BEFORE THE HEARING PANEL APPOINTED BY THE TASMAN DISTRICT COUNCIL

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of Change 1 to the Tasman Regional Policy Statement and Plan Change 81 to the Tasman Resource Management Plan

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LEGAL SUBMISSIONS ON BEHALF OF MOUNT HOPE HOLDINGS LIMITED AND APPLEBY 88 LIMITED ON SCOPE

DATED 19 October 2026

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Introduction and summary

1. These legal submissions are filed on behalf of the following submitters and address the scope issues raised in our memorandum of counsel dated 15 October 2026:

    a. Mt Hope Holdings Ltd (Original Submitter 66, Further Submitter 133 PC81; Original Submitter 6, Further Submitter 39 C1) (**Mt Hope**); and

    b. Appleby 88 Ltd (Further Submitter 312 PC81; Further Submitter 39 C1) (**Appleby 88).**

    (together **Submitters**)

2. The Submitters' memorandum dated 14 October 2026 commented on the interaction between Plan Change 81 and Plan Change 79. This issue was also addressed in the memorandum on behalf of A & S Talley dated 12 October 2026. The Submitters agree that the interaction between Plan Change 79 (and which is under appeal) and Plan Change 81 is an issue that requires careful consideration. The Submitters support the request by A & S Talley that "the Council provides an explanation of how it sees this issue playing out in a manner that is fair and efficient to the Plan Change 79 appeal parties, the Plan Change 81 submitters, and the panel." This is effectively a procedural issue and as signalled above the Submitters consider it is for the Council to provide an explanation and recommendation to the Panel of how this issue should be managed. The Submitters acknowledge the directions of the SPP Panel in relation to this issue (as set out in Minute 2).

3. These submissions are focused on scope issues relating to the deferred zone framework. In summary, the Submitters consider that any relief seeking changes to the deferred zone framework (going beyond the introduction of sites to Schedule 17.14A) is outside the scope of Plan Change 81, because it is the subject of Plan Change 79. This overlaps with the issues dealt with in the directions set out in paragraph 24a. and b. of Minute 2. These submissions are filed at this time for the avoidance of doubt and to record the Submitters' position. To the extent it may be relevant, any comment the Submitters have on the explanation provided by the Council will be filed in accordance with the directions in paragraph 24b of Minute 2.

Scope issues relating to Deferred Zone framework

4. Plan Change 81 adds certain sites to Schedule 17.14A (Deferred Zone Locations) but does not otherwise make any changes to the deferred zone framework as that was the subject of a separate plan change – Plan Change 79.

5. Plan Change 79 introduced a new deferred zone framework, including new objectives, policies and rules relating to deferred land. This included the introduction of a new rule flip mechanism for deferred land. Plan Change 79 added a number of sites to Schedule 17.14A but removed all Mapua sites from that schedule on the basis that Mapua sites would be added through a subsequent plan change process (which is now Plan Change 81).

6. A & S Talley seek relief that includes changes to the deferred zone framework such as the following:

    a. Submission point OS160.45 which seeks that "*if deferred zoning is retained, amend the plan to include enforceable deferrals, maximum*

yield caps, staging linked to demonstrated infrastructure capacity, no-material-worsening standards for existing properties and access routes, developer funding and security requirements, and monitoring and review provisions."

b. Submission point OS160.56 which amongst other matters seeks to amend Policy 6.3.3.1C "*to be clearer that it is not to be used to enable development in deferred zones prior to the required infrastructure specified in the Plan being in place*."

c. Submission point OS160.93 which seeks to amend schedule 16.3C so that the standards it contains apply to urban-scale subdivisions proposed in deferred zones.

7. Submission points seeking such relief are not "on" Plan Change 81. We refer to the approach to this issue as set out *Clearwater Resort Ltd v Christchurch City Council,*[1] addressed at paragraph 8 of the legal submissions for Tasman District Council as to scope.[2] This sets out a two-limb test as follows:

    a. Whether the submission addresses the changes to the pre-existing status quo advanced by the proposed plan change; and

    b. Whether there is a real risk that people affected by the plan change (if modified in response to a submission) would be denied an effective opportunity to participate in the plan change process.

8. Any submission seeking changes to the deferred zone framework (beyond the introduction of sites to schedule 17.14A) would not satisfy this test.

9. In relation to the first limb, Plan Change 81 does not change the objectives; policies and rules relating to the deferred zone. That is the role of Plan Change 79. Although Plan Change 81 introduces sites to Schedule 17.14A this does not open it up to submitters to seek changes to the deferred zone framework. It is well established that consequential changes to a plan can flow **downwards**. That is because if there are changes to an objective or policy in the proposed plan as notified then there may be methods (including rules) which are incompatible and it would make the task of implementing and achieving objectives and policies impossible if methods could not be consequentially amended.[3] The reverse does not apply i.e. rules or methods cannot drive changes to policies.[4]

10. In relation to the second limb of the *Clearwater* test, if changes are made to the deferred zone framework this would result in a real risk that people would be denied an effective opportunity to participate. This is particularly the case if changes to the deferred zone framework were to apply beyond the new deferred sites introduced through Plan Change 81. Appleby 88 Limited, for example, owns existing deferred zone land in Appleby and wishes to ensure that there are no changes to the deferred zone framework that may adversely impact on its ability to develop its deferred zone land. There are many other people that own

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[1] *Clearwater Resort Ltd v Christchurch City Council* AP 34/02, 14 March 2003, Young J. 2 Ibid at [66].
[2] Dated 12 October 2026
[3] *Tussock Rise Ltd v QLDC* [2019] NZEnvC 111 at [20] – [21]; *Albany North Landowners v Auckland Council* [2017] NZHC 138 at [96]; and *Federated Farmers v Mackenzie District Council* (Eleventh Decision) [2017] NZEnvC 53 at [176] and [177].
[4] Ibid.

existing deferred zoned land who we expect would not be part of the Plan Change 81 process and would also be affected by any changes to the deferred zone framework.

11. Finally we note that the submission points above overlap with issues that A & S Talley are seeking to address through their appeal on Plan Change 79. We have attached as Annexure A a copy of the Talley appeal.[5] This seeks:

    a. Amendments to schedule 16.3C so that the standards it contains also applies to deferred zones (which mirrors submission point OS160.93).

    b. Changes to objectives and policies for deferred zones, relating to the expectations around the relationship between servicing and the development of deferred zone land.

Expert evidence and conferencing

12. The Submitters have not produced expert evidence in relation to the issues raised in these submissions because this is primarily a legal issue, and they do not anticipate the wording of the provisions and relief to be at issue in this hearing. However, should expert conferencing occur in relation to any issues raised above, then the Submitters seek the opportunity to have their expert planning witness involved in such conferencing.



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[5] Also available on the TDC website at: https://www.tasman.govt.nz/my-council/key-documents/tasman-resource-management-plan/plan-changes/decisions-notified/change-79-deferred-zoning