BEFORE INDEPENDENT HEARING COMMISSIONERS

APPOINTED BY TASMAN DISTRICT COUNCIL

IN THE MATTER OF	The Resource Management Act 1991
AND	Urban Growth Plan Change 81
AND	Submissions and Further Submissions on Plan Change 81
FOR	Richmond Pōhara Holdings Ltd (Submission 184)

PLANNING EVIDENCE OF JACQUELINE MARY MCNAE

ON SCOPE

HEARING STAGE 1

Dated: 19th of October 2026

INTRODUCTION AND BACKGROUND

1. My name is Jacqueline Mary McNae. I hold the qualification of a Bachelor of Regional Planning (Hons) from Massey University.

2. I have over 40 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 (TDC) 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.

3. I have been engaged by Richmond Pōhara Holdings Ltd (RPHL) in relation to its submission on Change 1 to the Tasman Regional Policy Statement (TRPS) and Plan Change 81 (PC81) to the Tasman Resource Management Plan (TRMP). RPHL is Submitter 184 on PC81 and Submitter 28 on Change 1.

4. This statement relates to the Stage 1 hearing, dealing with Scope.

CODE OF CONDUCT

5. I have read the Environment Court Code of Conduct for Expert Witnesses 2023 and agree to comply with it. My evidence is within my area of expertise except where I state that I rely on the evidence of others. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE AND STRUCTURE OF EVIDENCE

6. The purpose of my evidence is to address the preliminary issue of whether the relief sought by RPHL is within the scope of PC81. It is my understanding that the writers of the Section 42A report and the Legal Submissions for TDC as to scope do not challenge those parts to the RPHL Submission that are on Change 1 in respect of scope.

7. For this Stage 1 hearing, I do not provide a detailed assessment of the planning merits of the proposed Residential and Open Space zoning sought by RPHL. Matters relating to infrastructure capacity, natural hazards, ecology, landscape, servicing and urban design will be addressed as part of the Stage 4 hearing.

8. My evidence is structured as follows:
   a. Background to the submission and relevant planning history;
   b. The statutory and planning framework relevant to scope;
   c. Assessment of whether the relief sought by RPHL is fairly and reasonably raised by PC81;
   d. Response to the Council's legal submissions and section 42A report; and
   e. Conclusions and relief sought.

9. In my opinion, the relief sought by RPHL has a sufficient connection to the subject matter of PC81 and falls within the scope of the notified plan change.

BACKGROUND

10. RPHL owns approximately 30.77 hectares of land at Pōhara. Part of that land is presently zoned Residential and is subject to an existing subdivision approval being developed in stages. The balance of the land remains zoned Rural 2. RPHL lodged Submission OS184 seeking in relation to Plan Change 81:
    i. Rezone Residential that portion of the RPHL land identified on the Staig and Smith Rezoning Plan. (*Summary of Submissions notes this relief under 184.1)*
    ii. Rezone Open Space that portion of the RPHL land identified on the Staig and Smith Rezoning Plan. (*Summary of Submissions notes this under both 184.1and 184.2)*
    iii. That the Section 32 assessment analyses the effectiveness of the Plan Change's methods for implementing the existing urban growth objectives and policies and policies for Eastern Golden Bay objectives and policies and identifies practical options for achieving these. (*This is noted in the summary of Submissions as part of 184.1)*
    iv. If relief (i) and (ii) above are rejected, that a timeline be put in place for introducing Plan Changes that give effect to the policies for Eastern Golden Bay including those specific policies that address Pōhara. *(Summary of Submissions notes this as 184.4)*
    v. If Council rejects relief (i) and (ii) as set out above , that following Royal assent to the new Planning legislation , the Planning and Natural Environment Bills, direction is given to Council staff to consult RPHL, at the outset of the Regional Spatial Plan preparation, on their spatial planning requirements for their landholding to provide for residential growth together with provision for Open Space Zoning including protection of riparian areas and consideration of public access through the gully area, together with considering the longer term needs for a Local Commercial Centre for Pōhara. *(Summary of Submissions notes this as relief 184.5)*

11. There is an issue with how the summary of Submissions has allocated point numbering. I highlight this to the Panel as it is important that when parties are commenting on point numbers that we are all talking about the same subject matter. The first three points of RPHL's Submission listed above have all been put into the Council Summary of Submissions as 184.1. In my opinion they should have been three separate points. The rezoning of a portion of the land Open Space though has been allocated under both 184.1 and 184.2. The summary of Submission correctly in my view allocates RPHL's point iv and v, as 184.4 and 184.5.

12. RPHL's submission detailed the long planning history relating to the growth of Pōhara and Eastern Golden Bay. In particular, the submission referred to:
    a. The Eastern Golden Bay growth study and subsequent Variation 57 /Change 8 which introduced policies for future growth opportunities within Pōhara, noting in the reasons for the policies that Pōhara / Ligar Bay will continue to be a growth centre for Golden Bay;
    b. The structure planning undertaken for the subject land by RPHL which was produced by RPHL as part of the public process of hearing Variation 57/Plan Change 8, ensuring that this was in the public arena, so it was clear what the future development vision of RPHL for the subject land was;
    c. Plan Change 74 which rezoned part of the RPHL land Residential, noting that RPHL sought, unsuccessfully, that the rezoning should cover all of their land.
    d. RPHL Submission to the FDS that their land (noted as T162) should be included in the FDS.
    e. Ongoing engagement between RPHL and Council regarding future urban growth opportunities within Pōhara. Noting the initial judicial review proceedings on the FDS which were withdrawn, following liaison with Council staff which confirmed that just because RPHL land was not listed in the FDS does not mean that it will not be considered for growth as at that time the Council had a work stream for growth of a range of settlements including Pōhara. I attach notes of a meeting with TDC officials recording this.

13. The submission also highlighted that operative provisions within Chapter 6.11 of the Tasman Resource Management Plan contemplate additional development opportunities within Pōhara and identify Pōhara / Ligar Bay as an area that "*has been and will continue to be a growth centre in Golden Bay".*

14. The Council's legal submissions and section 42A report concludes that Submission OS184.1 to OS184.5 falls outside the scope of PC81 and should not proceed to substantive assessment.

15. Point 184.4 seeks a commitment to future planning work in the event that the rezoning request is not accepted at this time. This is put forward as a non -regulatory method.

16. Submission point 184.5 seeks consultation during the Regional Spatial Plan consultation, if the requested rezoning is not accepted. This is not a matter that the Panel can advance, it was included in the RPHL submission for the attention of Council staff and Councillors seeking to ensure that RPHL is recognised as a stakeholder in this future planning process.

17. I do not agree though that matters i-iii above are out of scope and in my opinion should proceed to a substantive hearing.

18. I note that RPHL's Submission included two points in relation to Change 1 to the TRPS. These points have not been identified by the Section 42A report as out of scope. They are assessed under a separate Section 42A report for the Stage 2 Hearing. There is a clear interrelationship between the Submissions on the TRPS and the Submissions on PC81 to the TRMP, with the potential for consequential changes to PC81 as a result of the relief sought on Change 1. The Submissions on both need to be heard on their merits.

STATUTORY AND PLANNING FRAMEWORK

19. From a planning perspective, the scope assessment requires consideration of the relationship between the relief sought and the matters addressed by the notified plan change.

20. In my understanding, the relevant considerations are:
    a. A submission can only fairly be regarded as "on" a variation if it is addressed to the extent to which a variation changes the pre-existing status quo.
    b. But if the effect of regarding a submission as "on" a variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, this is a powerful consideration against any argument that the submission is truly "on" the variation.

21. PC81 is an urban growth plan change intended to implement the NPSUD.

22. Amongst other matters, PC81 seeks to provide for urban growth, housing capacity, rezoning of land for urban purposes, amendments to growth-related provisions, and changes to planning provisions affecting settlements throughout the district.

23. While much of PC81 focuses upon the identified urban environments of Richmond, Motueka, Wakefield, Brightwater and Māpua, the plan change also contains provisions directed toward Tākaka and Eastern Golden Ba as well as additions to the objective and policy framework adding Rural centres and adding hierarchy of centres.

24. Of particular relevance, PC81 includes:
    a. Amendments affecting the Eastern Golden Bay planning framework;
    b. New objective 6.4A.2.1
    c. Changes to policies relating to Tākaka and Eastern Golden Bay;
    d. A proposed Papakāinga zoning at Onetahua Marae within Pōhara; and
    e. Consideration of Pōhara's role within the wider settlement hierarchy.

25. In my opinion these matters are important because they demonstrate that PC81 is not limited solely to urban growth issues within the "urban environments" chosen by TDC. Pōhara forms part of the broader planning context addressed by the notified proposal. While Council does not see Pōhara as part of the Tier 2 Urban Environment because urban environment is defined by the NPS -UD and does not include Pōhara, it appears Council view is that there is no change to the status quo for Pōhara in PC81 and therefore the Submission is out of scope. There is change to the status quo for settlements such as, and including, Pōhara. Those changes include a new objective 6.4A.2.1 which states" Sufficient residential capacity to meet demand in the urban environment and rural centres", they include as noted changes to policies for Takaka and Eastern Golden Bay, not just changes to the location within the TRMP and introduction of Centre hierarchy. As such there is a change to the status quo and RPHL is therefore entitled to submit on the effects of the changes to the status quo.

26. It seems that the Section 42A report and Council's Legal Submissions on scope place considerable reliance on the fact that RPHL land is not in the FDS to support their position that the Submission is out of scope. However, Plan Change 81 includes land that was not in the FDS, including the following;
    - Richmond: T-223, T-232;
    - Golden Bay: T-227, T-228, T-229, T-230;
    - Redwood Valley: T-226;
    - Māpua: T-33b, T-240b.

ASSESSMENT AND DISCUSSION

27. In my opinion there is a direct planning relationship between the relief sought by RPHL and the matters addressed through PC81.

28. Firstly, PC81 is fundamentally concerned with urban growth and the manner in which future development capacity is provided for across the district, as part of the implementation of the NPSUD.

29. The relief sought by RPHL is directed toward those same planning issues.

30. The submission does not seek a private rezoning unrelated to the objectives of PC81. Rather, the submission argues that PC81 has failed to adequately address urban growth opportunities within Pōhara and Eastern Golden Bay and seeks amendments to address that perceived deficiency in accordance with the policy framework in the operative TRMP.

31. Secondly, the submission challenges the adequacy of the s32 assessment underpinning PC81.

32. The submission specifically contends that the section 32 analysis should have assessed the effectiveness of PC81 in implementing the existing urban growth and Eastern Golden Bay objective and policy framework and should have considered reasonably practicable alternatives. Issue 6.4.1 is "avoidance of inappropriate subdivision in the coastal environment". The relevant objective is 6.4.2 "containment of urban subdivision, use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment. In the Takaka-Eastern Golden Bay Area, this is implemented by Policy 6.4.3.4. The principal reasons and explanations say:

    It is proposed to encourage urban development in depth at key coastal serviced settlements such as Mapua, Kaiteriteri, Ligar Bay, Pōhara, Patons Rock and Collingwood where natural character has already been compromised and so avoid sporadic development. Objective 6.4.2 and its related policies give effect to the New Zealand Coastal Policy Statement 2010, Policy 13

33. There are additional issues and policies specific to Takaka-Eastern Golden Bay in Section 6.11, including Policy 6.11.3.1, 6.11.3.2 and 6.11.3.3 which seek to ensure residential settlement opportunities are provided for in coastal and inland locations, and that more development opportunity is provided in Pōhara, and to allow for a range of urban land uses at Pōhara including additional land for residential and rural residential purposes.

34. There are additional issues and policies specific to Takaka-Eastern Golden Bay in Section 6.11, including Policy 6.11.3.1, 6.11.3.2 and 6.11.3.3 which seek to ensure residential settlement opportunities are provided for in coastal and inland locations, and that more development opportunity is provided in Pōhara, and to allow for a range of urban land uses at Pōhara including additional land for residential and rural residential purposes.

35. The objectives described above and their associated policies are relevant to the objectives of PC81, because they anticipate urban development at Pōhara. Those objectives and associated policies will remain if the amending proposal (PC81) were to take effect. A plan change to provide for development capacity across the Tasman region such as PC81 should integrate with existing provisions that provide for development in particular locations. I understand that to be what is intended by the s 32 requirement to examine the objectives of the existing proposal

36. I cannot see where in the s 32 report the existing TRMP objectives relevant to PC81's objectives are considered.

37. In my opinion this failure to consider the existing objectives is the reason that urban development at Pōhara has largely not been considered in the s 32 report.

38. Thirdly, Pōhara is not absent from the subject matter of PC81.

39. Council's legal submissions acknowledge that PC81 contains provisions affecting Pōhara, including the proposed Papakāinga zoning and amendments to planning provisions relating to Eastern Golden Bay. The section 42A report similarly acknowledges that PC81 makes changes affecting Pōhara.

40. While those changes may be limited in extent, they nonetheless demonstrate that planning outcomes for Pōhara were within the ambit of the notified proposal.

41. As noted above, RPHL's submission on Change 1 seeks clear provisions for housing development in settlements outside Urban Environment towns. The scope of that relief has not been challenged. If the Panel accepts that relief, it is likely to require consequential changes to PC81, potentially including zoning changes at Pōhara. This reinforces the broad scope of the Change 1 / PC81 package and its application to Eastern Golden Bay.

42. Fourthly, there is a significant planning history associated with future growth at Pōhara.

43. The operative planning framework contains policies specifically contemplating additional development opportunities within Pōhara and identifies Pōhara / Ligar Bay as a growth location within Golden Bay.

44. The subject land has also been considered through a series of previous planning exercises, including Variation 57, Plan Change 8 and the Future Development Strategy process.

45. In my opinion that history assists in demonstrating that a submission seeking urban growth opportunities within Pōhara is not a novel planning proposition arising independently of PC81.

46. Accordingly, I consider there to be a sufficient planning connection between the relief sought and the matters addressed by PC81.These matters are also relevant to consideration of whether genuinely interested persons would anticipate that zoning at Pōhara might change as a result of submissions.

RESPONSE TO SECTION 42A REPORT / OTHER EVIDENCE

47. I have reviewed the section 42A report and Council's legal submissions relating to Submission OS184.

48. I disagree with the conclusion that the rezoning relief sought by RPHL is beyond the scope of PC81.

49. A central premise of the Council's position appears to be that PC81 did not "open" residential growth at Pōhara for reconsideration.

50. In my opinion that approach adopts an overly narrow characterisation of the notified plan change.

51. PC81 is not simply a collection of site-specific rezonings. It is a broader urban growth plan change that addresses housing capacity, urban development patterns and settlement planning across the district.

52. The notified proposal also contains provisions directly relevant to Eastern Golden Bay and Pōhara.

53. The Council's legal submissions acknowledge that there is historic planning direction supporting future growth opportunities within Pōhara and that such history provides a degree of foreseeability.

54. In my opinion that planning history is highly relevant.

55. Persons reading PC81 would have observed:
    a. A plan change focused on urban growth;
    b. Amendments affecting Eastern Golden Bay;
    c. Provisions affecting Pōhara;
    d. Existing operative policies contemplating future growth at Pōhara; and
    e. Ongoing public discussion regarding growth and development opportunities within Golden Bay.

56. In that context, I do not consider it surprising or unforeseeable that submissions would seek additional urban growth opportunities within Pōhara.

57. I note that the legal submissions for Council state at paragraph 121,

"*it does not appear from the FDS or its supporting documents that this site was assessed. Only one site at Pōhara was assessed for residential development and that was also rejected.*

The above statement is incorrect. RPHL land at Pōhara was considered, it is listed in the technical report as growth area T121. It was rejected for rezoning for a range of reasons as outlined in our original submission. I disagree with the reasons it was rejected and those reasons are set out in our Submission., but as this hearing is simply on scope, I will not traverse those issues as they go to the matter of merit of the Zoning which is not under consideration of the Stage 1 hearing.

58. For these reasons I have outlined, I do not agree that the rezoning relief sought through OS184.1, OS184.2 and OS184.3 falls outside the scope of PC81.

59. I have noted under paragraph 15 that submission 184.4 seeks a non-regulatory method in terms of the TRMP.

60. In relation to submission point 184.5, I have acknowledged this is out of scope under paragraph 16 of my evidence but have noted why it is included in the Submission, which is to highlight to Council staff and Councillors that RPHL wishes to be acknowledged as a stakeholder and consulted as part of the Regional Spatial Plan process.

RELIEF SOUGHT AND CONCLUSIONS

61. For the reasons set out above, I consider that there is a sufficient connection between the relief sought by RPHL and the matters addressed through PC81.

62. In my opinion:
    a. PC81 addresses urban growth and settlement planning matters across the district.
    b. PC81 contains provisions affecting Eastern Golden Bay and Pōhara;
    c. The submission directly addresses the effectiveness of Change 1 and PC81 in implementing the existing Eastern Golden Bay planning framework;
    d. There is a long and well-documented planning history relating to future growth opportunities within Pōhara; and
    e. The relief sought was reasonably foreseeable in the context of the notified plan change.

63. Accordingly, it is my planning opinion that the original submission points i, ii. and iii (184.1-3) fall within the scope of PC81 and should proceed to substantive assessment on their planning merits at the Stage 4 hearing. Further matter 184.4 is a non-regulatory method that the panel can address.

FILENOTE

SALLY GEPP
BARRISTER

DATE: 1/02/2023

RE: Richmond-Pohara / FDS meeting with Council

WITH: Sally Gepp, Jackie McNae, Graeme Dick, Leith Townshend (TDC), Barry Johnson (TDC), Chris Pawson (NCC), Jacqui Deans (TDC)

What do we want to get out of this meeting?

Sally: We looked at this decision on the FDS regarding the 82 Richmond Rd site and identified issues with it. We wrote to Tasman District Council ("**the Council**") and asked for more information, which raised more questions. One objective of the meeting is to discuss these new questions. We are also keen to have discussion about some of the points that have gone awry with the decision. We also want to discuss if Graeme's company proceeds to issue judicial review proceedings, we believe there are other judicial review proceedings regarding the Future Development Strategy ("**FDS**"), so we want to align processes.

Leith (TDC): We are keen to hear your concerns. We might not be able to answer all of your questions on the spot, as the FDS is a hugely technical document, so we might have to go away to find the answers to some of them. But we will note down your questions and get back to you.

Sally: We are also keen to know how the Council sees the relationship between the FDS and future plans, especially with regard to how the Council sees the FDS informing the planning processes.

How will the FDS inform plans?

Barry (TDC): Since the first FDS in 2019, the FDS has been a cornerstone of the planning we use for long term plans. The FDS informs our growth model which underpins those plans, the expected pattern of growth we are likely to see is the picture presented in the FDS, which informs how we plan for three waters etc. In terms of patterns of growth in the RMA plans, the FDS is the primary picture that shows overall growth. When we rezone land, we can look to the FDS to know where to look for land rezoning. The FDS is a cornerstone that informs the other plans and strategies. In terms of RMA stuff, that's where we look first.

Jacqui (TDC): The new FDS doesn't have sequencing in it. The National Policy Statement on Urban Development ("**NPS-UD**") requires local authorities to have regard to the FDS when changing or preparing documents. But just because a site isn't in the FDS doesn't mean it cannot proceed with development. The FDS just identifies the main sites, but there are other avenues open to developing your sites.

Barry (TDC): There is also an intermediary step between the plans. We are doing work in Mapua about a master plan, and we have the areas the FDS has provided, and we are working with the community about specific stuff. We are starting to do the same project for Richmond and Pōhara is in the pipeline.

Sally: When you said that just because a site is not in the FDS doesn't mean development cannot proceed on it, and yes there are mechanisms for land owners to rezone or apply for resource consent etc, but how do you see decisions on sites not included in FDS? How would you capture that concept that the FDS isn't saying those sites wouldn't be suitable for development?

Jacqui (TDC): This goes back to the NPS-UD. We have to have regard to the FDS, which doesn't say we have to exactly follow the FDS. It gives all the council teams a steer for where we need future planning and budgeting for future growth, but there are other avenues open to it. The FDS is reviewed every three years and a new one made every six years, so it's just a snapshot in time. What we tried to do in the FDS is set out the spatial growth in the Nelson-Tasman region. What the council has landed on is what we considered the best now, but it's a constantly reviewing process.

Planning history

Jackie: The Council did those studies in Eastern Golden Bay around 2006-2007, where Pōhara, along with other places, was identified as a future growth area for expansion. And it included this Richmond Road site. And this went through quite a public process, and it didn't just stay in the form of a policy paper but came through as Variation 57, resulting in Plan Change [X], and brought in all the policy framework noting Pōhara as a growth area through chapter 6 of the Tasman Resource Management Plan. Is it just a disconnect between that and the FDS, or has the Council completely changed its direction?

Barry (TDC): In terms of what happened with the growth strategy stuff, the Council decided not to progress that work. Things moved on, maybe that policy framework is a bit of an artefact now. The FDS now says if we are going to have a pattern of growth it will look like "this" at a high level. It will be interesting whether that Variation 57 policy framework survives.

Jackie: It seems the issue has become "either/or", but a person who wants to live in Tākaka isn't the same person who wants to live in Pōhara. Tākaka is certainly the service centre for Eastern Golden Bay, but there are other places that are important especially Port Tarakohe. So, it's not just about coastal holiday living; there are a number of people now permanently living in Pōhara. In a past time, Pōhara was mostly holiday makers, but now there is permanent living. I don't like the idea that either its growth in Tākaka or its growth in Pōhara. I absolutely support the growth of Tākaka, but we also need growth in Pōhara.

Barry (TDC): But there are strong views on Council on what houses Pōhara has, and Council hasn't wanted to develop Pōhara further. There are lots of engineering issues to development. Also, security of tenure is an issue: the Council keeps hearing about people getting kicked out of their homes over summer. There is not enough affordable housing in Pōhara.

Jackie: You cannot always look to what people have made in the past to determine what people will make in the future. For example, Richmond hasn't traditionally produced affordable housing, but driving into Richmond now there is lots of affordable houses being built.

Jacqui (TDC): Going back to the FDS, we have 220 sites to assess across the region, so we had to have a methodological way of assessing the sites. You may or may not be familiar with the Multi Criteria Analysis ("**MCA**") we used. It is possible the reason the Tākaka sites performed better than Pōhara was because of accessibility. There are two accessibility criteria in the MCA, which were weighted by a factor of 5. When we presented the scoring of your sites and the comparable sites, that's one of the reasons the Pōhara sites performed badly.

Jackie: This comes back to "either/or".

Jacqui (TDC): It also partly explains why we landed on consolidation along State Highway 6 as opposed to Tasman Village etc. Accessibility criteria for sites have always been important for the FDS.

Spatial analysis

Sally: Reading the technical report and the MCA, it seems it included some no-go criteria, some weighted criteria, and some limited applicability criteria. For example, the no-go criteria were the highly productive land, te Mana o te Wai, and cultural significance. A rating score of 0 for one of those means it couldn't be included in the FDS.

Jacqui (TDC): Yes, that's right.

Sally: Then some criteria had a weighted factor of 5.

Jacqui (TDC): Some had a factor of 2.

Sally: And Limited applicability criteria were "demand" and "papakāinga". But these weren't applicable to this site.

Jacqui (TDC): Yes, that's correct.

Sally: So, starting with the limited applicability criteria, you'd get a 0 for one of these even though it was not applicable, so that would bring your score down if you were a non-urban site even though the criteria weren't applicable to your site?

Chris (NCC): The demand side of things was autogenerated by the analysis done by consultants. Some of the MCA was done automatically based on spatial analysis. So for the accessibility stuff for example, there was an accessibility scoring assessment done by consultants [something "King"?]. So those were auto-populated. The same applies with the demand criteria, but based on property prices. I would need to go check to see how it would be applied in more detail.

Sally: **Yes please, check for the more detail.**

Chris (NCC): We only used urban sites because there was a lot more data available for that. Urban sites gained, but I don't think the rural sites lost based on the demand criterion. **[Sally to ask Council to confirm this]**

Jacqui (TDC): Consultants scored those criteria, and from memory it was in line with the objectives of the NPS-UD, but I would need to check with the consultants. Rural sites are ranked with rural sites. We did an overall ranking of all 220 sites considered for the FDS, but when it came to ranking rural sites, the consultants ranked all the rural sites together against each other.

Sally: But in letter sent in January, it talks about the overall ranking of the sites.

Jacqui (TDC): Yes, but in pg 2 of the LGOIMA response you'll see that your site was ranked with the other rural sites. This was the more important ranking.

Chris (NCC): Because those rural sites were ranked together, the demand aspect was not really relevant for determining which rural sites to include in the FDS.

Barry (TDC): The FDS was doing two things: applying the NPS-UD in the Nelson-Tasman region, but then it had this other aspect to the FDS which the Council decided it would do which is also look at the townships within Tasman region, but that's separate to the requirements of the NPS-UD. These are two very different processes.

Sally: Yes, but then that ends up with sites being either identified or not identified in those rural areas, which then has an impact on how they are treated in subsequent planning processes and other stuff, such as how the National Policy Statement for Freshwater Management and National Policy Statement for Highly Productive Land applies. So that choice to bring them within the FDS has significant consequences for sites not identified within it.

Barry (TDC): It's a little bit circular as well. The FDS is reviewed every three years. Our work in Pōhara isn't on the FDS list. But Pōhara is on the list for this year on consultation for future plan. We are specifically looking at the future of Pōhara in terms of RMA planning processes etc. So not part of the 15 or so locations we looked at this time round, but later this year we are looking specifically at Pōhara. So, what comes out of that will inform our RMA plans, and will likely inform our assessment.

Sally: Yes, but might it also be the other way round, where the FDS informs the next round of plans?

Barry (TDC): Just because Pōhara is not in the FDS doesn't mean there is a ring fence around Pōhara. I'm just saying we haven't looked at it since 2007 in our strategic review, but we are in process of taking a further look at Pōhara in the new plan. Going to look at how those towns work, what's Pōhara's relationship to Tata Beach etc. That will inform our future plans. There is work happening on this at the moment, but everything is up in the air because we have to do a combined plan with Nelson. At this stage we are doing the Pōhara work in the middle of this year.

Multi Criteria Analysis rankings of site

Sally: Would you be able to please give us more context on why the site was given a 0 in the MCA analysis for the three waters infrastructure?

Jacqui (TDC): I think we covered some of these in our response to you, certainly regarding stormwater.

Sally: The response was that there is big slope instability area and a model that shows flood extent (which barely goes onto the site at all) and that it's well-known to be challenging for flooding. But since then, there have been lots of consents granted for bunds etc that have totally changed that picture.

Jacqui (TDC): I want to caveat by saying I'm not an expert on this. But we had a team of around 25 different officers involved in assessing each and every site. If you want a detailed conversation about why that site didn't score well on that you would have to ask them. But in the LGOIMA response we gave you we said the modelling for this area didn't include 170 dwellings that could yield from your site. That was the key issue. There is going to be extra housing.

Jackie: We are talking about stormwater in the gulley not the bottom paddock. Turning to pg 18 which summarises the Richmond Rd site and talks about the bullet points, this page says what the current zoning is and says to avoid steep parts and focus on the flats. Now, our submissions in terms of the FDS have always said that in terms of stepping through future urban growth in the area outlined in red, you would focus on the land on the landward side of the stream. That has been our focus in the submissions. Basically, what are the bullet points?

Sally: The bullet points don't appear to have come from Manawhenua ki Mohua ("**MKM**"). They read more like guidance from the Council. For every sigle page it starts with some bullet points, then has an image, then MKM's comments come below.

Jacqui (TDC): No, it wasn't guidance from the Council. **I would have to check that for you.**

Sally: Thanks, that would be good. Going back to the three waters assessment, I'm happy to make a LGOIMA request for those, but can we talk about how to be specific in our request? How did we end up with a 0 for those three things?

Jackie: Especially a 0 for the wastewater criterion. Wastewater ponds have been upgraded, pipes have been upgraded, the Council has purchased land off these owners to build a new pump station. For our subdivision, while initially our plan was to go down Richmond Rd to connect to the station, we were told that we had to create a new system and come take our new pipe across the gulley and down across the flats into the brand new pump station the council has put in here. So, to then get a score of 0 after millions of dollars spent is …

Jacqui (TDC): The score for the three waters was to do with the relative cost of infrastructure to development. Didn't anticipate another 170 dwellings. We compare one site with other sites.

Graeme: Whoever thinks we can get another 170 sites is dreaming. I accept that we and the Council have an entirely opposed view of the flat land down there, so leaving that out for now. About a third of the land in the flat: beyond the flats there are unlikely to be more than probably 35-45 sites in there in the balance piece of land. So in addition to the 75 that were approved, that comes out of the calculation of the balance of land. 170 against probably 40-50 at best—that is hugely different to the 170. There is just no way you could get 170 dwellings, unless you went in there with extremely high rise, close development. You will never get that number.

Jacqui (TDC): That's fair. The reason we included your site in FDS originally was because of the history of the site and representations made for recent rezoning. We had no directions from you, so the consultants applied the same methodology to this site as other sites, and in doing so came to 170 new dwellings.

Graeme: I'd like to object to that. The Council has known about this since 2007. When the Council did its investigations of the area, the Council already indicated that this area was one of three considered to be acceptable. We have never gone away from that. So, for you to say we haven't pushed when council knew.

Jacqui (TDC): We didn't have any detail from you in the first part of engagement on the FDS regarding either the extent or yield of the site we should be considering.

Graeme: Yes, you did, you had the structure plan for that area from way back in 2007.

[Jackie shows everyone the 2007 structure plan for the site.]

Barry (TDC): Things have changed since 2007 in terms of our obligations (climate change etc).

Chris (NCC): I think what Jacqui is saying is that in the absence of a yield, it was up to the consultants to apply some kind of methodology, which they did consistently across the whole area and came to the 170 number.

Wetland

Jackie/ Sally: In the letter dated 23 January, the wetland is not within the area that was potentially to be included in the FDS. That wetland is in the SHA and is consented for works for the SHA subdivision. There is stormwater detention in that area. It is not in the site we are concerned with regarding the FDS. We acknowledge that it is a wetland, because that is part of our 75 lot subdivision, that's where our new stormwater detention basin is going in. In terms of the written reasons given for not including this site in the FDS, the fact this site contains a wetland was specifically identified as a reason for exclusion, but that wetland is not within the site.

Jacqui (TDC): The wetlands were scored under the criterion for te Mana of te Wai, and your site scored a 3 out of 4 for this criterion. So, it didn't really have a huge about of bearing on your site.

Sally: How is a person engaging in your process supposed to understand what does matter for the decision, when one of the express reasons given for the property not being included in the FDS actually didn't have much impact on its exclusion?

Jacqui (TDC): MCA scoring was the overall decider. People want to know why their site wasn't included, which is why we tried to summarise the reasons why the site wasn't included.

Sally: Right, so there's a disconnect between the MCA and the written reasons for this one?

Jacqui (TDC): I would need to check with the ecologist as well regarding the wetland.

Barry (TDC): the other thing is that your property was put on there by staff, because of the history. So, it may not be the site you're talking about, but rather the broader site was assessed. So, the site assessed is not the site you're talking about. There is a disconnect between the site assessed and the site you want to develop.

Sally: Yes, but regardless, you couldn't consider the SHA area in a wider site being considered for FDS because the SHA area already has subdivision consent, its not a future growth area, so must be the balance land.

Jacqui (TDC): There may be a disconnect between the reasons we've given you and the MCA scoring, but I don't think it would have changed the overall scoring of your site.

Manawhenua ki Mohua

Sally: We have questions regarding the bullet points at top of the MKM paper. Feedback on the site says that iwi raised strong concerns over cultural heritage over this location, and the MCA criterion on cultural significance was scored a 0. However, there were no submissions addressing this site from iwi or hapu. You sent us this record of MKM feedback, which is by no means opposing development on this site. The feedback simply says that MKM wants to be satisfied that additional housing is appropriate and will not further degrade Papatūānuku, and that MKM seeks further information. Further, when you compare this feedback with MKM's feedback on other sites, where they say things like "do not support", their feedback on this site is simply "we'd need more information". That doesn't seem to be something that would warrant a 0 for cultural significance.

Jacqui (TDC): MKM have outlined the cultural and historical significance of the area, coupled with the known cultural mapping, it is pretty clear that there is cultural heritage significance all around your site. This might just be something we don't agree on unfortunately. If we were to take your point of view and score it more highly, it makes very little difference to the scoring of your site. Even if we applied a 2 out of 4 for the site, this would make little change to the scoring or ranking of the site.

Sally: Except that it does make a difference because it means the site wouldn't automatically be rejected for consideration by reason of it being a "no-go". In the letter to MKM in February, the Council says 82 Richmond Rd has been deleted from the sites being considered. What did the Council mean by this?

Jacqui (TDC): The site was removed from consideration because it was given a 0 for a no-go constraint.

Sally: But this was before public consultation. What does this mean for the public consultation process if it's been deleted before it starts? How is this a fair process?

Jacqui (TDC): We didn't hear from you in the first place. We widely publicised the initial FDS process and didn't hear anything from you.

Sally: Yes, but this initial process was non-statutory. The site had already been taken off the list of considered sites before the statutory consultation process began.

Other judicial reviews of the FDS

Sally: I understand there are two other judicial reviews of the FDS in progress. I want to at least make contact with their lawyers, so the process aligns and works for the court.

Leith (TDC): There are no other active judicial reviews of the FDS. However, we are aware of some people who have talked about judicial reviews of the FDS, but that is as far as it has gotten.

Barry (TDC): We need to be circumspect in this because people were threatening judicial review before process even finished.

Next steps

Leith (TDC): The Council is going to provide you with the documents relating to the water assessments. We are also going to figure out where the bullet points in the MKM report came from, and answer why the property was given a 0 in the MCA criteria for the three waters parts of the site.

Sally: We also want to note that we are interested in the next planning process regarding Pōhara.

Leith (TDC): We will make sure you are in the contact database for updates on this.