC68.13: Clarity and consistency in the TRMP in relation to public conservation land being appropriately zoned.

2.2 Nelson Marlborough District Health Board

PC68.2: The odour and dust changes will align the District Plan provision with best practice guidance from the Ministry for the environment.

PC68.4: Proposed changes are as per amendments to RMA Section 66.

PC68.14: Support for Fire Ban and Fire Sensitive Areas as smoke and odour can cause significant adverse effects and these changes mitigate these effects.

2.3 Ngati Tama ki Te Waipouinamu Trust

PC68.4: Support for updated references to Iwi Management Plans in accordance with amendments to RMA Sec 66 2A(a) as this improves the consistency of the TRMP with the legal requirements of the RMA.

2.4 The Oil Companies

PC 68.2: Support the odour and dust provisions as notified for the reasons set out in the Section 32 report.

2.5 Janet Shone

PC 68.13: General support for the change of zone for various public conservation zoned properties.

3.0 Options

The submissions points can be allowed or disallowed by Council. In this case the preferred option is to allow the submission points identified.

B. Staff Recommendations

Staff recommend that these identified submission points are allowed.

C. Reasons

The submission points identified are recommended to be allowed as they are in support of the respective Plan Change provisions as notified. There are no other submissions or further submissions in opposition to these topics.

D. Plan Amendments

Topic : C68 GEN

No plan amendments beyond those originally proposed through the notified Plan Change are required as a result of this staff evaluation report.

E. Other Action

No further actions are required

F. Submission Recommendations

C68.1445.1	Director-General of Conservation	Allow
C68.1445.2	Director-General of Conservation	Allow
C68.1445.3	Director-General of Conservation	Allow
C68.1445.4	Director-General of Conservation	Allow
C68.1445.5	Director-General of Conservation	Allow

C68.1445.6	Director-General of Conservation	Allow
C68.1445.7	Director-General of Conservation	Allow
C68.1445.8	Director-General of Conservation	Allow
C68.1823.1	Nelson Marlborough District Health Board	Allow
C68.1823.2	Nelson Marlborough District Health Board	Allow
C68.1823.3	Nelson Marlborough District Health Board	Allow
C68.4159.2	Ngati Tama ki Te Waipounamu Trust	Allow
C68.4160.1	The Oil Companies (Z, BP, Mobil)	Allow
C68.4161.1	Shone, Janet	Allow

628 Change 68: Application of Network Utility Rules

Evaluation Overview

The report responds to the submission from Network Tasman Limited relating to rules within TRMP Section 16.6 'Network Utilities and Public Works'. The submission does not directly seek any amendment to the change proposed through Plan Change 68, however it specifies 'It is sought that the opportunity be taken to provide some consequential amendments that will improve the understandability, usefulness and certainty of the rule'.

Council has notified this proposed change to improve the clarity and application of the rule, particularly as it relates to the measurement of the cross sectional area of infrastructure attached to network utility structures. An additional part of this was improving the consistency between the initial paragraph of rule 16.6.2.1(j) and the wording in rule 16.6.2.1(j) item (ii) and (iii).

No further submissions were received in relation to the network utility provisions.

Submissions Dealt with in this Report

C68.3650.1	Network Tasman Ltd	16.6.2.1	Retain the proposed amendments to the rule, but amend the introductory paragraph of condition (g) to include reference to condition (j) as follows: "All structures associated with any network utility or public work above ground, other than support structures or as provided for in (h), (i) or (j)."
C68.3650.2	Network Tasman Ltd	2.2	Insert definition of "support structures" that includes poles, pylons and other structures that support electricity conductors.
C68.3650.3	Network Tasman Ltd	16.6.2.1	Retain the proposed amendments to the rule, subject to amending condition (i) to refer to "piped" network utilities so it reads: "Piped network utilities have a gauge pressure of less than 2,000 kilopascals."
C68.3650.4	Network Tasman Ltd	16.6.2.1	Retain the proposed amendments to condition (j), subject to EITHER: (a) being explicit that power poles are subject to this rule by inserting in clauses (ii) and (iii), "(including single or double poles that are support structures for electricity conductors)"; OR (b) providing a definition for a pole which includes support poles for electricity conductors.
C68.3650.5	Network Tasman Ltd	16.6.2.1	Retain the proposed amendments to the rule, subject to including reference to the Mixed Business Zone in condition (j)(ii) and the Rural 3 Zone in condition (j)(iii), including in the tables, with the same measurements as the other zones.

Evaluation and Recommendations 628.1

A. Evaluation

1.0 Introduction

The evaluation of issues below considers the matters raised by the submitters and any other relevant matters. The matters raised in the individual submission points are:

- change references within rule 16.6.2.1(g)
- provide a definition for support structures
- amend text of rule 16.6.2.1(i) to clarify this applies to 'piped' network utilities
- conditional support for changes but make it clearer that power poles are subject to rule 16.6.2.1(j)
- add mixed business and rural 3 zoning to rules 16.6.2.1(j)(ii) and (iii)

2.0 Affected Plan Provisions

Plan Change 68 – Omnibus Amendments proposes amendments to the following sections of the TRMP:

- 16.6.2.1 Permitted Activities (Network Utilities and Public works) (c), (e), and (j).

Other changes have been made to various zone chapters to add references back to the rules above as relevant.

3.0 Issues

The purpose of the notified Plan Change was to improve the clarity and application of the rule, particularly as it relates to the measurement of the cross-sectional area of infrastructure attached to network utility structures. An additional part of this was improving the consistency between the initial paragraph of rule 16.6.2.1(j) and the wording in rule 16.6.2.1(j) item (ii) and (iii). This limits the scope of the Plan Change to these items rather than as a more holistic review of the network utility chapter and its rules.

Each of the submitters individual points raised are noted in section 1.0 above and are outlined and considered in detail below. Whether the relief sought by the submitter is considered to be within the scope of the Plan Change item is discussed within the context of each item below:

3.1 Change References within rule 16.6.2.1(g)

The submitter has requested that an additional reference be added as follows:

- g) All structures associated with any network utility or public work above ground, other than support structures or as provided in (h), (i) or (j).

This is to correct the omission of a reference to rule 16.6.2.1(j) in rule 16.6.2.1(g).

The submitter is correct that this change should be made, however it is a change sought to a Plan provision that is not part of this Plan Change, nor is it directly related to the Plan Change content so it is not considered to be within scope. However I point out that this error in the TRMP has already been corrected through a RMA Sch 1, Clause 20A process for correcting minor errors. This was completed on 14 July 2018 and is now operative in the TRMP. No further action is required to address this submission point.

3.2 Provide a Definition of 'Support Structure'

The submitter has sought that the Plan Change also includes a definition of 'support structure', particularly as it relates to poles, pylons and other structures that support electricity conductors.

The Plan Change has not sought any changes that directly relate to this submission point and it is therefore considered to be outside of the scope of the Plan Change. Any change to introduce a new definition at this point would have a number of implications for other network utility providers who also have support structures for their infrastructure. While I do agree that the clarity of some aspects of this set of rules could be improved further, it is beyond the scope of the changes introduced in this Plan Change to do so.

Council is currently in the process of preparing a separate Plan change that relates to the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA). As this is in development, and aside from the scope issue, it is not advisable to make individual changes to add another definition when this is not able to be considered in the wider context of upcoming changes to the TRMP. Council staff have added this item to the database of items to consider for future changes.

3.3 Amend Provision to add 'Piped' Network

The submitter seeks to add the word 'piped' in front of the current TRMP provision 16.6.2.1(i) which states 'Network utilities have a gauge pressure of less than 2,000 kilopascals'.

This change is also outside of the scope of the Plan Change. However, it has been added to the database of items to consider for future changes.

3.4 Clarify that Power Poles are subject to Rule 16.6.2.1(j)

The submitter seeks clarity that support structures for electricity conductors (power lines) fit within this plan provision. This is sought to occur through either adding a definition of poles to confirm it includes support poles for electricity conductors (power lines), or through adding specific words in rule 16.6.2.1 (j) item (ii) and (iii). This submission point is considered to be within the scope of the Plan Change as it relates to a change in wording proposed through the Plan Change.

The purpose of the notified change was to improve the clarity and application of the rule particularly as it relates to the measurement of the cross-sectional area of infrastructure attached to network utility structures. As an additional part of this was improving the consistency between the initial paragraph of rule 16.6.2.1 (j) and the wording in rule 16.6.2.1(j) item (ii) and (iii). The latter two items include 'slim line, self-supporting masts or poles and attached infrastructure', however the initial paragraph of rule 16.6.2.1(j) did not. The Plan Change sought to rectify this situation and thereby include masts and poles (and attached infrastructure) in the initial paragraph.

It is the practice of TDC consents staff that all aspects of 16.6.2.1(j) apply to 'support structures of electricity conductors' as these are a subset of 'poles'. Adding a further definition to confirm that 'pole' also includes support poles for electricity conductors would add additional confusion over the application of the rule to other network utility 'poles' that are not specifically defined.

The second option put forward by the submitter in directly inserting the words 'including single or double poles that are support structures for electricity conductors' into rules 16.6.2.1(j) item (ii) and (iii) is also not considered necessary as it could add confusion around the status of other network utility poles.

As noted above, it is the practice of TDC consents staff to apply these provisions to power poles and, as such, no further change is considered necessary.

As for other changes requested by the submitter, this matter has been added to Council's database of items to consider for future changes.

3.5 Add Mixed Business and Rural 3 Zoning to Rules 16.6.2.1(j)(ii) and (iii)

The submitter requests that the Mixed Business zone is added to rule 16.6.2.1(j) item (ii) and Rural 3 zone is added to item (iii).

The submitter is correct that the Mixed Business zone should be included within rule 16.6.2.1(j)(ii) as the relevant rule (17.3.3.1(c)(i)) in the Mixed Business zone chapter of the TRMP specifically refers to this provision. It is clear the intent of the TRMP is that mast and poles in the Mixed Business zone have the ability to be at the maximum heights specified.

This change is also outside of the scope of the Plan Change. It has, however, been added to the database of items to consider for future changes.

The submitter has also made the same request for the Rural 3 zone to be added to 16.6.2.1(j)(iii). This is also outside of the scope of the Plan Change and unlike the case for Mixed Business zone, it does not appear to be an error or omission as the Rural 3 section does not include a reference back to rule 16.6.2.1(j)(iii).

This change has not been added to Council's database of items to consider for future changes and may only be considered if there is a full review of the provision for network utilities in the TRMP.

4.0 Options

The options available for addressing the submission requests are limited due to the issue of the scope of the Plan Change. The options that may be available are, however, set out as follows with the preferred option being highlighted:

4.1 Change References within rule 16.6.2.1(g)

(a) Option 1:

Make the changes as requested by the submitter to provision 16.6.2.1(g).

(b) Option 2 – Preferred Option:

Do not make the changes as requested by the submitter to provision 16.6.2.1(g) as this change has already been made.

4.2 Provide a Definition of Support Structures

(a) Option 3:

Add in a specific definition for support structures for conductors (power lines).

(b) Option 4:

Add a broader definition which covers support structures for all network utilities

(c) Option 5 – Preferred Option:

Make no change or addition in relation to a definition of support structures as the request is beyond the scope of the Plan Change. Add to the database of items to consider for future changes.

4.3 Amend Provision to Add ‘Piped’ Network

(a) Option 6 – Preferred Option:

Consider making the change by adding the word ‘piped’ in front of network utilities in rule 16.6.2.1(i) in a future Plan change.

(b) Option 7:

Make no change or addition to rule 16.6.2.1(i) as the request is beyond the scope of the Plan Change.

4.4 Clarify that Power Poles are Subject to Rule 16.6.2.1(j)

(a) Option 8:

Make changes to the wording of the rule to explicitly state that it includes support structures for electricity conductors.

(b) Option 9 - Preferred Option:

Make no changes to specifically include support structures for electricity conductors as this is out of scope of the Plan Change and their inclusion is already standard practise for TDC consents planners. Add to the database of items to consider for future changes.

4.5 Add Mixed Business and Rural 3 Zoning to Rules 16.6.2.1(j)(ii) and (iii)

(a) Option 10:

Include both Rural 3 and Mixed Business zones in rules 16.6.2.1(j)(ii) and (iii).

(b) Option 11 – Preferred Option:

Consider including Mixed Business zone in rule 16.6.2.1(j)(ii) in a future Plan change.

B. Staff Recommendations

The preferred options give rise to the following specific recommendations:

1. Add various items to the database of items to consider for future changes as follows:
 - Add a definition of support structures relating to rule 16.6.2.1 to clarify that this specifically includes support structures for electricity conductors.
 - Add the word ‘piped’ in front of the current TRMP provision 16.6.2.1(i) which states ‘Network utilities have a gauge pressure of less than 2,000 kilopascals’.
 - Clarify that power poles and support structures for electricity conductors are subject to rule 16.6.2.1(j)
 - Add Mixed Business zoning to rule 16.6.2.1(j)(ii).
2. Make no other changes in relation to these submission points.

C. Reasons

The primary reasons for the recommendations on the various submissions points are:

Many of the submission points were beyond the scope of the Plan Change and have not been able to be considered as part of this process. These have generally been added to Council's database of potential Plan change items for future consideration.

The requested change that is within scope is to clarify that support structures for electricity conductors are included within rule 16.6.2.1(j). This request is not recommended to be approved as creating a definition, or including specific wording for one type of network utility pole, gives rise to how to manage other network utility poles. The word 'pole' is already included within this network utility rule and therefore the additional explanation is considered unnecessary. To make a wider change that influences other network utility operators could give rise to unintended consequences and should more appropriately form part of a future Plan change process that addresses the network utility rules in a holistic manner. NB: Council is currently preparing a Plan change relating to the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA).

It is, however, standard practice of TDC consent planners to apply this rule to support structures for electricity conductors. This practice achieves the outcome sought by the submitter that the changes to rule 16.6.2.1 are retained with the condition that it is explicit that power poles are subject to the rule.

D. Plan Amendments

Topic : C68 GEN

No Plan amendments beyond the original changes proposed are required as a result of this staff evaluation report.

E. Other Action

Changes that are outside of the scope of the plan change but should receive further consideration in future plan changes have been added to Council's database of potential Plan change items. These items are:

1. Add a definition of support structures relating to rule 16.6.2.1 to clarify that this specifically includes support structures for electricity conductors.
2. Add the word 'piped' in front of the current TRMP provision 16.6.2.1(i) which states 'Network utilities have a gauge pressure of less than 2,000 kilopascals'.
3. Clarify that power poles and support structures for electricity conductors are subject to rule 16.6.2.1(j).
4. Add Mixed Business zoning to rule 16.6.2.1(j)(ii).

F. Submission Recommendations

C68.3650.1	Network Tasman Ltd	Disallow
C68.3650.2	Network Tasman Ltd	Disallow
C68.3650.3	Network Tasman Ltd	Disallow
C68.3650.4	Network Tasman Ltd	Disallow
C68.3650.5	Network Tasman Ltd	Disallow

631 Change 68: Heritage Sites in the Coastal Environment Area

Evaluation Overview

This report responds to two submissions, one supportive in part and one supportive, to the addition of a further matter of control for buildings in the Coastal Environment Area. This additional matter relates to 'the effects on a site of cultural significance to Maori', and is the primary ability to include these matters in the consenting process when those sites are not listed in the TRMP. Listed sites already have protection under rule 16.13.6 of the TRMP.

Council has notified this proposed change because while the TRMP has this matter listed as a restricted discretionary item, it is not currently included as a matter of control. The result is Council can, within the same rule, consider unlisted sites of cultural significance for restricted discretionary activities but not for controlled activities. This change has importance as many unlisted cultural sites are known to be found within the Coastal Environment Area.

One submitter has stated that they support the Plan Change in part. They have requested that clarity be provided "...around the scope and potential implications of consent conditions relating to this proposed matter of control". They do, however, seek that the proposal is retained

Information has been sent to the submitter relating to the application of this proposed provision. No further action is recommended.

The other submitter is supportive of the proposal as it will allow increased consideration and assessment of effects on cultural sites located within the Coastal Environment Area. The submitter notes there are several sites of significance to the submitter (Ngati Tama) which are not formally recorded in the Council schedule and therefore do not currently have protection under this controlled activity rule in the TRMP.

Submissions Dealt with in this Report

C68.4065.1	Port Tarakohe Services Ltd	18.11.3.1	Retain proposed insertion of matter (3A), subject to clarifying the scope and potential implications of consent conditions relating to proposed matter of control (3A).
C68.4159.3	Ngati Tama ki Te Waipounamu Trust	18.11.3.1	Retain proposed insertion of matter (3A).

Evaluation and Recommendations 631.1

A. Evaluation

1.0 Introduction

The evaluation of issues below considers the matters raised in the submission, which is supportive in part. These matters are:

- The scope and potential implications of consent conditions relating to this matter of control,
- Uncertainty around what is considered 'culturally significant'.

The supporting submission sets out the following matters relevant to their support for the proposed change:

- There are several unlisted sites of importance to Ngati Tama within the Coastal Environment Area,
- The change will enable increased consideration and assessment of effect on cultural sites within the Coastal Environment Area.

2.0 Affected Plan Provisions

Plan Change 68 – Omnibus Amendments proposes that an additional matter of control is included within the following section of the TRMP:

- 18.11.3.1 Controlled Activities (Building Construction or Alteration).

3.0 Issues

Council has notified this proposed plan change to add a further matter of control to rule 18.11.3.1. This change does not introduce a new trigger for resource consent but rather a further matter of control for activities which have already triggered resource consent. This ensures that all resource consents for new or altered buildings within the Coastal Environment Area are able to be assessed in terms of their effect on sites of cultural significance to Maori that are not formally listed in the TRMP. This is consistent with the policy direction in the New Zealand Coastal Policy Statement. The current situation in the TRMP means that unlisted sites of cultural significance can be considered if a proposal requires a restricted discretionary activity consent but not if a controlled activity consent is required.

This change has importance as many sites of cultural significance are located within the Coastal Environment Area. Sites which are listed within the TRMP Schedule 16.13C already have protection through rule 16.13.6; however those sites which are not listed, do not currently receive protection in the controlled activity section of the rule 18.11.3.1 as noted above.

The submitter which is supportive in part requests that the provision is retained but seeks additional clarity over the scope and potential implications of any resulting consent conditions.

This clarity has been provided with information setting out the approach Council takes to consents of this nature. This advice stated: '...Katrina Lee who is Council's Team Leader – Land Use Consents ... advises that their practice when assessing 'the effects on a site of cultural significance' as per the current restricted discretionary matters is to send the consent to iwi (note that a list of all consent applications lodged is sent to iwi every week). If any sites are raised as being relevant to the works then manage these appropriately. For a site that has a location known to iwi and is near the proposed works this management could be through conditions requiring an iwi monitor to be present during earthworks, or it could simply be a condition or advice note referencing an applicant's responsibilities and actions under the Heritage New Zealand Pouhere Taonga Act 2014. The requirements under this rule are generally based on there being a physical site of cultural significance to iwi more so than a wider landscape or area being of significance – but individual areas may be identified as being of particular significance in some cases.'

The approach and type of conditions applied by Council to consents of this nature is appropriate if any unlisted sites of cultural significance to Maori are identified near any proposed building. This does not appear to result in any unreasonable or uncertain requirements that would be inappropriate in a controlled activity rule.

The submitter who supports the Plan Change in part also raises a question around what can be considered to be culturally significant to Maori. The submitter notes there is no definition of 'culturally significant' in the TRMP. This is in the context of the proposed matter of control being:

'The effects on a site of cultural significance to Maori'

While the TRMP does not define 'culturally significant' it does define 'cultural heritage site' and also 'listed cultural heritage site'. The definitions rely on the Heritage New Zealand Pouhere Taonga Act 2014 and are generally sites, including buildings or structures, with evidence of human activity pre 1900. Further sections of the TRMP, for example 10.2.1.2, do state that historic heritage sites include '...sites of significance to the cultural values of manawhenua iwi...'

The wording used in the proposed matter of control is arguably a little broader than the term 'cultural heritage site' however it is consistent with the usage of this same term in the restricted discretionary section of the same rule. It is also consistent with the generally increased importance, and occurrence, of culturally significant sites around the coast. This is relevant as the same wording is used within the New Zealand Coastal Policy Statement 2010 (NZCPS) Policy 2 (d) which requires Council's to provide for Maori involvement in decision making when dealing with cultural localities or issues of cultural significance and specifically states that Maori experts, including pukenga, may have knowledge not otherwise available.

This proposed Plan Change gives Maori that ability outlined in the NZCPS. I also note that 'culturally significant' is not defined in either the NZCPS or the RMA. The RMA does include 'sites of significance to Maori' in the definition of historic heritage. The interpretation of what is a site of cultural significance needs to be led by Maori, with guidance from case law and legislation, and with reasonable conditions put in place by Council. No recommendation is made here for Council to place a definition around this wording.

4.0 Options

The options available for addressing the submission points are set out as follows:

4.1 Option 1

Proceed with the proposed amendment to the TRMP to add matters of cultural significance to Maori to controlled activity rule 18.11.3.1.

4.2 Option 2

Withdraw this item of the proposed Plan Change effectively retaining the status quo.

NOTE: There is no option to provide different wording as both submitters have sought that the proposed change is retained.

5.0 Preferred Options

Option 1 is preferred.

B. Staff Recommendations

The preferred option gives rise to the following specific recommendation:

1. Retain the proposed amendment to add matters of cultural significance to Māori to controlled activity rule 18.11.3.1.

C. Reasons

The primary reasons for the recommendation to retain the rezoning as proposed is that:

- The addition of the matter of control is consistent with the restricted discretionary section of the same rule.
- The additional matter of control is not a new trigger resulting in an activity requiring consent where previously it did not.
- The wording is consistent with the New Zealand Coastal Policy Statement 2010 Policy 2 (d).
- TDC's consents department have an existing and appropriate practice in managing consents where this rule is applicable.
- The change effectively fills a gap in the current TRMP rule where culturally significant sites in the Coastal Environment Area, which are not listed in the TRMP, may not receive the protection required.

D. Plan Amendments

Topic : C68 GEN

No Plan amendments beyond the addition originally proposed through the notified Plan Change are required as a result of this staff evaluation report.

E. Other Action

No further actions are required.

F. Submission Recommendations

C68.4065.1	Port Tarkohe Services Ltd	Allow In Part
C68.4159.3	Ngati Tama ki Te Waipounamu Trust	Allow

633 Change 68: Rezoning of 18 Rata St, Tapawera

Evaluation Overview

This report responds to the one submission in support, and the one opposing further submission, to the proposed change of zoning at 18 Rata Avenue, Tapawera. The proposed zoning change is from Open Space to Residential Zone.

Council has notified this proposed change to ensure that an appropriate zone is applied to the land. Historically the community has had the use of this property as a consequence of its Crown ownership, and through its maintenance by Council. This legal ability no longer existed once the property ownership changed through the Ngati Tama Ki Te Tau Ihu Deed of Settlement 20 April 2013, Property Redress Schedule, Table 2 which included 18 Rata Ave, Tapawera as a commercial redress property.

Ngati Tama ki Te Waipounamu Trust, as the current landowners, have submitted in support of this change as the proposed zoning is appropriate and will enable them to assess future options for the land to provide for the social, cultural, economic and environmental wellbeing of descendants and communities.

A further submission was received from the Tapawera and District Community Council in opposition to the original supportive submission.

Submissions Dealt with in this Report

C68.4159.1	Ngati Tama ki Te Waipounamu Trust	Zones 89	Retain proposed rezoning of 18 Rata Ave from Open Space Zone to Residential Zone.
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Oppose

FC68.4164.1

Evaluation and Recommendations 633.1

A. Evaluation

1.0 Introduction

The evaluation of issues below considers the matters raised by the submitter and further submitter.

1.1 Supporting Submission

The matters raised in the supporting submission are:

- Support for a change in zoning as it is a commercial redress property under the 2014 Te Tau Ihu Treaty Settlements
- The change allows the landowners to assess future options for use of the land to reflect the commercial redress status

1.2 Opposing Submission

The further submission has stated it is in opposition to the proposal, identifies that they oppose the original submission, and raises the following matters:

- The extent of consultation
- The extent of open space in Tapawera is part of the design of the town and highly valued by the community
- The effect on neighbouring properties including on property value
- The effect of narrowing the street appearance and restricting vision around the road corners
- Residents have expressed an interest in purchasing the property to retain its character and the zone change would increase the purchase price
- Any fencing would have to meet Council requirements for fencing in the Open Space Zone
- The Open Space zoning did not prevent the section becoming privately owned nor having a value or being saleable
- The community view should be taken seriously as it was not involved in the decision to transfer this section to private ownership

2.0 Affected Plan Provisions

Plan Change 68 – Omnibus Amendments proposes, through notification, to rezone 18 Rata Avenue, Tapawera from Open Space Zone to Residential Zone.

- TRMP Zone maps 21 and 89

3.0 Issues

The Plan Change proposes to change the zoning of 18 Rata Avenue, Tapawera from Open Space Zone to Residential Zone. The need for this change has become apparent through the inclusion of this property in the Ngati Tama Ki Te Tau Ihu Deed of Settlement 20 April 2013, Property Redress Schedule, Table 2 as a commercial redress property.

Council notified this proposed change as the property is now privately owned and as a commercial redress property there is an expectation that the new owners (Ngati Tama ki Te Waipounamu Trust) can use the land to provide for their economic wellbeing. This in turn has positive social, cultural, economic and environmental wellbeing benefits to Ngati Tama.

Council contacted the Ngati Tama ki Te Waipounamu Trust as owner of 18 Rata Ave, the neighbouring landowners and the Tapawera and District Community Council (TDCC) during the development of the plan change. Replies were received from four of the neighbours with one being in support and three being in opposition. No written response was received from the TDCC although there was phone contact with individual members who outlined that the amount of open space in the township was part of its character and is different to other townships in the region.

Council took the matters raised through consultation into account when making a decision on notifying the proposal to rezone the property. The factors that led to the decision being made were:

- The property is now privately owned with an expectation (due to being a commercial redress property) to being able to be used for commercial gain by the current owners
- The Open Space Zone is not an appropriate zone for privately owned land
- As a private property, the current owners can prevent people from accessing the property either physically or through trespass
- Tapawera meets the 2018 – 28 Reserves and Facilities Activity Management Plan performance targets for open space land of ensuring at least 85% of properties zoned Residential are located within 500m of open space.

The proposed Plan Change 68 was formally notified on 14 July 2018 to landowners, neighbours and the public generally. A specific notification letter went to over 500 landowners. It referred parties to previous correspondence on the Plan Change material, and summarised a number of topics, including a list of matters covered by the Plan Change. The list included reference to this zone change at Tapawera, but did not include a map, as this material had been supplied previously.

The submission received from the landowner supports the change in zoning as being appropriate and enables them to provide for the social, cultural, economic and environmental wellbeing of descendants and communities.

The further submission from Tapawera and District Community Council opposes the original submission, and the proposal, for the reasons summarised in section 1.0 of this report. As noted above, many of these matters have been considered as part of making the decision to notify this proposal. Importantly, however, the further submission process, as set out in Clause 8, Schedule 1 of the RMA, does not allow a person to extend the scope of an original submission. Further submissions can only seek to allow or disallow, in whole or part, the original submission.

In this case, the original submission purely sought to support the rezoning.

4.0 Options

The options available for addressing the submission requests are limited due to the issue of the scope of the Plan Change and scope of submissions. The options that are available are set out as follows:

4.1 Option 1

Proceed with the proposal to rezone the property as supported by the original submitter.

4.2 Option 2

Withdraw this item of the proposed plan change effectively retaining the status quo.

5.0 Preferred Options

Option 1 is preferred.

B. Staff Recommendations

The preferred option gives rise to the following specific recommendations:

1. Retain the proposed rezoning from Open Space to Residential.

C. Reasons

The primary reasons for the recommendation to retain the rezoning as proposed is that:

- The property is now privately owned with an expectation (due to being a commercial redress property) to being able to be used for commercial gain by the current owners
- The Open Space Zone is not an appropriate zone for privately owned land. Residential zone is most appropriate given the location and servicing of the property.
- Council's Reserves Manager has considered whether to purchase the property, but Tapawera already meets the 2018 – 28 Reserves and Facilities Activity Management Plan performance targets for open space land of ensuring at least 85% of properties zoned residential are located within 500m of open space. The purchase of the property for further recreation land is not supported.

D. Plan Amendments

Topic : C68 GEN

No Plan amendments beyond the rezoning originally proposed through the notified Plan Change are required as a result of this staff evaluation report.

E. Other Action

No further actions are required.

F. Submission Recommendations

C68.4159.1 <i>Disallow</i>	Ngati Tama ki Te Waipounamu Trust FC68.4164.1	Allow
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634 Change 68: Rezoning of 104 Waimea West Road, Brightwater**Evaluation Overview**

This report addresses submissions received on Plan Change 68: Omnibus Amendments, Topic 68.16 – Rezoning of 104 Waimea West Road, Brightwater. Included in this report are staff recommendations on submissions, reasons and decisions.

Sixteen submissions were received on the Omnibus Plan Change (PC68). Eight submissions were received on topic 68:16. No further submissions were received on topic 68:16.

Two support, three support in part amendments; and three in opposition

Key issues raised in submissions related to:

1. Impacts on public recreation, amenity and character of Brightwater
2. Protection of the trees on the property and impacts on Snowden's Bush
3. Access
4. Hazards
5. Land transfer

Submissions Dealt with in this Report

C68.336.1	Batten, Garrick	C68 GEN	Retain the Plan Change in relation to 104 Waimea West Road, subject to an amendment to provide for vehicle access.
C68.336.2	Batten, Garrick	Zones 90	Retain the Plan Change in relation to 104 Waimea West Road, subject to rezoning the access leg into Snowden's Bush Reserve.
C68.3981.1	Nelson Diocesan Trust Board	Zones 90	Retain proposed amendment to rezone a 3500m2 portion of 104 Waimea West Road, Brightwater (Legal description: Part Sec 33 Waimea Sth Dist Blk IX Waimea S D - St Pauls Church) from Conservation Zone to 'Rural 1 deferred Residential Zone'
C68.3981.2	Nelson Diocesan Trust Board	Sch. 17.14A	Retain proposed amendment to insert a reference to the land on which the deferred zone applies and reason for deferral – being for water supply.
C68.3981.3	Nelson Diocesan Trust Board	Map 272	Retain proposed amendment to apply the Deferred Fire Sensitive Area to the Rural 1 Deferred Residential zone.
C68.3981.4	Nelson Diocesan Trust Board	Zones 90	Ensure privately owned land is not zoned Conservation.
C68.3981.5	Nelson Diocesan Trust Board	Zones 90	Ensure balance of land proposed not to be rezoned 'Rural 1 deferred Residential Zone' remains as Conservation Zone and vested in the Department of Conservation, subject to conditions.
C68.4154.1	Carmody, Peter	Zones 90	Retain the Plan Change in relation to the rezoning of 104 Waimea West Road.
C68.4155.1	Fraser, Chris	Zones 90	Decline the Plan Change in relation to the rezoning of 104 Waimea West Road; with conditions if approved.
C68.4156.1	Gibbs, Janice & Lyne	Zones 90	Decline the Plan Change in relation to the rezoning of 104 Waimea West Road.
C68.4157.1	McQueen, Steph & Andy	Zones 90	Decline the Plan Change in relation to the rezoning of 104 Waimea West Road; with conditions if approved.
C68.4158.1	Moorhead, John H	Zones 90	Decline the Plan Change in relation to the rezoning of 104 Waimea West Road and retain the Conservation Zone.
C68.4163.1	de Weck, Philip	Zones 90	Decline the Plan Change in relation to the rezoning of 104 Waimea West Road.

Evaluation and Recommendations 634.1

A. Evaluation

1.0 Introduction

Council has proposed rezoning a portion of land at 104 Waimea West Road, Brightwater, owned by the Nelson Diocesan Trust.

The land is currently zoned Conservation Zone. The proposal is to rezone approximately one third of the title to Rural 1 deferred Residential Zone (deferred for reticulated water supply), and retain the balance land as Conservation Zone. The balance land has been offered to the Department of Conservation for \$1 by the landowners.

The history of the site is set out in the s.32 Report accompanying the Proposed Plan Change. In summary, the land was zoned from Rural A Zone to Conservation Zone in 1996, as part of the first Tasman Resource Management Plan (TRMP) process.

The TRMP Conservation Zone typically applies to land owned or formally administered by the Department of Conservation (DoC), and the rule regime reflects this.

Up until 2016, the land had a status of 'Protected Private Land for Scenic Purposes' under the Reserves Act 1977, known as 'St Paul's Scenic Reserve' and owned by the Nelson Diocesan Trust Board. Maintenance of the land has been informally and jointly shared by the Department of Conservation and Council's Community Development department.

The land has been available for - and used by- the public during this period, despite no obligations on the private landowner for such use.

In 2016 the status of 'private scenic reserve' was revoked via the Reserves Act 1977 by the Department of Conservation. The land remains owned by the Nelson Diocesan Trust Board.

Notification of the proposed plan change generated two submissions in support, three 'support in part', and three in opposition. The land owner is one of the parties in support of the proposed change.

Attachment 1, Figure 1 (attached to this SER) shows the area of land subject to this Plan Change topic.

A Sale and Purchase agreement attached to the submission of the Nelson Diocesan Trust Board usefully illustrates the portions of land affected by the rezoning, and uses. Lot 1 is to remain as Church and cemetery; Lot 2 is to be subdivided and rezoned as Rural 1 deferred Residential Zone; Lot 3 is to remain as Conservation Zone and become part of the DoC estate. Refer to Figure 2 of Attachment 1.

2.0 Affected Plan Provisions

- Planning maps 22, 56 and 90
- Chapter 17: Schedule 17.14A - Deferred Zone Locations

3.0 Issues

1. Impacts on public recreation, amenity, use and character of Brightwater
2. Protection of the trees on the property and impacts on Snowden's Bush
3. Access
4. Hazards
5. Land transfer

3.1 Impacts on Public Recreation, Amenity, Use and Character of Brightwater

Submitters 4155 (Fraser), 4157 (McQueen) and 4158 (Moorhead) raise concerns about the impact on rural character of housing in the area proposed for rezoning for residential use, and or the location being away from other houses on the main road. Submitter 4155 is seeking the area is retained as a reserve area and left as it is, and the three submitters are requesting Council declines the Plan Change on this topic.

The late submission by submitter 4163 (de Weck) is opposed to the rezoning to enable residential use, questioning the church's planning for future expansion of the cemetery.

Submitters 4156 (Gibbs) and 4158 (Moorhead) raise related concerns about the impact on visual aspects and character of the area if housing replaces the natural and recreation values that exist in this location. Both submitters request the Plan Change on this topic is declined and the area kept as it is.

Submitter 4158 also raises a number of questions about the appropriateness of this location for rezoning and Council's consideration of recreation values, scenic areas, population pressures, setbacks, access, and reverse sensitivity among others.

In considering whether it is appropriate to zone an area as Residential, the factors of visual impact and character are some of the factors taken into account. In this case, the area is within the 50km speed zone on Waimea West Road, directly opposite residential housing that extends further towards the West. The road opposite has a footpath and street-lighting, and the area can be fully serviced (subject to water availability). The church and cemetery are adjacent, with housing continuing on the northern side of Waimea West Road back towards the centre of the village. The Snowden's bush carpark and bush is at the rear. There are natural character and open space values associated with this area of Brightwater.

On the whole, the 'look and feel' of the broader context of the area is considered to be more urban than rural. The location feels clearly 'within the Brightwater village' and is not an inappropriate location for extension of the urban footprint. There are no rural productive activities directly adjacent to the site, although rural activities are located to the north and west.

It is acknowledged there will be some loss of open space values in the area as a consequence of the rezoning. However, two thirds of the land parcel will be retained as Conservation Zone and will continue to contribute to the open space values and visual amenity at the entrance to Brightwater.

Council must balance the demands for growth and expansion with a range of factors – including, but not limited to, impacts on open space, access to services and reserves, traffic and access, loss of high quality soils, hazards and so on. In many cases there is a trade-off between competing values. In this case, the legacy of land ownership and status of that land are also determining factors.

The Reserves Department have considered if it is appropriate for TDC to purchase this area of land for recreation or reserve purposes. For the following reasons they do not intend on purchasing the land:

- There is currently a limited amount of money available for all reserve land purchase in Brightwater.
- Ongoing growth of Brightwater's urban area is anticipated through Plan Change 57, this Plan Change and Special Housing Areas. Therefore, it will be important that there are enough funds and appropriate facilities to service existing and new housing areas, so that these areas can have similar levels of service as other areas experience.
- Council must focus on strategic locations for reserve purchases and, as part of this, consider the proximity of other reserve or other recreation land. In this case the general area is considered to be well serviced with Snowden's Bush area itself, and Waimea River Park, as well as the larger sports areas of Lord Rutherford Park (see Attachment 2, Figure 3).

3.2 Protection of the Trees on the Property and Impact on Snowden's Bush

Submitters 4155, 4156, 4157 and 4158 raise concerns or questions about the potential loss of mature native trees on the area proposed to be zoned for future residential use. Questions are raised by submitter 4158 about the loss of other trees within the property, other than the mature trees within the centre of the proposed residential portion.

Submitter 4155 (Fraser) would like protection of each of the trees on the portion of land to be rezoned, regardless of condition. While the submitter acknowledges the condition of some trees is not good, he is seeking protection because they are probably over 100 years old. Submitter 4157 (McQueen) is also seeking protection for the trees on the site.

The land proposed for rezoning contains approximately eight mature native trees, being a mix of Totara and Titoki. Arborist B Cadwallader assessed the trees as part of the s.32 reporting prior to notification of the Plan Change. He noted:

"The remaining trees have had very little in the way of management over the years. The trees are clearly very old but are now quite detached from the main bush remnant of Snowden's Bush. The immediate area the trees are located in is now highly modified, being grazed in the 1940's and mown for the past 20 or so years.

The titoki are very old, they are retrenching well from old failed tops but they require urgent works

to deal with a number of collapsing stems.

With appropriate management and care all but the very poor trees could still live for many decades.”

Cadwallader report goes on to state:

“In my opinion the trees are not suitable for listing on the TRMP at this time and I consider that they do not warrant full STEM assessment. If any of the trees are retained within the development of the lots, and they are well managed, then they may be worthy of re-evaluation in future years.”

The staff recommendation is not to Schedule the trees for protection at this time.

The balance portion of land to be retained in Conservation Zone contains a much larger number of mature native trees. Currently the future protection of these trees is not certain, as they are not listed as protected trees in the TRMP.

Snowden’s Bush is not listed as a Significant Natural Area in the TRMP Schedule 18.1A.

The long term protection of the bulk of the trees is best achieved through the proposed retention of Conservation Zone on the balance land, ownership by DoC, and the ecological integration of the trees with the remainder of Snowden’s Bush.

If the rezoning proposal does not succeed, or the land is not gifted to DoC, the staff recommendation is to undertake STEM assessments on the trees in the balance portion of land for potential protection under the TRMP.

Regarding the impact of residential development adjacent to Snowden’s Bush, submitters 4157 and 4158 have related concerned about the impact of housing so close to the reserve. Submitter 4157 cites a number of activities that are hosted at Snowden Bush that generate noise and are concerned about reverse sensitivity effects that may eventually limit the Community’s use of the area. They are also requesting cats be banned from the residential area of land, or kept indoors at all times. Submitter 4158 raises questions about how the impact of dogs, cats and bikes can be effectively managed.

Council is unable to impose controls on the keeping of cats and dogs through this Plan Change process, as it has a limited scope. However, Council assessment at the time of subdivision is likely to take into account the natural values of the adjacent bush (depending on the activity status of the subdivision) and may seek restrictions on the keeping of cats. It is acknowledged that there is a risk of cats straying into the Reserve. This risk exists currently with the housing located opposite the Reserve and with the other adjoining properties, but may increase with additional housing.

In terms of reverse sensitivity impacts, the risk of complaints against activities within reserve areas is considered low. According to Council’s Complaints Manager, the level of complaints are extremely low with no complaints in recent years.

3.3 Access

Provision of Legal Access to Church Vicarage and Carpark

Topic raised by submitter 336 (Batten).

There is no mechanism through this Plan Change process to give the submitter the relief sought of placing a condition on the rezoning that legal access to the vicarage and carpark be provided from Waimea West Road beside and immediately to the north of the cemetery.

It is noted that the Sale and Purchase agreement attached to submission 3981 (Nelson Diocesan) has a condition relating to formalising the access to the church, cemetery and associated grounds and buildings. This condition is outlined in submission 3981.

Rezoning of Access Leg into Snowden’s Bush

Topic raised by submitter 336, requesting rezoning of the access leg into Snowden’s Bush to remove the Conservation Zone.

The Right of Way is part of the land title owned by the Department of Conservation. Submitter 336 is one of several parties that have a deed of access on their titles, dating back to 1921. The access leg is not a road.

The submitter asserts Rule 17.1.1.2.1(e) requires a 10m setback from all boundaries. However, this

rule applies within the Conservation Zone, not the Residential Zone. The relevant rule set is that of the Residential Zone (17.1.3.1) where there is no additional setback requirement for residential buildings from the Conservation Zone.

There is no material restriction imposed through the TRMP on the landowner arising from the Conservation Zone boundary that are different to any other landowner in the Residential Zone.

The submitter also raises issues with the Conservation Zone being overly restrictive, with the need for resource consents where activities do not comply with the TRMP rules for this zone.

The permitted standards for Conservation Zone enable any works carried out by the Crown (which includes any contractor or third party authorised by the Crown) where the activity is in accordance with an approved conservation management strategy under the Conservation Act 1987 or a management plan under the Reserves Act 1977. It is the staff understanding that road maintenance activities are included as a standard feature in Conservation Management Plans across the DoC estate. This means DoC, as landowner, can authorise road maintenance or works to third parties without the need for resource consent.

The Conservation Zone is an appropriate zone for land owned by DoC, as in this case. There is no compelling reason to treat this strip of land differently to the other land zoned for Conservation across the District. Any private arrangements for use or maintenance are matters for those parties, not Council.

DoC did not provide a further submission in support or opposition to the submission by G Batten.

I recommend this matter be determined as 'out of scope' for the reasons that the item was not one notified for change; and cannot be reasonably expected to be a consequential decision of the notified proposal to rezone a portion of the Diocesan land Rural 1 deferred Residential.

Site Access and Safety

Submitter 4158 queries whether the area to be rezoned will be limited to a single access. The site is in a 50km speed zone and can likely comply with the sight-visibility standards within the TRMP. The number and location of access points will be determined at the time of resource consent. Waimea West Road is classified as a Distributor road, and no new lots will be permitted to reverse onto it. A designation along Waimea West Road for road widening lies over a portion of the subject site.

Submitter 336 seeks consideration of safe access to the church land. Options for alternative access may be enabled through the subdivision process. Council database has no record of any accidents at this site. However, issues with existing traffic safety may be directed to Council's transportation team for consideration outside this Plan Change process.

3.4 Hazards

Submitters 4155 (Fraser), 4157 (McQueen) and 4156 (Gibbs) raise the issue of potential flooding of the site, the impact of housing and land development diverting floodwaters, and the changing nature of weather patterns increasing problems associated with flooding.

Council has a relatively recent flood model for Brightwater – prepared by SKM in 2013 (Brightwater-Wakefield Flood Hazard Mapping). The outputs from the model were presented to the community via the Brightwater Strategic Review in 2015, and Plan Change 57 implemented a number of changes to zoning and rules in response to that model.

The land proposed for rezoning for residential use at 104 Waimea West Road is not shown to be affected by flooding in a Q100 event and was not subject to any additional controls through Plan Change 57. The area of land to be gifted to DoC does have some inundation arising from the Pitfure Stream (low through to high hazard). (Refer Figure 4, Attachment 2)

The SKM report did also consider the effects of climate change and modelled the 500-year Annual Return Interval or 0.2% AEP. The flood hazard risk to the residential portion of land at 104 Waimea West Road does not change with the increased rainfall (Refer Figure 5, Attachment 3).

Any remaining surface flooding and drainage concerns will be addressed through future subdivision and building consent processes should the land be developed.

3.5 Land Transfer

Submitter 4154 (Carmody) supports the rezoning proposal for the reasons that the community will benefit from the gifted land for recreational and relaxation purposes; as well as the social benefits arising from the church being able to continue to operate.

Submitter 4157 (McQueen) is seeking that the Diocesan confirm in writing the balance area of land will be transferred prior to a decision being made by Council.

The submission by the Nelson Diocesan has included a copy of a Sale and Purchase Agreement with the Department of Conservation (DoC) for the balance land (i.e. the portion that is to remain as Conservation Zone and shown as Lot 3 in the Submission by Nelson Diocesan). Subsequently DoC has confirmed to Council that they have signed the Sale and Purchase agreement (correspondence dated 4/10/18 from L Solly, Senior Ranger).

The land would be all-but gifted to DoC, with a sale price of \$1. This ensures public ownership of the balance land. The total area of Snowden's Bush would increase by approximately 2.2 hectares.

There are conditions to the Sale and Purchase Agreement that warrant some attention and pose a risk to the completion of the contract with DoC. These conditions are set out in the 'Further Terms of Sale' attached to submission 3981. In summary the sale of Lot 3 will occur if:

1. TDC agrees to this Plan Change, as notified
2. TDC approves the subdivision of Lot 2 to the vendor's satisfaction by 30 June 2019
3. Development Contributions and Reserve Financial Contributions are waived for the subdivision of Lot 2;
4. Subsequent Reserve Financial Contributions are waived for the first subsequent subdivision of Lot 2;
5. Agreement to the waivers is obtained in writing prior to July 2019
6. Costs of the subdivision are borne by the purchaser
7. Access to Lot 1 (containing the Church and cemetery) can be formalised using the existing ROW.

In relation to the conditions that relate to Council:

- This hearing panel cannot predetermine the outcome of a subsequent subdivision application. However, the residential area is very likely to be able to contain a subdivision design that could comply with the Controlled Activity Standards for minimum lot areas and servicing in the Residential Zone.
- The waiver of Development Contributions (DC) and Reserve Financial Contributions (RFC) for the first subdivision to create Lots 2 & 3 (as per the Sale and Purchase agreement) has been confirmed in principle by Council's Community Development Manager and the Manager of Regulatory Services. It is important to note that the decisions on RFC or DC waivers occur at the time of subdivision, not through this Plan Change process. Council's formal agreement to waive the RFC's and DC's will need to be sought as part of the subdivision process.
- The condition for RFC waiver for 'subsequent subdivision' of Lot 2 needs to be clarified. Council's position is that the RFC waiver applies to only two residential lots, provided that the balance area (Lot 3) is gifted back to DoC.

DoC have advised they anticipate being able to meet the other conditions, and may be able to provide an update at the Hearing.

This means that the Hearing Panel can be reasonably confident that the conditions can be met - provided that the vendor, purchaser and Council work in a timely manner to complete the transactions.

In the event the conditions cannot be met, the area shown as Lot 2 will have been given effect to through the Plan Change process and will be Rural 1 Deferred Residential and Lot 3, Conservation Zone. Subdivision of Lot 2 could occur upon services being available, but it is unlikely that Council would grant the waiving of Development Contributions of Reserve Financial contributions if the gifting of land (Lot 3) did not occur. The balance Conservation zoning would continue to be located on the balance portion and may have to be considered for subsequent planning processes.

A further matter arising since the submission period closed is the efforts of the community to purchase the residential area (Lot 2) with the purpose of retaining it for community use. News of this surfaced in the Nelson Mail on 26 Sept 2018. In the article the Nelson Diocese has reportedly agreed to a one-year option for a community trust to purchase the land and "keep it as reserve".

At this time, it is unknown if the community will raise the funds or their intentions for use or access

thereafter. There is a risk that further rezoning may be required if the land is to revert back to some reserve status.

An offer was made to the Nelson Diocese to meet and discuss a delay to the hearing on this topic, which was declined. The advantage of delaying the hearing is to avoid unnecessary zoning processes and associated costs (a re-zoning back to Conservation or Open Space zone would require a further Schedule 1 process). However, the risk of delay is the impact on the landholder and would mean the Sale and Purchase conditions could not be met (in their current form).

Staff recommendation is to continue with the hearing of topic 68.16. Should a future change be sought in relation to the land status of the proposed Residential Zone, staff will seek to integrate it with the next most appropriate Plan Change to reduce administrative costs.

4.0 Options

4.1 Option 1

Retain the Plan Change as notified.

4.2 Option 2

Retain the Plan change with modifications. Modification may include Category C protection of the trees on the area to be rezoned.

4.3 Option 3

Withdraw this topic from PC68 and retain the existing Conservation Zone.

5.0 Preferred Options

5.1 Option 1

Retain the Plan Change as notified.

B. Staff Recommendations

Retain the Plan Change as notified.

C. Reasons

The primary reasons for the recommendation to retain the rezoning as proposed is that:

- The property is privately owned land.
- A revocation of the declaration of the land as ‘Protected Private Land for Scenic Purposes’ occurred on 10 May 2016, lifted associated restrictions imposed under the Reserves Act 1977.
- The Conservation Zone is not the most appropriate zone for privately owned land that has no other encumbrances. Rural 1 Deferred Residential Zone is the most appropriate and efficient zone for the property, given its location.
- Two thirds of the land title are to remain Conservation Zone and be essentially gifted to the Conservation estate for community benefit.

D. Plan Amendments

Topic : C68 GEN

No Plan amendments.

E. Other Action

If the rezoning proposal does not succeed or the land is not gifted to DoC, the staff recommendation is to undertake STEM assessments on the trees in the balance portion of land, for potential protection through inclusion in TRMP Schedule 16.13 (Protected Trees) as part of a future plan change process.

F. Submission Recommendations

C68.336.1	Batten, Garrick	Disallow
C68.336.2	Batten, Garrick	Disallow
C68.3981.1	Nelson Diocesan Trust Board	Allow

C68.3981.2	Nelson Diocesan Trust Board	Allow
C68.3981.3	Nelson Diocesan Trust Board	Allow
C68.3981.4	Nelson Diocesan Trust Board	Allow
C68.3981.5	Nelson Diocesan Trust Board	Allow
C68.4154.1	Carmody, Peter	Allow
C68.4155.1	Fraser, Chris	Disallow
C68.4156.1	Gibbs, Janice & Lyne	Disallow
C68.4157.1	McQueen, Steph & Andy	Disallow
C68.4158.1	Moorhead, John H	Disallow
C68.4163.1	de Weck, Philip	Disallow



Figure 1: Area of land subject to Plan Change Topic 68.16



Figure 2: Subject area showing allotments



Figure 3: Public recreation land (Reserves and DoC estate, TDC GIS 2018)

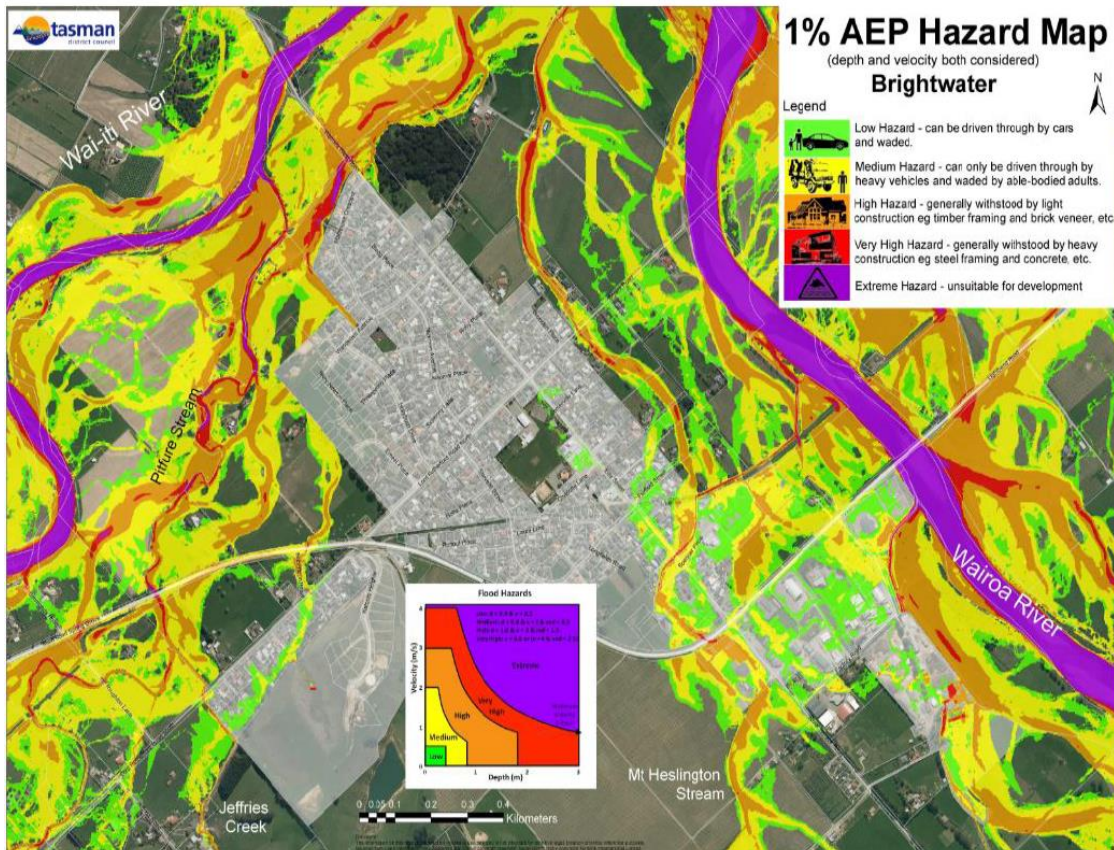


Figure 4: Sinclair Knight Mertz report, 2013: Brightwater 1 in 100 year AEP Flood Extent

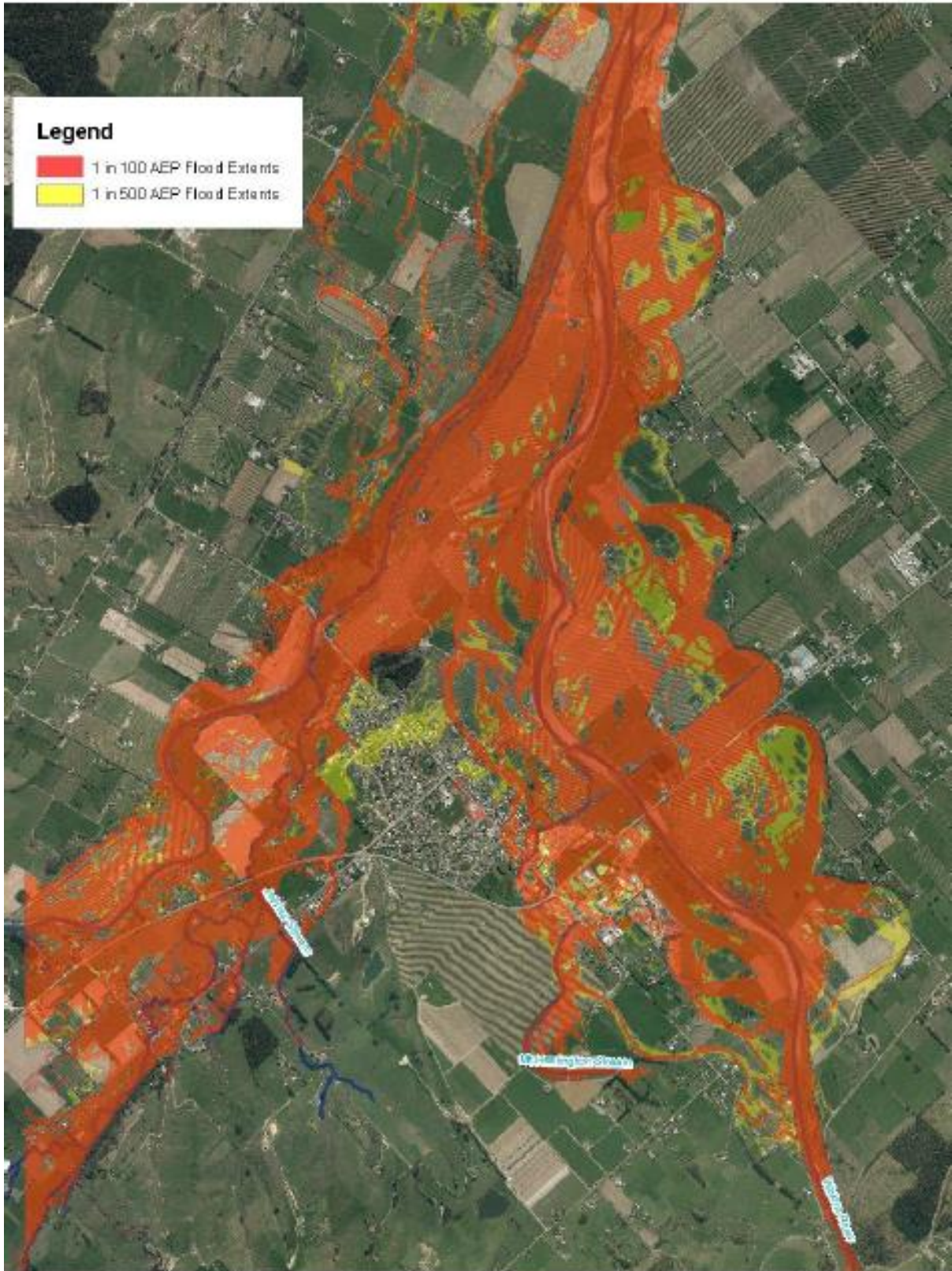


Figure 5: Sinclair Knight Mertz report, 2013: Brightwater Comparison of 1:100 year and 1:500 year AEP flood extents