

Resource Management Act 1991

New Plymouth District Plan Private Plan Change PPLC48

Rezoning of Land at Wairau Road, Oākura from Rural Environment Area to Residential Environment Areas, Proposed Rural Lifestyle, OpenSpace B and C Environment Area and Business C with specific provision for subdivision and development of 399 lots and subsequently reduced in scale to 144 lots

**Independent Commissioner Report and
Recommendations
22 May 2020**

Interpretation- Terms Used	
PPC48	Private Plan Change 48
NPDC/ Council	New Plymouth District Council
OFPL	Oākura Farm Park Limited (applicant)
SH45	State Highway 45
FUD	Future Urban Development (Overlay)
ODP/ District Plan	Operative New Plymouth District Plan
RMA/ ACT	Resource Management Act 1991
NPS-UDC	National Policy Statement on Urban Development Capacity
RPS	Regional Policy Statement
OL	Outstanding Landscape
TIA	Traffic Impact Assessment
CIA	Cultural Impact Assessment
SIA	Social Impact Assessment
s42A Report	Section 42A Report
NZTA	New Zealand Transport Agency
OSP	Oākura Structure Plan
Reporting Officer	Mr Wesley and Ms Stevens

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INTRODUCTION

1. This recommendation is made to New Plymouth District Council by Independent Hearing Commissioner Bill Wasley appointed and acting under delegated authority pursuant to s34 and s34A of the Resource Management Act 1991 (the Act or RMA).
2. The plan change was heard by me acting under delegated authority of the Council. I was appointed a commissioner pursuant to section 34A of the RMA, to hear and consider all matters related to the private plan change and the application to vary or cancel the consent notice. This included considering all submissions and the Council's section 42A reports ("the planning reports"), and to then make recommendations in respect of the submissions. If recommended for approval, I was to consider any associated amendments to the Proposed Private Plan Change to the Council and to provide a recommendation on whether the consent notice should be varied or cancelled or remain as is.
3. Mr Coffin had originally been appointed as a commissioner but due to a family bereavement could not attend until day 3 of the hearing. Consequently, he withdrew from being a commissioner and assisted during the remaining hearing days, reading all the evidence and submissions, and asking questions, attending site visits, and provided assistance in the preparation of this report. There were no objections to this approach from any of the parties, and the hearing proceeded on that basis.

BACKGROUND

4. PPC48 is a private plan change by Oākura Farm Park Limited (the applicant) that has been prepared following the standard RMA Schedule 1 process. The request was lodged in March 2018, then subsequently accepted by the Council, and publicly notified on 29 June 2018, with submissions closing on 10 August 2018, and further submissions closing on 15 October 2018. An addendum to

the summary of submissions was publicly notified on 3 December 2018 with further submissions closing on 14 December 2018.

5. Of the 436 submissions received, 12 were in support or support in part; 2 were neutral and 393 were in opposition and a further 3 opposing in part. The submissions were summarised and notified for further submissions and 38 further submissions were received.
6. The Commissioner issued several minutes and directions throughout the period confirming matters and generally keeping parties up to-date including dates for circulation of expert evidence, responses and closing statements.
7. The hearings were held for 5 days from Monday 22 July 2019 to Friday 26 July 2019 and one further day on Monday 2 December 2019 (referred to as the reconvened hearing).
8. PPC48 was changed considerably in size and scale following the first hearing of the plan change from that notified. Details of these changes are provided below.

SUMMARY OF THE PLAN CHANGE

Location and Site Description

9. The land subject to the private plan change is located to the south of the Oākura township, with the main access being located off Wairau Road. The subject land is in the ownership of Oakura Farm Park Ltd (Lot 29 DP 497629); LM Thurman and JM Williams (Lot 3 DP 21111); and Powerco Ltd (Part of Pt Section 14 Oakura District). The combined landholdings comprise 64.38 hectares in area.
10. The site is situated on the rural ring plain and is located on the foothills of the Kaitake Range, situated to the south of the site, and is separated from the ranges by an adjacent farm. The Wairau Stream passes through the subject site along the northern part of it as does its tributary to the south. A QEII National Trust covenanted area of land runs along the gully of the Wairau Stream in the eastern part of the site.
11. It is noted that there are a number of easements affecting the property including an easement for gas and petroleum products as there are high pressure gas and LPG pipelines within the plan change area, together with electricity and gas assets.

Immediate Environment

12. State Highway 45 is located along the western boundary of the site and across the highway lies large open rural land. The Kaitake Range are a bush clad range which forms part of the Egmont National Park and are a dominant feature in the immediate environment. The site is located at the foothills of the range. The bush clad range forms a

backdrop to the site and rise approximately 682m above sea level.

13. To the north east of the site along the lower portion of Upper Wairau Road, is the fringe of Oākura township containing land that has a Residential C Environment zoning. There is open rural land to the west of the site used for agricultural purposes, primarily dairy farming.

Oākura Village

14. Oākura village is a coastal settlement that is approximately 15 kms from New Plymouth. It has a resident population of 1400 people and contains a number of permanent and non-permanent residents, including those who have retired, or work either locally or in New Plymouth.
15. The village contains a range of commercial activities such as shops, hotel, cafes/ restaurants, a play-centre, volunteer fire brigade, sports fields (Corbett Park) and Oākura Primary School, which has a current roll of 360 pupils.
16. Oākura River is located to the north east of the town and the landform rises from sea level along the coastal margin up toward the Kaitake ranges in a north-north easterly direction that affords for many properties views of both Mt Taranaki and the ranges and out to the coast and beyond.

Existing Zoning

17. The subject site is zoned Rural Environment Area with approximately 12 hectares of it being subject to a Future Urban Development (FUD) Overlay known as part of the South FUD for Oākura, as shown on District Plan Maps A61 and Rural E2. Land to the west of the site, across the state highway is also FUD land referred to as Oākura's West FUD.
18. The site is also subject to a Ponding Area Hazard, and the Wairau Stream which straddles the northern boundary of the site, identified as a Priority Water Body.

Purpose and Scope of Plan Change

19. The Private Plan Change seeks to rezone the subject site land from Rural Environment Area to a range of urban and lifestyle purposes. In summary the proposal seeks to:
 - Change the zoning from Rural Environment Area to Residential Environment Areas (proposed Residential A, C and Medium Density) where the applicant proposes to create 399 residential lots ranging in size from 300m² to 700m².
 - Change the zoning from Rural Environment Area to a proposed Rural Lifestyle Area where 12 lifestyle sections are proposed to act as a buffer between the residential sections and rural land. The proposal indicates these sections can be for equestrian lifestyle living.

- Change in zoning from Rural Environment Area to Open Space B and C Environment Area for local parks and natural spaces.
 - Change in zoning from Rural Environment Area to Business 'C' Environment Area for a small business area.
 - Introduction of a proposed structure plan to direct the overall form and layout of subdivision and development.
 - Change the Areas for Future Urban Development provisions and insert additional policies and methods of implementation for the Wairau Estate Structure Plan. These are proposed to enable the application site land to be comprehensively planned for urban development in its entirety and to provide for a safe and efficient road transportation network to meet the long-term needs of the Oākura urban area by planning for the provision of a roundabout.
 - Change the Residential Environment Area provisions to provide for the height, bulk, location and reflectivity of the buildings and structures in the structure plan area.
 - Change the Rural Environment Area provisions to provide for the height, bulk, location and reflectivity of the buildings, structures, and traffic generation in the structure plan area.
 - Change the Business Environment Area C provisions to provide for the height of the proposed buildings and structures in the structure plan area.
 - Install a roundabout on the intersection of Wairau Road and SH45.
20. The applicant seeks the rezoning of the site so that a continual supply of serviced residential lots can be provided in the long term, which would contribute to supporting and sustaining present and future generations at Oākura. In addition, a concurrent application was made to vary Consent Notice 9696907.4, which had been imposed in respect of 'The Paddocks' subdivision approval in March 2011.

Amendments to Plan Change

21. The s42A report¹ noted that following pre-hearing meetings the applicant put forward modifications to the plan change request as detailed below:
- Confirmed Bridal Path and signage with added service access and easement.
 - A new/alternative access via SH45 has been investigated with an alternative for sequencing of development.
 - Possible Super Staging Plan with alternative for sequencing of development with the proposed roundabout linked in with provision of infrastructure.

¹ S42A Report- Para 3.5

- Proposed overlay rules relating to staging. Conditions placed on Stages 2-4. Stage 2 is not to proceed until 75% of lots created within Stage 1 subdivision have been sold. Stages 3 and 4 are not to proceed until the traffic roundabout and pedestrian underpass have been installed.

Further Amendments to Plan Change

22. During the hearing and in response to evidence presented at the original hearing, the proposal was further amended by the applicant in further evidence. Key amendments are outlined as follows:

- a) A revised scheme, reduced from 399 lots to 144 lots, across 15.9ha; including 1.3ha of the adjoining Thurman land currently Rural Environment Area with FUD Overlay in the Operative District plan, and zoned General Residential in the Proposed District Plan.
- b) Change the zoning from Rural Environment Area to Residential Environment Area C with average lot sizes of 800m².
- c) The removal of the Residential A and Medium Density areas.
- d) Removal of the Rural Lifestyle Area (12 lots).
- e) Removal of the proposed Bridle Trail and Equestrian Arena.
- f) The removal of the Business C Environment area.
- g) The reserves/open space areas shown on the Structure Plan to change in zoning from Rural Environment Area to Open Space B and C.
- h) Development to occur over five stages, with each stage comprising 24 – 33 lots, with an average and median of 29 lots.
- i) An amended structure plan for inclusion in the District Plan to direct the form and layout of subdivision and development.
- j) A Landscape Framework Plan directing where plantings and landscaping is to occur across the site.
- k) Removal of the proposed roundabout at the intersection of Wairau Road and SH45.
- l) Removal of the proposed Noise Attenuation Bund adjacent to SH45.

23. Mr Wesley² outlined that the further evidence from the applicant was silent on what District Plan provisions in the original plan change request are to be retained, amended or deleted for the revised proposal, apart from a new structure plan and new staging rule as appended to the evidence of Mr Comber. He further stated that given the substantive issue to be determined was whether the land should be rezoned from Rural to Residential and the variation to the Consent Notice accepted, the plan provisions could be determined subsequent to any decision to re-zone

² Wesley: Response to Further Evidence for Reconvened Hearing 22.11.19

the subject land.

24. The amended proposal has therefore been the focus of my consideration and is the subject of this report and recommendations, together with the application to amend or vary the consent notice.

MATTERS REQUIRING CONSIDERATION - PLAN CHANGE & VARIATION OF CONSENT NOTICE

25. In respect of the considering the application to vary the consent notice, s221(3) of the RMA provides for applications to vary or cancel consent notices. A consent authority may review any condition specified in a consent notice and vary or cancel the condition, and s104 applies when considering such an application.
26. A local authority's power for a plan change, including a private plan change request, is set out in Clause 29(4) of Schedule 1 of the Act. It states:
- "29(4): After considering a plan or change, the local authority may decline, approve, or approve with modifications, the plan or change, and shall give its reasons".*
27. In making its decision, the local authority must undertake the further evaluation required under s32AA of the Act and have regard to that evaluation. The structure of this report is aligned with the statutory framework for evaluation under this section of the Act, which then enables this report to be adopted as the Council's decision.
28. In addition, s74 of the RMA states that the Council shall prepare and change the District Plan in accordance with its functions under s31, the provisions of Part 2 and its duty under s32.
29. Under s74, when preparing or changing a plan, a territorial authority is required to have regard to:
- "(b) any –*
- (i) management plans and strategies prepared under other Acts,"*
30. It is considered that the Oākura Structure Plan and Kaitake Community Board Plan were relevant strategies and had been prepared under the Local Government Act 2002.
31. In respect of s74 (2A) a territorial authority:
- "must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of a region".*
32. I was advised³ that in respect of the proposal a relevant iwi management plan is the Taiao, Taiora Taranaki Iwi Environmental Management Plan and had been considered by the reporting officer.

³ S42A Report- Para 7.4

33. Section 75 (3) of the RMA requires that district plans must give effect to—
- “(a) any national policy statement; and*
 - (b) any New Zealand coastal policy statement; and*
 - (c) any regional policy statement”*
34. and under s75 (4), district plans must not be inconsistent with –
- “(b) a regional plan for any matter specified in section 30(1)”.*
35. The decision in *Long Bay Okura Great Parks Society Incorporated v North Shore City Council* (Decision A 078/2008), and amended in *High Country Rosehip Orchards Ltd and Ors v Mackenzie DC* ([2011] NZEnvC 387) at pages 17-18 to reflect the changes made by the Resource Management Amendment Act 2005, sets out the mandatory requirements for district plan (changes).

SITE VISITS

36. Several visits were made to the site and Oākura generally. I undertook a contextual site visit prior to commencement of the hearing to familiarise myself with the location of the subject site, and its relationship to the existing Oākura urban area and the general environment such as location of the Kaitake Range and State Highway 45.
37. On Wednesday 24 July, both Mr Coffin and myself undertook a site visit where we were driven over the subject site by Mr Simon McKie, with a representative of New Plymouth District Council in attendance. A submitter representative was invited to attend but did not participate in the site visit.
38. The site visit took in the subject site and various features of the proposed development were pointed out to us. After completion of this visit, Mr Coffin, and I (no other parties were in attendance) drove to the end of Wairau Road; through the Paddocks subdivision; Ahu Ahu Road, and throughout the Oākura township.
39. Subsequently we also undertook a visit to Oākura Primary School where the Board Chair Paul Veric, and Principal Lynne Hepworth, showed us through the school grounds and outlined access to and from the school.

HEARING, ADJOURNMENTS & CLOSURE

40. The hearing commenced on Monday 22 July 2019 at 1pm and conducted through to Friday 26 July 2019. It was then adjourned to allow the reporting officer time to provide a formal response to the matters raised by the applicant and submitters.

41. Subsequently Mr Muldowney sought an extended adjournment to allow the applicant to respond to matters raised at the hearing particularly by submitters with supplementary evidence. Various directions were subsequently issued in respect of the process.
42. The hearing was reconvened on Monday 2 December commencing at 9am. It included the presentation of the supplementary evidence by the applicant, and then further evidence from submitters on that supplementary evidence. The hearing was subsequently adjourned at 7:15pm after all parties had been heard.
43. I had requested that the applicants closing submissions be in writing. These were subsequently received by me on Friday 20 December 2019.
44. The hearing was closed on 15 May 2020.

SUBMISSIONS RECEIVED

Original Submissions

45. 426 submissions were received of which 12 were in support or partial support, 2 were neutral, 393 submissions were in opposition and 3 in part opposition, to the proposal. Submissions and submission points per topic were outlined in Appendix 4 to the s42A report dated 31 May 2019. All submissions including further submissions and late submissions are on the NPDC website. A list of those who made original submissions, further submissions, and the late submissions, is contained in Appendix 1.

Further Submissions

46. Thirty-eight further submissions were received.

Late Submissions

47. Nine late submissions were received, and consideration of these in respect of a waiver of timeframes for their receipt is contained in paragraphs 53-55 of this report.

HEARING ATTENDANCE

48. Those in attendance at the hearing and presented were as follows:

Applicant

- Mr Lachlan Muldowney- Counsel

- Mr Simon McKie-Presented evidence on behalf of Mr Mike McKie- Applicant
- Mr Mike McKie- Applicant (reconvened hearing)
- Mr Cees Bevers- Ecologist
- Mr Shaun King- Acoustic Consultant
- Mr Andrew Skerrett- Traffic Engineer
- Mr Richard Bain- Landscape Architect
- Mr Colin Comber- Planning Consultant
- Mr Ivan Bruce-Archaeologist
- Mr Alan Doy-Registered Surveyor
- Mr Kim Jansen-Civil Engineer

Submitters

49. An extensive number of submitters presented at the hearing and the list of those submitters is contained in Appendix 2. This list also outlines those people who presented on behalf of some submitters.

- Mr Scott Grieve- Counsel
- Mr Richard Rollins- Environmental Engineer (Pesticides & Health Effects)
- Mr Nic Gladstone - Road Safety Engineer
- Mr Matt Peacock - Civil & Structural Engineer (Infrastructure Engineering)
- Mr Peter Kensington- Landscape Architect
- Mr Cam Twigley- Planning Consultant

Council

- Mr Hamish Wesney- Planner & Reporting Officer
- Ms Anna Stevens- Planner & Reporting Officer
- Ms Emma McRae- Landscape Architect (original hearing)
- Mr Boyden Evans- Landscape Architect (reconvened hearing)
- Mr Graham Doherty-Traffic Engineer
- Mr Mark Hall- Manager Three Waters

PROCEDURAL MATTERS AND DIRECTIONS

RMA 2-Year Decision time limit

50. PPC48 was publicly notified for submissions on 29 June 2018. The RMA (First Schedule) requires any decisions on plan changes to be made within 2 years from the date of public notification.

51. Any timeframe extension beyond the 2- year period requires Ministerial approval, as s37 of the RMA cannot be utilised to extend time limits on plans and plan change decisions.
52. No extension to the timeframe was sought.

Late Submissions

53. There had been nine late submissions received after the closing date for submissions. S37 of the RMA provides for the ability to recommend whether or not to waive a failure to comply with particular timeframes. The consent authority can only decide to waive any failure to comply with a timeframe after taking into account the following matters:
 - the interests of any person, who in its opinion, may be directly affected by the waiver
 - the interests of the community in achieving adequate assessment of the effects of the Plan Change; and
 - its duty under s21 of the RMA to avoid unreasonable delay.
54. Mr Wesley advised that in considering whether to waive the failure to comply with the timeframe for the nine late submissions, the Commissioner may wish to take into account the following:
 - The late submissions were received shortly after the submissions closed and were included in the summary.
 - The plan change process has not been held up in any way to date by these submissions.
 - The late submissions mainly raise issues that have been addressed by other submitters and do not seek any new decisions from Council which would compromise its ability to fairly assess the effects of the Plan Change.
55. Accordingly, it was recommended that the requirement to comply with the timeframe for these late submissions be waived. It is noted that the applicant did not raise any objection to consideration of the late submissions.

Directions

56. Several directions had been issued in respect of the hearing process including amended hearing dates, pre-circulation of evidence, adjourned hearing, and evidence to be presented to the December hearing. All directions were provided to all parties by the Council and were placed on the Council website relating to PPC48 matters.

STATUTORY CONTEXT

57. In respect of the considering the application to vary the consent notice, s221(3) of the RMA provides for applications to vary or cancel consent notices.
58. A local authority's power for a plan change, including a private plan change request, is set out in Clause 29(4) of Schedule 1 of the Act. It states:
- "29(4): After considering a plan or change, the local authority may decline, approve, or approve with modifications, the plan or change, and shall give its reasons".*
59. Section 74 of the RMA sets out the matters to be considered by a territorial authority, in the preparation and undertaking of changes to a district plan. Such changes are required to be in accordance with its functions under s31, the provisions of Part 2 and its duty under s32 and further, having regard to other documents to the extent that their content has a bearing on resource management issues of the District.
60. Section 75 of the Act, in addressing the contents of district plans, requires that a district plan must give effect to any regional policy statement and must not be inconsistent with a regional plan.
61. Section 31 addresses the functions of territorial authorities under the Act and includes:
- 1. the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
 - 2. the control of any actual or potential effects of the use, development, or protection of land, ...*
62. Section 32 of the Act provides for the consideration of alternatives, benefits, and costs and requires that an evaluation must be carried out and that an evaluation must examine:
- a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
 - b) whether having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
63. For the purposes of this examination, an evaluation must take into account the benefits and cost of policies, rules, or other methods.
64. Part 2 of the Act, being the purpose and principles of the statute, is the overarching part of the Act. Regard is to be given to all matters within it. Section 5 defines the purpose of the Act while sections 6, 7, and 8 outline the principles of the Act. Sections 6, 7, and 8 contain principles that are intended to give direction to assist with the achievement of matters.

SUMMARY OF EVIDENCE HEARD

65. The Council reporting officer's s42A report and all expert evidence was circulated as directed prior to the hearing, had been pre-read, and largely taken as read at the hearing. Witnesses typically provided a written summary and update at the hearing followed, in the applicant's case, by a limited number of statements of rebuttal evidence.
66. As that evidence was extensive, I have decided, in the interest of brevity, to provide short summaries, and then dealing with that evidence by way of issues where those have been found to be determinative of my overall decisions on submissions on the private plan change request, and the consent notice variation and submissions.
67. For the record we note that we received evidence from the following persons (as noted at the head of this decision):

Applicant - Oākura Farm Park Limited

Mr Simon McKie, appeared on behalf of his father, Mr Michael McKie who was absent due to medical reasons. He read Mr Michael McKie's statement providing an overview of the development and the families connection with the area.

Mr Cornelis Bevers, ecologist was the author of the Ecological Values and Impact Assessment 26 July 2017, included in the AEE. He presented his evidence and a summary which detailed the native flora and fauna of the site, exotic weed species, the significance of the stream habitat, likely effects of the earthworks associated with the plan change development, effects of cats and dogs on wildlife.

Mr Ivan Bruce, archaeologist, who presented evidence on his archaeological survey and his experience in the area.

Mr Alan Doy, presented evidence on the structure plan, survey, and lot yield.

Mr Andrew Fraser and Ms Kim Jansen presented evidence on three waters and site feasibility.

Mr Shaun King, an acoustic consultant, presented evidence on behalf of his colleague, Damian Ellerton who was out of the country. The evidence focussed on the expected performance of a noise barrier, a 2-metre-tall earth bund to be constructed along the western property boundary adjacent to SH45 as well as other measures such as dwelling setbacks, other barriers and modification to building facades.

Mr Andrew Skerrett, traffic engineer presented evidence regarding the intersection of Wairau Road and SH45, in particular a new roundabout, effects on vulnerable users, traffic flows, process for NZTA approval, threshold for constructing a roundabout.

Mr Richard Bain, landscape architect, presented evidence on the scale and extent of the development and its effects on outstanding landscapes, natural character, visual effects from SH45, landscape plan, the boundary of the outstanding landscape, and the timing of a landscape framework plan.

Mr Colin Comber, planner presented evidence on the planning approach, rationale for the proposals, vision and structure, reasons that support the plan change, alternative school, business growth, a proposed stone carving, and advice on the purpose and principles of the RMA and meeting objective 23 of the Operative District Plan. Mr Comber had prepared and lodged the plan change request and application for a variation to consent notice.

68. At the reconvened hearing, the following experts for the applicant presented evidence:

Mr Michael McKie, the applicant, presented his evidence regarding the change of size and scale of the plan change in response to submitters in opposition.

Mr Bain, presented supplementary evidence on landscape regarding the reduced size and scale of the plan change, landscape framework plan, rural character, visual effects, and effects on Kaitake range.

Mr Doy presented supplementary evidence on access and connections, street infrastructure, subdivision layout, size of allotments, reverse sensitivity, open space areas, yield, likely conditions of consent, and staging.

Mr Bunn presented a high-level assessment of the proposed stormwater management system, including an assessment of the upstream catchment, hydrological effects, the capacity of the detention ponds, and capability during peak flows.

Mr Skerrett presented an updated statement and supplementary comments on traffic effects of the revised structure plan for 144 lot yield. Mr Skerrett detailed a scaling back of improvements such as footpaths, the roundabout, alternative access to SH45, underpass and road improvements.

Mr Comber presented a response to the section 42 authors recommendations including reduced scale and intensity of development, cultural impacts, social impacts and water supply, landscape, and visual impact.

69. The following experts for the Submitters presented evidence:

Mr Cameron Twigley, planner presented evidence on the planning context (Operative District Plan), the Paddocks subdivision consent notice, Plan Change 15, Oākura Structure Plan 2006, the community vision for Oākura, the statutory framework, the purpose of the consent notice, the ODP definition of rural character, water capacity, staging, traffic and access, landscape and visual impact, noise, ecological effects, cultural values, urban design, cumulative effects, assessment of the policy framework (Taranaki IMP, NPS Urban Development Capacity, RPS, draft NPDC Plan), section 32 RMA evaluation, and planning conclusions. Mr Twigley also attached several annexures including a large- lot proposal and landscape plan.

Mr Nicholas Gladstone, road safety engineer presented evidence on traffic effects at the intersection of Wairau Rd and SH45 and wider effects in the village, concerns regarding a roundabout, effects on vulnerable road users, safety guidelines and standards.

Mr Richard Rollins, environmental engineer, presented evidence regarding the urbanisation of the Wairau Stream corridor, adverse effects of pesticides, and potential health effects on children wading in lower reaches of the stream and beach.

Mr Matthew Peacock, civil and structural engineer, presented evidence on the stormwater network, water supply, proposed stream crossings,

Mr Peter Kensington, landscape architect and planner, presented expert evidence on the importance of the consent notice condition 4, lack of integration with the existing landscape, visual effects from those in private properties, water tanks, effects on sense of place and amenity values and people's views of the Kaitake and National Park. Mr Kensington also raised concerns for the loss of rural character, effects from construction works on waterbodies,

70. At the reconvened hearing, the following experts presented evidence for submitters:

Mr Twigley provided responses to the section 42A authors and evidence of the applicant regarding the consent notice protecting rural character, amenity, outstanding landscape, and the significance of the landscape to iwi. Mr Twigley also raised issues with the plan change layout, lack of social impact assessment and there being sufficient land available for development.

Ms Standish for NZTA presented further evidence on the capacity of the intersection, the uncertainty of vehicle safety, pedestrian and cyclist safety, and potential threshold for triggering improvements.

Ms Caron Greenough, a consultant engineer for NZTA provided comments on the principles for treatments to slow traffic approaching the intersection/roundabout on SH45.

Mr Kensington, landscape architect, responding to the change in size and scale. Mr Kensington provided comments on the different urban character of the plan change area compared to Oākura, development crossing the gullies, relationships with the Paddocks subdivision, the appropriateness of development at RL60, RL35 by SG45, lack of ecological connection, and engineering devices in the waterways and level of effects on Kaitake.

Mr Gladstone, responded to the evidence of the applicant, in particular the lack of information of pedestrian movements and safety issues for vulnerable road users.

71. The following experts provided evidence on behalf of Council:

Mr Hamish Wesley, planner was the main reporting officer and planner on behalf of Council. Mr Wesley provided 5 reports that responded to the plan change application; the subsequently amended plan change, and responses to evidence presented at the hearings

Ms Anna Stevens, planning consultant who assisted with the writing of the s42A reports and responses to evidence.

Mr Emma McRae, landscape architect, provided expert advice to Council at the original hearing by reviewing the landscape evidence of the applicant and submitters.

Mr Boyden Evans, landscape architect, provided expert advice at the reconvened hearing and acknowledged the revised plan change size and scale, however questioned the lack of detail for visual catchment, ecology, landform analysis, open space and planting framework, lighting effects. Mr Evans gave comments on the proximity to Kaitake range and its ability to absorb residential development.

Mr Mark Hall, Council Manager of Three Waters, provided the views of various departments and advice for 3 waters, parks and reserves. He confirmed the bore flow rates, user demand, a second main trunk line for water supply, water tanks, ownership of water detention areas, uncertainties for stormwater network and capacity.

Mr Graeme Doherty, traffic engineer, provided expert advice to Council by reviewing the traffic evidence of the applicant and submitters, including the proposed roundabout, intersection with the State Highway 45, and internal road network.

Submitters

72. I heard from a considerable number of submitters who appeared at both hearing and in many cases presented extensive and detailed lay evidence. As previously noted, the list of appearances is attached as Appendix 2.

PRINCIPAL ISSUES FOR CONSIDERATION

73. Having considered all the submissions, the section 42A reports and evidence, the principal issues that require consideration are outlined as follows:
- Consent Notice - Paddocks Subdivision
 - Cultural Matters
 - Social Impact Matters
 - Traffic Matters
 - Three Waters
 - Landscape and Rural Amenity Matters
 - Noise Effects
 - Appropriateness of rezoning the Rural Environment Area

FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION

Consent Notice - Paddocks Subdivision

Process

74. As part of the PPC48 applications, the applicant sought an amendment to an existing consent notice that had been imposed as part of “The Paddocks” subdivision granted consent in 2011. The consent notice had been imposed to preclude further subdivision of Lot 29 which contained an existing farm. The consent notice requires amendment to allow subdivision if the subject site was rezoned for urban purposes.
75. Mr Muldowney believed any amendment to the consent notice should be addressed as a consequential amendment should the plan change be approved. He provided some background that gave rise to the imposition of the consent notice as part of the Paddocks subdivision consent.

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76. He further noted that it was an appropriate condition of consent to impose in order to preserve both the rural character of the land, and to protect the land from further fragmentation as it had been the subject of a 30 lot subdivision.
77. Mr Muldowney noted that the condition had an important qualification in that the subdivision was precluded only while the land had a rural zoning.
78. He further outlined that the existence of the consent notice should not usurp the primacy of s32 of the RMA in the evaluation of the plan change. He stated that the existence of the consent notice was not a relevant factor in the consideration of the plan change.
79. It is accepted that the appropriate process is to undertake an evaluation of the plan change in accordance with the provisions of the RMA, including the relevant provisions of s32. It is then further acknowledged that if the plan change was recommended for approval, then consideration would need to be given as to whether it was appropriate to vary the consent notice.
80. In considering this matter it is appropriate in my view to examine the matters separately, but on the basis that they are related and that to give effect to any rezoning if approved, the consent notice restriction on subdivision would need to be varied to reflect any rezoning proposal and to allow subdivision to proceed.
81. Both Mr Muldowney and Mr Grieve referenced *Green v Auckland Council* [2013] NZHC2364 where the High Court held that when considering an application for a variation of a consent notice under s221(3) of the RMA, it is necessary to consider the purpose of the consent notice and then to enquire into whether there has been some change in circumstances that renders the consent notice of no further value.
82. Mr Muldowney was of the view that if Lot 29 no longer had a Rural Environment Area zoning with the plan change being approved, then this would be a relevant change in circumstance and therefore there were grounds for the consent notice to be varied.
83. Reference was also made by Mr Grieve⁵ to an Environment Court case (*Foster v Rodney District Council*) where the Court concluded that the following criteria may be of relevance under a discretionary activity consent process, in considering whether to vary or cancel a condition of a consent notice:
- a) the circumstances by which the condition was imposed
 - b) the environmental values it sought to protect
 - c) pertinent general purposes of the RMA set out in ss 5-8.

⁵ Grieve: Legal Submissions Paragraph17

Circumstances and Purpose - Imposition of Consent Notice

84. I was provided with 'The Paddocks' consent decision. It was attached as Appendix 1 to the 31 May 2019 s42A report. I have reviewed that decision and carefully considered matters within the decision regarding the consent notice.
85. While circumstances can change, a commitment had been offered up by the applicant as part of the 'The Paddocks' subdivision application process, and the decision maker at the time relied upon it in her consideration and determination of the proposal, that being the retention of Lot 29 as open space (farm).
86. While the consent notice condition states that it applies while the land is zoned Rural Environment Area, it was to mitigate effects, and in my view, was a significant factor in the Commissioner approving 'The Paddocks' subdivision proposal.
87. I note that the Commissioner in her summary of Mr. McKie's evidence who was the applicant, outlined as follows:
- "Mr. McKie concluded by stating that they are trying to achieve a vision that will stand the test of time and said his vision was for an eco-friendly environmentally safe guarded and protected project that was future proofed and enjoyable for generations".*⁶
88. Condition 24⁷ of the consent provides for a limitation on further subdivision in respect of Lot 29 while the land remains in the Rural Environment Area. The condition was subsequently imposed by way of consent notice. The purpose of the condition was to ensure that open space is retained over the balance allotment and was obviously considered by both the applicant and the Commissioner to be anchored by way of consent notice.
89. The Commissioner also noted that the- *"...applicant expressed the intention during the hearing of retaining this lot with a 'Protected Farm' status in the longer term, regardless of the zoning".*⁸
90. In his planning evidence Mr Twigley⁹ was of the opinion that the Paddocks Subdivision consent notice had a critical role in offsetting the adverse landscape and visual effects of 'The Paddocks'

⁶ The Paddocks' Subdivision Consent Decision, Page 22- Paragraph 4

⁷ The Paddocks' Subdivision Consent Decision Page 109

⁸ 'The Paddocks' Subdivision Consent Decision Page 95, Paragraph 4

⁹ Twigley: Evidence Highlight, 24 July 2019- Paragraph 2

subdivision. He further stated that the consent notice was important in maintaining rural character and amenity and achieving the objectives and policies of the ODP.

91. I observed that Mr Twigley was the applicant's consultant planner for 'The Paddocks' subdivision hearing and therefore assumed to have been intimately involved in the preparation of the application and the subsequent hearing.
92. Mr Twigley in his evidence in chief¹⁰ provided very helpful evidence on the purpose of the consent notice. It is noted that he was present at the time and had reviewed the evidence of the applicant, Mr. McKie, and the landscape evidence of Mr. Bain.
93. This has been useful in providing an understanding of the context and thinking that led to the protection of Lot 29 from further subdivision and development. The protection of Lot 29 was a key part of the subdivision proposal and is referenced in both the Mr McKie and Mr Bain evidence. It was clearly intended to be a key part of the overall Paddocks subdivision design, and integral to addressing any effects of the Paddocks subdivision by maintaining rural character including spaciousness and amenity, landscape values and visual amenity.
94. Mr Twigley¹¹ outlined that it was common Council practice to impose conditions requiring consent notices preventing further subdivision. He further explained that the wording in the consent notice "...while the land remains in the rural environment area..." was commonly used where there was a possibility of the land being rezoned. He noted that the Paddocks subdivision fell into this situation given the triangle of land in Lot 29 was identified in the Oākura Structure Plan as a future urban area residential development.
95. I note that not all of Lot 29 was similarly identified for future residential development.
96. Mr Twigley further noted that in his opinion the consent notice provided many submitters and the wider community with a high level of certainty in respect of the future of Lot 29 given it was a contentious subdivision application and observed that:

"Given the content of the OSP at the time of granting the subdivision, I consider that the community will have had a reasonable expectation that the triangle area could eventually be subject to urban rezoning and development; but equally, that the balance of Lot 29 would continue to be protected from future subdivision and development. Given the existing supply of land Oākura available for residential development, it would, in my opinion, have also been reasonable for the community to expect that a plan change for the triangle would occur in the long term, a long time after the Paddocks subdivision and the associated development had been completed. In my opinion, it would

¹⁰ Twigley: Evidence in Chief, 25 June 2019, Paragraph 36-73

¹¹ Twigley: Evidence in Chief, Paragraph 53

also have been a reasonable expectation that a Plan Change process for the triangle would be led by the Council in accordance with projected growth statistics.”

97. It is clear that the consent notice was put in place to serve a particular purpose and was integral to the Paddocks subdivision application and the approval of it in March 2011. The consent notice as outlined in the evidence of Mr McKie and Mr Bain at that time, and confirmed by Mr Twigley, was to maintain rural character including spaciousness and existing rural landscape and maintain views out over rural farmland and from SH45 up to the ONL.
98. The retention of productive rural land and existing dairy farm are all then considered to be contributing to the maintenance of defining elements of rural character in respect of the ODP.

What was to be Protected by the Consent Notice

99. The consent notice was to assist with mitigation of effects arising from granting approval to ‘The Paddocks’ subdivision, being to ensure the maintenance of rural character including spaciousness and maintenance of visual amenity and amenity values generally.
100. I note that the Commissioner outlined in her decision what environmental values were intended to be preserved or retained, as part of the consent notice condition. She noted as follows:
“The condition with regard to future subdivision of the Lot 29, relating to the no further subdivision of the property as long as it remains in the Rural Environment Area, has been retained as originally proposed. This condition will ensure that open space is retained over the balance allotment. It is also noted that the applicant expressed the intention during the hearing of retaining this lot with a ‘Protected Farm’ status in the longer term, regardless of the zoning.”
101. In her decision she further noted that, *“This area is to be retained as part of the balance area of the proposed subdivision, with protected farm status and rural zoning..”*¹² and *“It is also noted that the applicant expressed the intention during the hearing of retaining this lot with a ‘Protected Farm’ status in the longer term, regardless of the zoning”*.¹³
102. The evidence presented by applicant at the Paddocks hearing was that weight was placed on the proposed protection of Lot 29 as a productive farming unit and more particularly, the maintenance of open space and views.
103. It had a specific intent proposed by the applicant and was in my opinion an integral part of the proposal and of relevance in the grant of consent by the Commissioner. The consent notice was

¹² The Paddocks Subdivision Consent Decision, 8 March 2011, page 66

¹³ The Paddocks Subdivision Consent Decision, 8 March 2011, page 95

to assist with mitigation of effects and would have an ongoing mitigation role. It is not just in my opinion, specific to a point in time, such as the time of subdivision approval.

104. I also note the 'Protected farm' status was intended to be an instrument that would be progressed by the applicant to future proof the arrangement for generations. As I understand, no such measures have been sought or undertaken by the applicant.

Change in Circumstances

105. The applicant has sought a variation in the consent notice due to a change in circumstances. Limited evidence was presented by the applicant that outlined how the environmental effects of 'The Paddocks' subdivision, are now addressed or mitigated, that does not require a continuation of the current consent notice.
106. The applicant has emphasised the 'small print' in the consent notice and that the plan change would be a quality residential development. Mr McKie responded to criticism for the variation to the consent notice.

*"The consent notice was not able to lock in the rural land use forever, despite me being at the time comfortable with that outcome. Council received advice that the consent notices would need to be qualified to say that they would apply only as long as the land was zoned rural. This recognised that it was not in perpetuity but may one day be subject to change if the zoning changed."*¹⁴

107. The proposal as originally submitted and now as amended by the applicant, does not in my opinion adequately address how the effects that were mitigated by the consent notice and are no longer of relevance. Given the significance of the consent notice condition at the time of 'The Paddocks' hearing and the subsequent decision that incorporates it, it would have seemed appropriate for far greater emphasis to have been placed in evaluating why it was no longer deemed necessary in its current form which prevents further subdivision of Lot 29.
108. Mr Bain in his evidence put forward the following opinion, in respect of why the current consent notice is no longer appropriate.

"My assessment of the significance of the 'farm lot' (Lot 29) is not the same as when this land was discussed in the 2010 'Paddocks' application. At that time, the role of Lot 29 was considered important for maintaining rural spaciousness for the area generally, and the view from SH45 specifically. Rural spaciousness generally, is now to some extent altered by the inclusion of the Paddocks development, albeit in my assessment they are the greatest beneficiaries of Lot 29's

¹⁴ Response of Michael McKie, 2 December 2019, para 12.

spaciousness, and therefore are potentially most affected by its change. In terms of the Consent Notice, I consider that with regard to rural character its role has changed from that intended”.

109. Mr Twigley observed that there had been a “noticeable absence” of assessment of this matter by the applicant. He further observed that in his opinion there had been no change in circumstances that results in the need to vary or cancel the consent notice, and that it was as relevant today as when it was first imposed.
110. He further noted that the application to vary the consent notice would “severely undermine the integrity of the Paddocks Subdivision”.

Findings/ Conclusion

111. I record that the original ‘The Paddocks’ subdivision proposal gave rise for the need for the consent notice to be imposed to preserve spaciousness in the context of the rural environment. Specifically, this included rural character values and visual amenity. To then seek its deletion because rural spaciousness is altered by the very development that gave rise to such concerns, as well as the need to preserve spaciousness, does not in my view provide a convincing reason that it is no longer required. It is in my opinion questionable whether there is any change in circumstance to warrant its’ variation.
112. Mr Twigley was also of the opinion that there was a lack of assessment regarding why the consent notice was no longer required in its current form and was not convinced that there had been a change in circumstance to provide a basis for its variation or cancellation.
113. I have reached the same conclusion and I am not satisfied that circumstances have changed to the extent that the consent notice to provide for the preservation of spaciousness and rural character and amenity is no longer required in its current form. I am further concerned that there appears to have been no attempt to ‘protect the farm status’ in any other mechanism that is available to the applicant since the time of the consent being granted.
114. Given the reliance placed on having such a condition imposed at the 2010 hearing, it seems that the reasons for it are still valid and have not changed to the degree to warrant it’s cancellation or variation apart from the applicant wishing to undertake further subdivision and development of the subject site.
115. I acknowledge the evidence of Mr Twigley where he recognised that part of Lot 29 could be subject to residential use in respect of the FUD overlay, but this only related to a portion of the land. The expectation, in his opinion, would seem to be that the consent notice would endure and fulfil the role originally envisaged at the time subdivision consent was granted in 2011.

116. From the evidence adduced by the applicant, I am not convinced that the consent notice in its current form is no longer fit for purpose. It has a defined role that parties who were participants in the 2010 hearing are entitled to place reliance on, notwithstanding at some time in the future there may be some potential rezoning of part of Lot 29 given it is identified in the Oākura Structure Plan.
117. Overall, I do not consider that there has been such a change in circumstances that the consent notice has no ongoing purpose or value. From an overall resource management perspective, the community whether residents, applicants, or submitters should be able to place reliance on planning techniques or instruments that are imposed as part of consent processes to address environmental effects.
118. I have an unease that the mechanism of a consent notice is used in one instance and then after the passage of time is no longer considered relevant, particularly when in my opinion the reasons for its variation and any effects arising from its variation, have not been appropriately addressed, nor have I been adequately satisfied that it is still not required for ongoing environmental mitigation as originally proposed in 2010.

Cultural Matters

Applicant view

119. The proposal was notified and presented to the first hearing as a fait accompli with regards to Māori cultural issues.
- “Consultation has been undertaken with Mana Whenua. There are no sites of significance within Wairau Estate. Mana Whenua have been invited to name the primary street within Wairau Estate. In addition, the funding of a stone carving with design arranged by Mana Whenua to be located on Upper Wairau Rd has been agreed by Oākura Farm Park Ltd”.¹⁵*
120. When considering three scenarios in the AEE including no development, some development and full development the applicant considered there would be no Māori, historic heritage or other cultural values affected in all the scenarios.¹⁶
121. The applicant relied on the advice of Ngāti Tairi hapu representatives responding to the proposal during three meetings between the applicant and hapu representatives.
122. The applicant took note of and agreed to the Ngāti Tairi’s advice which they summarised as:

¹⁵ Request for Private Plan Change Report, March 2018 section 6.4, page 71

¹⁶ Request for Private Plan Change, March 2018, pages 28 and 29, para 3.70

- That disposal of storm water within the proposed development area does not adversely impact instream values.
- Hapu be given opportunity to recommend the name for the Wairau Estate loop road; this would be reflective of the early (mana whenua) history of the locality.
- Any earthworks to be subject to archaeological supervision (pursuant to an NZHPT archaeological authority) with hapu participation.
- A memorandum of understanding will be developed to record understandings and undertakings of OFPL and the hapu in respect of matters of cultural importance relating to the Wairau Estate project with MOU being lodged as part of the Plan Change Request to NPDC.

123. Following the original hearing the applicant reconsidered the application and significantly revised the size and scale of the plan change.

"I am happy that we have come up with a project that strikes the right balance between preserving the community's way of life but enabling others to enjoy the benefits of a lifestyle in Oākura in the future."¹⁷

The layout 'future proofs' the subdivision for possible growth in the long term, should that one day, long into the future, be deemed appropriate."¹⁸

124. The CIA commissioned by the applicant which will be summarised later in this section sets out an appendix with a series of suggested plan provision drafting edits which are designed to address cultural issues. Those suggested edits are incorporated by the applicant into the proposed plan provisions through the introduction of new Amendment 3 Policy 23.10.1 through Policy 23.10.6, which provide a comprehensive set of policy provisions and implementation methods, which are then reflected in the residential rule framework.¹⁹

125. Overall, the applicant was confident that with its long-established working relationship with Ngāti Tairi any matters could be managed appropriately. The applicant was of the view that the CIA was the first step in that relationship, and the ongoing consultation which would precede any subdivision consent application will be the next step. The applicant was confident that with this level of engagement, Ngāti Tairi would be informed and involved at all stages to ensure the development reflects their aspirations for the whenua.²⁰

Submitter views

¹⁷ Further Evidence of Mr Michael McKie, 2 December 2019, para 8.

¹⁸ Ibid, para 10.

¹⁹ Closing legal submissions on behalf of Oakura Farm Park Ltd. 20 December 2019. Para 65

²⁰ Closing legal submissions on behalf of Oakura Farm Park Ltd. 20 December 2019. Para 66

126. Ngāti Tairi hapu and Taranaki iwi submitted separately on the proposals. Mr Manukonga, Chairman of Oākura Pa and Ngāti Tairi did not appear at the hearings while Ms Te Wano-Bryant appeared before us on behalf of Te Kahui o Taranaki which represents Taranaki Iwi and hapu. Ms Te Wano-Bryant was accompanied and supported by members of local hapu.
127. Mr Keith Manukonga made a submission in opposition on behalf of Ngāti Tairi.²¹ The submission raises site specific and local concerns for:
- Effects of stormwater on existing habitat and ecosystems
 - A wish to see some cultural design recognising tāngata whenua occupation, histories, and values
 - Continuing discussions with the applicant to address these concerns.
128. The Te Kahui o Taranaki Trust submission in opposition on behalf of Taranaki iwi raises broader concerns derived from its iwi management plan Taiao – Taiora:²²
- There had been no consultation with Te kahui o Taranaki Trust, the mandated iwi authority in the preparation of the plan change.
 - Taiao, Taiora the Taranaki Iwi Environmental Management Plan must be taken into account when preparing and reviewing a plan change;
 - That any decision must take into account the relevant policies on ensuring subdivision and land use are well designed and reflect cultural values;
 - Development that results in the degradation of mouri of Papatuanuku, or adverse effects on Ranginui, Papatuanuku, ngā mounga o Taranaki, Tane, Tangaroa-ki-Tai and Tangaroa-ki-Uta is not supported; and concerns on loss of access to sites of significance and adverse impacts on cultural values.
129. The submission sets out four sets of activities and effects that the iwi will not support.²³ These are:
- Any action or activities that will result in the degradation of the mouri of Papatuanuku
 - Subdivision and associated land-uses that cannot demonstrate that they will not adversely affect Ranginui, Papatuanuku, Taranaki Mounga, Tane, Tangaroa-ki-Tai and Tangaroa-ki-Uta
 - Any subdivision or land-use that will result in the loss or restriction of access to sites of significance (including wahi tapu), on Taranaki Iwi
 - Any subdivision and development that adversely impacts the important cultural values associated with landscapes of importance to Taranaki Iwi (hapu, marae/pa).
130. The applicant consulted with representatives of Ngāti Tairi through face to face meetings; on 6 May 2016, 18 June 2017, and 20 November 2017. A pre-hearing meeting was also held with

²¹ Submission #111. Keith Manukonga, Chairman Oakura Pa on behalf of Ngāti Tairi.

²² Submission #134. Wharehoka Wano CEO Te Kahui o Taranaki Iwi.

²³ Submission #134. Wharehoka Wano CEO Te Kahui o Taranaki Iwi.

both Ngāti Tairi and Taranaki Iwi representatives on 29 January 2019. This pre-hearing was the first meeting attended by representatives of the iwi authority.

131. The outcome of the pre-hearing meeting was an exercise to respond to the key matters raised in submissions and the Taiora-Taiao IMP. A table with proposed mitigation measures was completed and it is understood that the Iwi and hapu were positive towards the methods and actions, however, were still of the view that there were outstanding matters that could not be addressed.
132. Mrs Te Puna Wano-Bryant (Te Kahui o Taranaki) and Mr Tane Manu (Ngāti Tairi of Ngā Mahanga) Chairperson of Puniho Pā and a trustee on Waikura Pā appeared at the hearing and presented a joint position statement.²⁴
133. Mrs Wano-Bryant referred me to the iwi planning document, Taiao Taiora, which was launched in July 2018. It is noted that this document was launched after lodging of the original plan change request which occurred in March 2018 and subsequently publicly notified in June 2018.
134. Taranaki Iwi submitted that they were directly affected by the Oākura rezoning and are in opposition, due to potential adverse effects on the environment. They were particularly concerned that a cultural impact assessment had not been prepared.
135. As mentioned above the Te Kahui o Taranaki concerns were broad, however, Ms Puna Wano-Bryant identified a specific and directive policy (11.8.3 of the IMP):
“Taranaki Iwi will not support any residential subdivision and development within 5 km of the National Park boundaries; 5 km is not a magic figure. It speaks to our integrated and holistic approach of mountain to sea, of a complex of sites, waterways and features that all serve a collective purpose in order to protect, preserve and enhance the rich biodiversity of our environment that looks after us, its caretakers”.
136. Ms Wano-Bryant questioned the need for further residential land and re-affirmed that the Iwi was strongly opposed to the plan change.²⁵
137. During questioning Ms Wano-Bryant confirmed that the prohibitive sections of Taiao Taiora, regarding Taranaki Mounga in section 11 were firm statements of position.
138. The other policy she did not mention was 11.8.3(4) – Taranaki supports Project Mounga and will be prominently involved in that project at governance and operations levels.

²⁴ Transcript of Day 4 Hearing, 25 July 2019.

²⁵ Transcript of Day 4 Hearing, 25 July 2019

139. It should be noted that the submission also identified another directive and broad policy 11.8.3 (6) – Taranaki Iwi will not support activities that have the potential to result in the degradation of the natural ecosystem and endemic habitat of Taranaki Mounga.
140. I sought the views of the iwi regarding what had been agreed so far and what might be recognised as appropriate if the plan change were to proceed. The matters identified by Ms Wano-Bryant were street naming and a kowhatu (stone carving). She suggested, if the plan change was granted, that the iwi and hapū should be intimately involved in all aspects of the development.
141. It was also clear that the dynamic between Iwi and hapu was misaligned during the plan change process. Ngāti Tairi representatives appear to have a positive and constructive relationship with the Applicant. An MoU is in place, there has been agreement to several activities and other issues of concern are proposed to be addressed through dialogue. Taranaki Iwi and some of Ngāti Tairi are opposed to the proposed plan change and seek that it is declined in its entirety.
142. The Iwi Management Plan Taiao-Taiao contains some absolute positions regarding residential development near the mounga of Taranaki, including the Kaitake Ranges. The Cultural Impact Assessment was not definitive in its conclusions stating that there is both the potential for adverse effects and the potential to protect, acknowledge and remediate the environment, and respond to cultural values present in this location.

Cultural Impact Assessment

143. It would be expected that a cultural impact assessment for a plan change application would be prepared during the preparation of the plan change, in that way informing the development of objectives, policies and methods, as well as guiding the discussion between the applicant and tāngata whenua.
144. The Cultural Impact Assessment (CIA) prepared at a late stage was not presented to us as ‘expert evidence’ rather the assessment was prepared by Ngāti Tairi with support from Te Kahui o Taranaki Trust. It was completed on 29 November 2019 and there is no author identified.
145. The CIA was not available to the s42A report officers when they prepared their report.²⁶ It was provided at the reconvened hearing on 2 December 2019. The authors of the CIA did not attend the hearing and it is unclear if Mr Manukonga, Chairman of Oākura Pa was involved in its ratification.

²⁶ Response to Further Evidence for Reconvened Hearing – Proposed Private Plan Change 48: Wairau Road, Oakura Rezoning. Report prepared by Boffa Miskell Limited for New Plymouth District Council, 22 November 2019, para 5.2, 5.7,

146. The CIA provides a brief historical narrative, a description of the revised proposal, relevant statutory and planning documents, tāngata whenua values and assessment of potential effects, and some conclusions and recommendations.
147. There is also mention of the disappointment that the CIA was not prepared earlier in the process. Attached to the CIA are examples of district plan provisions that would go some way to addressing concerns of Ngāti Tairi and Taranaki iwi.
148. The origins of Ngāti Tairi are described briefly in the CIA.

“Ngā Mahanga a Tāiri arrived in Taranaki in the early 10th century, where they moved inland to settle in the Ōkato District. In the 12th century, Ngā Mahanga a Tāiri formed an identify as two hapū, Ngā Mahanga and Ngāti Tāiri, with the latter moving into the Oākura area. Through inter-marriage with those already settled in the District, Ngā Mahanga ā Tāiri became the dominant iwi, so that by the 15th century, their influence extended as far north as Ōhura.

Sharing close connections with hapū south of the Waiweranui River, Ngā Mahanga a Tāiri identifies with and works alongside Taranaki Iwi. Once an iwi in its own right, with the advent of war, confiscation and colonisation, it is now a hapū represented by two marae. Ngā Mahanga are based at Pūniho Pā - Tarawainuku Marae, south of Ōkato township. And Ngāti Tāiri reside just north of Oākura township at Ōkorotua Marae - Oākura Pā.

Today, Ngā Mahanga a Tāiri exercise mana whenua over an area bounded by the Waiweranui River and Ōnukutaipari (Paritutu), which includes Ngā Tīpuna Maunga of Kaitake, Pūkeiiti, Pouākai and part of Taranaki Mouna.”²⁷

149. The CIA identifies and lists a set of principles of the Treaty of Waitangi. These are:
- Retention of rangatiratanga: The Māori Chiefs looked to the Crown for protection from other foreign powers, for peace and for law and order. They reposed their trust for these things in the Crown believing that they retained their own rangatiratanga and taonga.
 - Duty to Consult: The responsibility to act in good faith and reasonably puts the onus on the Crown to make an informed decision, in many cases that will require consultation.
 - Duty of active protection: The Crown has a duty to actively protect Māori interests in the use of their lands and waters.
 - Engaging the expertise of mana whenua to implement these obligations as they apply in their rohe is fundamental in ensuring these provisions are met.

²⁷ Cultural Impact Assessment for Wairau Estate, November 2019, Para. 2.8-2.10

150. The CIA also refers to the Court of Appeal case *NZ Māori Council v Attorney General* [1987] 1 NZLR 641.
151. In my view a CIA should have been required as a matter of priority when the original application was made. Expert cultural advice should have been commissioned at that time to inform the plan change process, the development of the proposal and associated technical reports, and recommendations made to the commissioners.
152. Providing this expert advice at the end of the hearing process, as opposed to through the development of the proposed plan change, or to inform the reporting planner in relation to the potential effects of the proposal, has made the assessment and management of potential cultural effects difficult. Ngāti Tāiri and the Trust believe that cultural values and potential cultural effects may have been more adequately addressed had this CIA process and cultural expert advice been sought at the inception of this plan change process.²⁸
153. The CIA states that the NPS-FM 2014 and Te Mana o Te Wai gives clear direction applicable to this plan change, through ensuring tāngata whenua 'rights and interests' are reflected in freshwater management, and integrated management.
154. The CIA identifies a relevant provision in the Operative District Plan relating to the subdivision rules for Residential C Environment Area, the Proposed Plan provisions related to Site of Significance to Māori (#2261 – Pahakahaka Pa), archaeological sites and waterbodies. The CIA also summarises relevant directive policies in the Taiao, Taiora Iwi Environmental Management Plan:
- Manage development so that it does not adversely affect Ranginui, Papatuanuku, Taranaki Mouna, Tane, Tangaroa-ki-Uta and Tangaroa-ki-Tai;
 - New development should be designed in a way that reflect environmental and cultural values;
 - Landscape assessment will consider cultural values as an important and inseparable part of that landscape;
 - Subdivision and development should not adversely impact cultural values associated with landscapes of importance to Taranaki iwi (hapū/ marae/pā).
 - Promote and support access to water for the social, cultural, economic, and environmental values of Taranaki Iwi;
 - Taranaki iwi will not support residential development within 5km of the National Park boundaries; and

²⁸ Cultural Impact Assessment for Wairau Estate. November 2019. para 7.5

- Taranaki iwi will support the extension of the endemic habitat of the national park that assist with its proliferation to enhance natural values associated with the mounnga.

155. The CIA provides a summary of Māori values and a reiteration of the key areas of concern for both iwi and hapu:²⁹

- The proximity of development to Kaitake, and the ability to avoid, remedy or mitigate adverse effects on the relationship of mana whenua with Kaitake;
- The proximity of the development to Pahakahaka Pā, and the potential for the development to impact on previously un-recorded sites around the pā;
- The increased visibility and access to the Pā which will result from the development and may result in degradation of the site;
- The absence of the identification and recognition of an important wāhi taonga to hapū within the application and its relevant plans (including objectives, policies, rules, and identification on planning maps);
- The management of earthworks within the development area;
- The management of stormwater run-off created as a result of the development, and the impact that this will have on the waterbodies within the subdivision;
- The proposed mechanisms for ensuring planting, access and other commitments made are achieved through the current structure plan provisions;
- The proposed mechanisms for ensuring adequate ongoing consultation and engagement with tāngata whenua as the development continues, including mechanisms that ensure cultural expertise would continue to guide the development; and
- The proposed mechanisms to kōrero the importance of the site and surrounding environment to tāngata whenua, including with people who subsequently live in proximity should the plan change and subdivision proceed.

156. The CIA delivers a detailed narrative for each of these issues but does not reach a definitive conclusion.

157. The proposal has the potential to adversely affect this cultural landscape, the Pā site and its surroundings, and the Wairau Stream and tributaries through the construction and development of residential living. It also has the potential to protect, acknowledge and remediate the environment, and respond to cultural values present in this location.³⁰

²⁹ Cultural Impact Assessment for Wairau Estate. November 2019. para 7.7

³⁰ Cultural Impact Assessment for Wairau Estate. November 2019. Section 8 [page 30]

158. The CIA goes on to conclude that:

“If the Commission was of a mind to recommend approval of the application, it is considered that substantial amendments to the provisions of the Operative Plan (in relation to the Wairau Estate Structure Plan), and the proposed structure plan are necessary to address the cultural issues identified above. These amendments would go some way to providing for the relationship Ngāti Tāiri and Taranaki Iwi have with this area be recognised, as well as to protect the historic heritage of the area”.

159. These amendments recommended in the CIA have been incorporated by the applicant into the proposed provisions of the plan change.

Council/reporting officer views

160. The reporting officers have provided four reports responding to submissions and evidence presented during the course of the proceedings:

- A s42A report dated 31 May 2019 (following submissions and predating hearing)
- Response to evidence presented at Hearing dated 19 August 2019
- Response to further evidence presented at reconvened hearing dated 22 November
- Response to evidence presented at reconvened hearing (record in writing) dated 2 December 2019

161. The assessment and conclusions of the reporting officers are contained in each of the documents. There is no comprehensive summary of the various cultural issues and conclusions in one document.

162. The reporting officer recorded the applicants consultation with tāngata whenua, the preparation of an assessment table comparing the relevant parts of Taiao Taiora with the proposed mitigation measures in the plan change and the iwi’s acceptance of the applicant’s mitigation measures set out in their Taiao Taiora Assessment Report.

163. The officer also recorded that Taranaki Iwi do not approve of the plan change and they resolved that they would maintain their original submission to continue in their opposition to the Oākura Rezoning. Supporting their final stance on the plan change, Taranaki Iwi noted that they are clear on their positions under Section 11.8.7 and 11.8.4 of Taiao Taiora:

“Taranaki Mouna - Section 11.8.7

Taranaki Iwi will not support any residential subdivision and development within 5km of the National Park Boundaries.

Taranaki Mouna - Section 11.8.4

Taranaki Iwi supports Project Mounga and will be prominently involved in that project at governance and operations level”.

164. Overall, following the applicant preparing a Taiao Taiora Assessment Report and Taranaki Iwi approving of the mitigation measures set out, the reporting officer considered that the proposal takes into account the relevant matters in Taiao, Taiora.³¹
165. The reporting officer identified that a CIA should be commissioned prior to determining the plan change, in response to concerns raised regarding the level of engagement with Tāngata Whenua, both Ngāti Tairi and Taranaki Iwi to date. They considered that a CIA would assist in understanding whether the matters in s6(e) and s7(a) of the RMA have been recognised and provided for, allowing for Taiao Taiora to inform the proposal, the plan change provisions, and structure plan, and ensure Ngāti Tairi is more actively engaged with on all aspects of the proposal and informs the Structure Plan design, outcomes, and implementation.³²
166. The reporting officer considered that this CIA was required for the reasons set out in the previous paragraph, and that the plan change should not be determined in the absence of this assessment.³³
167. As already mentioned, the CIA was completed on 29 November 2019 and presented to the reconvened hearing on 2 December 2019. Following receipt of the cultural impact assessment, the reporting officer having read the CIA, confirmed the following matters were still to be resolved in order to finalise the assessment³⁴:
- Impacts on Kaitake.
 - Pahakahaka Pa.
 - Stormwater management and Te Mana o to Wai.
 - Wastewater management, including proposed planting.
 - Outstanding matters set out in paragraphs 7.33 and 7.34 in the CIA.

Discussion and Findings

Consultation with tāngata whenua through Iwi authorities

168. Schedule 1 of the RMA requires that consultation be undertaken with tāngata whenua through Iwi authorities. In this instance Te Kahui o Taranaki Trust is the Iwi authority established through the recent Treaty Settlement process. They were a submitter to the plan change, attended the

³¹ Para 11.17

³² Response to further evidence at Reconvened Hearing. 22 November 2019. page 13

³³ Request for Private Plan Change, prepared by Comber Consultancy, March 2018. pages 28 and 29, para 3.71

³⁴ Response to evidence presented at reconvened hearing. Hamish Wesley, Reporting Officer. 2 December 2019.

hearing and have provided a copy of the Iwi Management Plan (a relevant planning document prepared by an iwi authority). The Trust was not consulted as part of the preparation of the plan change however, the Trust did attend a pre-hearing meeting.

169. The applicant has relied on the advice of the local hapu representatives of Ngati Tairi from three meetings and dismissed any significant issues or effects from any of the options for development. The applicant acknowledges that it had not met the wider Iwi's consultation expectations, despite its early and ongoing good faith consultation with representatives from Ngati Tairi.³⁵

170. It appears that consultation has been conducted by the applicant with a coalition of the willing and Te Kahui o Taranaki (who oppose the plan change) has been engaged at a very late stage of the plan change process and at the request of Te Kahui o Taranaki. This is important to acknowledge as schedule 1 not only requires consultation with tāngata whenua through iwi authorities but also sets out the characteristics of the consultation. These include:

- consider ways in which it may foster the development of their capacity to respond to an invitation to consult; and
- establish and maintain processes to provide opportunities for those iwi authorities to consult it; and
- consult with those iwi authorities; and
- enable those iwi authorities to identify resource management issues of concern to them; and
- indicate how those issues have been or are to be addressed.

171. An argument can be put forward that these matters have been completed, however, the quality of them and the timing is significant. I am of the view that limited consultation has been undertaken by the applicant with the iwi authority. This consultation has occurred very late in the plan change process, on a proposal fully developed, and in the absence of their input. The Te Kahui o Taranaki Trust have articulated their resource management issues of concern in submissions, attendance to the hearing and support in the CIA preparation and delivery on the last day of hearings. The applicant has indicated how those issues have been or are to be addressed in closing submissions.

172. Taranaki iwi and some of Ngāti Tairi are opposed to the plan change, however the mandated representatives of Ngāti Tairi have worked closely with the applicant, have agreed to a number of matters and have an MoU to work through outstanding issues. The key issue is whether these outstanding matters are relevant resource management matters of substance that cause significant adverse effects that may or may not be avoided, mitigated, or remedied.

173. The applicant did not employ any cultural expertise on the plan change, instead relied on the advice of representatives and experts from other fields such as archaeology, ecology, and

³⁵ Closing Submissions, 20 December 2019, paragraph 55

landscape. I have not cited any evidence of consultation with the iwi authority during the preparation of the plan change.

174. I note that the applicant has responded to the issues of concern raised by members of Ngāti Tairi and Te Kahui o Taranaki in a pre-hearing meeting, both in preparing a table of measures to address issues of concern, and by commissioning a cultural impact assessment, albeit late in the proceedings.
175. The CIA sets out the remaining matters of contention from an iwi and hapu perspective. These matters have been identified earlier in this section; they include impacts on Kaitake; Pahakahaka Pa; Stormwater management and Te Mana o to Wai; Wastewater management, including proposed planting; and outstanding matters set out in paragraphs 7.33 and 7.34 in the CIA.
176. As mentioned previously the consultation with Te Kahui o Taranaki Trust (the iwi authority) was only initiated at the pre-hearing stage. This is not best practice and contrary to early, regular, meaningful engagement using modes and venues preferable to Iwi. The intention of consultation is to identify resource management issues of concern and how they have been or are to be addressed. This has certainly been achieved, albeit by the end of the reconvened hearings.
177. The lack of consultation with the iwi authority is however in part mitigated by engagement with the local hapu representatives of Ngāti Tairi and the on-going relationship that has been formalised.
178. I had identified the following matters of contention and provided a consideration of each matter including effects on Kaitake, Pahakahaka Pa, stormwater management and Te Mana o Te Wai, wastewater management, principles of the Treaty of Waitangi, consultation with tāngata whenua and the 5km prohibition.

Kaitake

179. The Kaitake range is of importance to the iwi.

"Ko Taranaki, ko Pouākai, ko Kaitake, koia te puna i heke mai ai te tāngata. Koia ko ō mātou nei okiokinga, ko mātou nei tō rātou okiokitanga. Taranaki, Pouākai and Kaitake are a reflection of and the source of our inseparable existence, in life and in death. We are them and they are us."³⁶ (Puna Wano-Bryant, 25 July 2019)

180. The CIA confirms that the site of the plan change is located on what iwi believe is Kaitake (albeit outside of Egmont National Park) and includes Pahakahaka Pā located within the land identified as the 'McKie QEII Covenant' area.³⁷

³⁶ Hearing Transcript. Puna Wano-Bryant, 25 July 2019

³⁷ Cultural Impact Assessment. para 6.2

181. The CIA describes the bond between the tāngata whenua and Kaitake as inseparable and fundamental to the foundation of Ngāti Tāiri and Taranaki Iwi. These bonds are also expressed through cultural practices and art forms evolved from generations of occupation. Tāngata whenua draw strength from the energy of Kaitake; the flora and fauna that was abundant from the slopes to the sea which allowed Ngāti Tāiri prosper and flourish.³⁸
182. The applicant provided its view that the proposed plan site was outside the inland Kaitake ranges and would not have any effects on them.
183. The landscape architects for the applicant and submitters provided contrary views. Landscape architects for the Council, Ms Emma McRae and Mr Boyden Evans stated, that the applicant's landscape architect, Mr Bain had no evidence to conclude that *'Associative values of natural character and legibility of the Kaitake Range/rural environment are clearly maintained with the new structure plan'*. Ms McRae and Mr Evans indicated that the assessment had not taken into consideration iwi associative values regarding Kaitake.
184. The applicant has proposed to address these matters by:
- a) The extent of the plan change area proposed for urban development takes its cues from the natural features of the site and avoids the upslope 'Inland Area' identified in the Oākura Structure Plan Area 2006.
 - b) Wairau Estate will locate on the lowest land of the site and will not compete with the dominant landform that is Kaitake.
 - c) Building controls, and limitations on height and reflectivity values in particular, are mitigations that show sensitivity toward Kaitake.
 - d) Emphasis on minimal disturbance of the Wairau Stream and tributaries, together with the enhancement of these areas with indigenous plantings to screen the urban component.
 - e) The enhanced open space areas will provide support for wildlife habitat and will help to restore a 'living link' between the coastal edge and Kaitake.
185. The Cultural Impact Assessment concludes on the matter of Kaitake by stating that *"landscape effects, and the ability to avoid, remedy or mitigate the adverse effects of the proposal on the relationship mana whenua have with Kaitake is an issue that this CIA process to date has been unable to reach a conclusion, and therefore a precautionary approach must be taken with regard to these effects"*.³⁹

³⁸ Cultural Impact Assessment, para 6.4

³⁹ Cultural Impact Assessment, para 7.11

186. The conclusions of the CIA in this regard are problematic. On the one hand the CIA establishes the relationship between tāngata whenua and Kaitake and confirms the importance of that relationship. However, on the other hand the CIA does not provide a conclusive or determinative view on the level of effects of the plan change on the relationship of Ngati Tairi/Taranaki iwi with the Kaitake range. The reporting officers, Ngati Tairi and Taranaki iwi have deferred to the CIA to determine the effects and measures to avoid, remedy or mitigate them.
187. The applicant has indicated that the plan change area avoids the 'Inland Area' identified in the Oākura Structure Plan Area 2006, the area to be developed is on the lowest land of the site and will not compete with the dominant landform of Kaitake. There will be controls on built form which will be sensitive to Kaitake, there will be minimal disturbance to the Wairau Stream and revegetation/habitat restoration is planned.
188. I am of the view that there will be adverse effects on the relationship of Ngati Tairi and Taranaki Iwi with Kaitake, and its natural character. There will be permanent change in landcover, pasture will be replaced by urban residential development and roading. These effects will be mitigated by building restrictions and the limits on density. The relationship will be enhanced through access to the area and some cultural recognition of the history through signage, street naming and open space planting. I am of the view the adverse effects on iwi and hapu relationship with the Kaitake will be moderate (more than minor).

Pahakahaka Pā

189. According to Ms Puna Wano-Bryant of Taranaki Iwi:
- "The pā site is Pāhakahaka and requires more korero that only a full and comprehensive cultural impact assessment can provide. Let me share with you in closing some context regarding the land, which, like the Kaitake, isn't limited to a boundary, zone or land title but forms part of a broad range of values, stories of peace and war and resulting effects".⁴⁰*
190. The Pa site is located outside the plan change site area within the adjacent Lot 29, the QEII Covenant Area. However, it is recognised by the applicant that the interface between the plan change area and the Pa requires sensitive management.⁴¹
191. The applicant has proposed a new Policy 23.10.1 to recognise and protect Pahakahaka Pa, unrecorded cultural or archaeological features uncovered at time of earthworks, and provide for adaptive management of historic heritage resources and showing the open space are within which Pahakahaka Pa is located.

⁴⁰ Transcript of Day 4 Hearing, 25 July 2019

⁴¹ Closing legal submissions on behalf of Oakura Farm Park Ltd. 20 December 2019. para 61

192. The planning map A61 is proposed to be amended to show Pahakahaka Pa (Wahi taonga # 2261).
193. The land adjoining the Pa and within 50m will be set aside as open space reserve and there will be rules controlling development. There are other rules providing for the open space areas to vest as reserves, which in turn will require the preparation of reserve management plans by the Council.
194. The approach taken by the applicant to identify, recognise and provide for protection of Pahakahaka Pa is appropriate and consistent with principles of active protection of sites of significance and wahi tapu. The further recognition of unrecorded cultural and archaeological sites and features is consistent with the precautionary approach.
195. The adverse effects of the plan change proposal on Pahakahaka Pa are considered to be low (less than minor).

NPS-FM 2014 (amended 2017) / Proposed NPS-FM 2019 - Te Mana o Te Wai

196. The NPS-FM 2014 considers and recognises Te Mana o te Wai as an integral part of freshwater management. It does this through Objective AA1: To consider and recognise Te Mana o te Wai in the management of fresh water and its corresponding policy AA1:

Policy AA1

By every regional council making or changing regional policy statements and plans to consider and recognise Te Mana o te Wai, noting that:

- a) te Mana o te Wai recognises the connection between water and the broader environment – Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tāngata (the health of the people); and*
- b) values identified through engagement and discussion with the community, including tāngata whenua, must inform the setting of freshwater objectives and limits.*

197. The requirements of Te Mana o Te Wai apply to regional councils when preparing their regional policy statements and plans. There is no requirement to ensure rights and interests of tāngata whenua are reflected in freshwater management, rather the NPS-FM 2014 refers to ‘values and interests.’ Both the RPS and regional plan for freshwater pre-date the NPS-FM and any proposed RPS and regional plan are yet to be notified. The New Plymouth District Council is required to give effect to any regional policy statement and plans, as is relevant to a district plan. The particular provisions of the Regional Policy Statement are as follows:

Taranaki Regional Policy Statement:

- *Section 6 Fresh Water – WAL Objective 2, WAL Policy 3*

- *Section 16 Statement of resource management issues of significance to iwi authorities – TOW Objective 1, TOW Policy 1, TOW Policy 2, KTA Objective 1, KTA Policy 1, CSV Objective 1, CSV Policy 1, CSV Policy 3.*

198. Objectives and policies in Section 16 relate to taking into account the Treaty of Waitangi, Kaitiakitanga, the relationship of Māori with land and cultural and spiritual values of tāngata whenua. Consultation has been undertaken with Tāngata Whenua but in light of the submission from Taranaki Iwi, further consideration of these matters is required. (para 11.12)
199. The reporting officer has not identified any relevant objectives, policies, and methods from the Taranaki Regional Plan – Freshwater 2001. The ODP predates the NPS-FM and is currently under review. Whilst many of the objectives and policies appear to be relevant, methods are not functions of territorial authorities and not relevant to the matters being considered in respect of this plan change.
200. I am of the view that little weight if any can be given to the proposed NPS-FM 2019. The proposed NPS received more than 17,000 submissions. The proposals are controversial and substantial change is most likely. The outcomes of decisions on this policy statement are difficult to anticipate.
201. The applicant has added a new policy to the plan change that recognises and provides for Te Mana o Te Wai. The applicant's response to recognising and providing for Te Mana o Te Wai in policy 23.10.4 is problematic in that the NPS-FM 2014 anticipates regional councils leading the implementation of Te Mana o Te Wai through regional policy statement and regional plans.
202. The Taranaki Regional Policy Statement 2010 predates the NPS-FM and although is under review an RPS to reflect Te Mana o Te Wai is not yet available and cannot be considered. The inclusion of policy 23.10.4 is ultra vires, being out of step with the planning process and may not only be inconsistent but unlikely to give effect to the future proposed RPS and future NPS-FM 2019 changes. The full consideration of Te Mana o Te Wai across the district is best left to the processes underway at a national and regional level.
203. The proposed policy 23.10.4 – Subdivision, use and development shall recognise and provide for Te Mana o te Wai within the Wairau Estate Structure Plan area should be deleted.

Wastewater Management

204. Council has invested in strategic infrastructure capacity to enable this anticipated growth in Oākura. There is currently available infrastructure capacity for reticulated potable water treatment and supply, and the wastewater reticulation capacity has been the subject of a

significant investment in the last 20 years, with the establishment of the trunk main between Oākura and the wastewater treatment plant at New Plymouth.

205. The reporting officer concludes that measures were available to effectively provide for wastewater infrastructure for the original plan change proposed. These measures are included in the plan change as currently drafted, including consideration of the provision of infrastructure at the time of subdivision. No changes are proposed by the applicant relating to these measures, with the revised structure plan now proposed. The reporting officer previous assessment stands and there are no outstanding wastewater infrastructure matters.⁴²
206. The cultural effects relating to the management of wastewater are addressed via Policy 23.10.2 in the provisions, and associated implementation methods:

Policy 23.10.2

Subdivision, use and development shall avoid any adverse effects resulting from wastewater infrastructure on all waterbodies within the Wairau Estate Structure Plan area.

Proposed Planting (7.33 in the CIA)

207. The Cultural Impact Assessment sought further detail and information on the stream margin reserve management areas. In particular, how these will be planted, walkways construction and who will own and manage these reserve areas. The iwi and hapu sought:
- Consideration should be given to planting proposed, its species and that it is eco sourced and native to the area; and
 - Specific provisions requiring the control of impervious surfaces and site coverage on sites.
 - Specific provisions regarding stormwater infrastructure and outcome that must be achieved in relation to the remediation of these waterbodies.
 - Specific provision regarding wastewater services and avoiding any impact on the Wairau Stream and tributaries.
208. According to the applicant, the planting/vegetative screening within the urban area will be developed in accordance with a Landscape Framework Plan as part of subdivision design, including street trees, entrance planting, and berm planting. Special areas of ecological and amenity planting will be located at key locations such as street intersections, the recreation space, stream crossing over the tributary of the Wairau Stream, and along pedestrian/cycle

⁴² Response to Further Evidence for Reconvened Hearing. 22 November 2019. Para 3.53

linkages. Mr Bain's evidence for the applicant relies heavily on the existing QEII covenant area planting stating:

"...over time, a diminishing rural outlook as the vegetation within the QEII area that is interposed between The Paddocks and Wairau Estate grows to maturity".⁴³

209. The applicant did not seek to recall their ecologist Mr Bevers to respond to the revised and reduced scale of the plan change. In his evidence in chief presented at the July hearing, Mr Bevers concluded that ecological protection and enhancement methods [that he] proposed will provide positive ecological effects in terms of increasing the area of habitat, increasing biodiversity and increasing native animal population sizes.⁴⁴ He considered the effects of the plan change would be less than minor. This was based on the very specific measures including reducing impervious surfaces, stormwater treatment design outcomes, planting requirements he recommended, not only for the species to be planted and their location, but also the avoidance of areas to allow for natural protection of existing and planted species. These recommendations were made on ecological values rather than visual or amenity values.

210. The applicant has instead relied on landscape screening and amenity planting (including the QEII covenant area outside the plan change area) to mitigate 'visual' effects. The proposed plan change policy 23.8 sets out the context and extent of planting to be implemented through a planting plan that supports an open space plan landscape framework plan and a streetscape plan.

"b) Develop an OPEN SPACE Landscape Framework Plan setting out the overall landscape features and elements for the Wairau Estate Structure Plan Area together with a planting plan showing the species to be planted and the staging/sequencing of its implementation.

c) Develop a Streetscape Plan together with a planting plan detailing location, species, staging and the timing of planting".⁴⁵

211. The applicants approach relies on landscape screening and amenity planting to address any visual effects but does not address any ecological effects and does not appear to incorporate any of the measures recommended by Mr Bevers.

212. A new policy could be added to the plan change that specifically addresses ecological values, particularly those around the Wairau Stream and tributaries. The policy should have as a method of implementation the preparation and implementation of a planting plan linked to the

⁴³ Response to Council Officers Report and further submissions of Richard Bain, 2 December, 2019. para 11.

⁴⁴ Summary of Statement of Evidence. Bevers. Tabled 22 July 2019.

⁴⁵ Wairau Road, Oakura Rezoning Amendments required to Operative District Plan, December 2019. Policy 23.8 Methods of Implementation b) and c)

Mr Bevers ecological report or its recommendations. No such policy and implementation measures have been proposed.

213. In the absence of implementing the ecologists' recommendations, the current approach is considered to be minimalist and conservative. There are no real plans to restore biodiversity and habitats in the area of the plan change, rather enhancing aesthetic, and urban landscape values.

Additional Provisions (7.34 in the CIA)

214. As outlined in the sections above, in order to appropriately manage some of the potential adverse effects resulting from the plan change on the relationship Ngāti Tāiri and the Trust hold with this area, as well as protecting areas of historic heritage, recommended that additional provisions need to be provided in the structure plan.
215. Those matters set out in Appendix 1 of the CIA have been incorporated by the applicant into the proposed provisions of the plan change. No other provisions have been recommended by the reporting officer, iwi, and the applicant. The Memorandum of Understanding and the engagement that will be undertaken between the applicant and tāngata whenua is relied upon by the applicant and Ngāti Tairi to address matters of detail in subsequent resource consent processes.

5km development prohibition

216. Te Kahui o Taranaki has submitted that they oppose any development within 5km of the National Park. The position is derived from Taiao Taiora Section 11.8.3(7) – Taranaki Iwi will not support any residential subdivision and development within 5km of the National Park boundaries. The issue this policy appears to be related to is 11.8.1(5) - *New developments from human activity on and around the mouna can impact on the natural environment and the important cultural value our iwi associates with Taranaki Mouna*. There is no obvious objective under 11.8.2 that the policy applies to specifically.
217. When asked if the position was a matter of principle or substance, the iwi representative confirmed that it was the latter. The lack of an objective for this policy in the iwi management plan does support a view that this opposition is in principle, particularly when given only residential subdivision and development activity has been singled out and not the effects of such development.
218. This position when tested geographically appears to avoid most small villages and towns around the national park with the exception of all of Oākura and over half of nearby Okato. The policy position therefore most affects Oākura and Okato and opposes permitted infill residential

development, future urban zones and nodes for infrastructure and development provided for in planning instruments such as the district plan.

219. The 5km restriction called for by the Iwi on residential subdivision and development is not supported by evidence presented to the commission. Placing a moratorium or prohibition on residential subdivision and development over all of Oākura would be draconian and not supported by the operative planning framework.
220. The weight given to an Iwi Management Plan is guided by s74(2A), where local authorities must take into account the iwi management plan. This weight is less than 'give effect to', 'must be consistent with', 'recognise and provide for' and 'have particular regard to'. The applicant and the reporting officer are of the view that the plan change has 'taken into account' the Taiao-Taiora Iwi Management Plan. This considers that the applicant may not need to 'abide' by every single policy position in the plan, particularly prohibitive and directive policy statements, but will account for the issues of concern, and make appropriate and reasonable steps to address them in a considered manner.
221. The contextual application of the directive and absolute policy of prohibiting residential development at Oākura is problematic and contrary to the planning framework.

Summary of Cultural Matters

222. I understand that Ngāti Tairi representatives of Oākura Pa appear to have a positive and constructive relationship with the Applicant, with an MoU in place. Taranaki Iwi and some of Ngāti Tairi whanui are opposed to the proposed plan change and seek that it is declined in its entirety.
223. I have considered the relevance of Te Mana o Te Wai, protection of Pahakahaka Pa, and the relevant provisions of the iwi management plan, Taiao Taiora and consider these matters either not relevant (Te Mana o Te Wai) or appropriately taken into account. There is still uncertainty with regard to the plan change approach to ecological values which I consider is minimalist and conservative, and the scale of the adverse effects on the relationship Taranaki and Ngati Tairi have with Kaitake which are likely to be moderate.
224. A key and outstanding issue is that limited consultation has been undertaken by the applicant with the iwi authority. This consultation has occurred very late in the plan change process, on a proposal fully developed, and in the absence of their input. The Te Kahui o Taranaki Trust have articulated their resource management issues of concern in submissions, attendance at the hearing and support in the CIA preparation and delivery on the last day of hearings.

Social and Community Matters

Applicant

225. I received expert evidence on landscape, ecology, stormwater, traffic, and planning, however, I did not receive any expert social impact evidence. The applicants' view was that I had ample evidence on which to consider social and community related matters:

"The commission has better evidence presented on behalf of submitters in opposition can leave the commissioner in no doubt that he has a full and complete understanding of the community concerns regarding potential social effects arising from the plan change. The commission has 'better evidence' than an SIA, the commissioner has direct evidence from an extensive cross section of the Oākura community on the issue. Based on the evidence there is no evidential gap, and the commissioner as a highly experienced planner can properly evaluate that evidence".⁴⁶

226. The applicant chose to emphasise the positive social effects on the new residents and generalise the positive impacts on the existing residents. The effects on the existing 'Paddocks' residents appear in the main to have been ignored, or in the case of their opposition dismissed through small clauses in sale agreements. The potential negative social effects of the proposal were acknowledged and a 'reduced' scale and size of plan change was proposed that would make all negative social effects 'fall away'.

227. Mr Comber in his further evidence has cited other plan change requests or consent applications in the District that have not required a Social Impact Assessment (SIA) in an attempt to justify a position that an SIA should not have to be provided.

228. I am familiar with two of the examples quoted being the Bluehaven Commercial development and the Green School. Both applications were limited notification resource consent processes where all identified affected parties had provided their written approval.

229. I note that Plan Change PPC18/00049 at Johnston Street, Waitara received 18 submissions, PLC10/00025 at Cowling Road/Tukapa Street/Frankley Road received 15 submissions, PLC09/00020 Area Q Rezoning received 29 submissions and PLC09/00015 FUD overlay received 25 submissions.

230. In this case the request has received 396 submissions in opposition and many of the submitters articulated their concerns related to social impacts in detail at the hearing including the Oākura

⁴⁶ Muldowney Closing Submissions

Primary School and the Kaitake Community Board. I do not consider it helpful to compare the request to the cases above as the request has a very different set of circumstances.⁴⁷

231. The applicant modified the proposal to respond to the concerns raised during the hearing.⁴⁸

"I am happy that we have come up with a project that strikes the right balance between preserving the community's way of life but enabling others to enjoy the benefits of a lifestyle in Oākura in the future".⁴⁹

"The layout 'future proofs' the subdivision for possible growth in the long term, should that one day, long into the future, be deemed appropriate".⁵⁰

232. The applicant was also of the view that social impacts will be significantly reduced as a result of the reduced size of the proposed plan change, the 'modest' and logical expansion of the township and the sequential stages consisting of 24-33 lots.

233. The 144 dwellings (if all lots had one residence) would translate to 18-19 households having children of primary/intermediate age attending Oākura School.⁵¹

234. Mr Comber was of the view that a social impact assessment cannot be reasonably justified, and a Community Development Liaison Group is an appropriate mechanism to monitor for potential social impacts. I note that Mr Comber is not a social impact expert.

Submitter views

235. I heard from a very large number of submitters who reside at Oākura who described its special characteristics being physical, social, educational, natural, and spiritual elements and attributes. I heard of the special relationships and values residents share and the behaviours expressed in everyday life. The two quotes from submissions below give a feel for the tenor of community perceptions regarding local character:

"How do you define a 'small village feel'? Low population, tight knit communities that work together for the betterment of their village and each other. Most people know one another, if not by name, then by face and everyone pitches in to help. Strong community focused groups, a small school, play centre, library, pub, a marae, an old hall, fish and chip shop, church, for service, a little local newspaper etc...Oākura is advertised as 'picturesque, relaxed atmosphere...family

⁴⁷ Statement of Evidence: Twigley. 25 June 2019.

⁴⁸ Response of Michael McKie. 2 December 2019. Para 6.

⁴⁹ Ibid, para 8.

⁵⁰ Ibid, para 10.

⁵¹ Further Evidence: Skerrett, 2 Dec 2019, para 16.

friendly...close knit community." A village indeed. At the moment it is almost entirely walkable in the urban area and it is the residents' desire to have it that way."⁵²

*"...its relaxed village sense of place, the people, its productive fertile soils for horticulture, its sheltered climatic position, the beach and easy access and connectedness to village amenities".*⁵³

236. Many submitters spoke to Oākura's proximity of beach, inland bush, commercial centre are key characteristics of a cohesive community. They described the physical aspects of the community, both their location, proximity and qualities and the social qualities that bind and connect individuals, families, and groups.
237. Some of these social qualities included:
- way of life
 - cohesion, stability, character, services, and facilities in a community
 - proximity and access to inland bush and coastal beaches
 - modest and functional community facilities and services
 - aesthetic contrasts and blending of the natural and built form
 - the marae
 - willingness of community members to participate in sports, recreation, voluntary projects, and local government
 - strong sense of identity and belonging
 - strategic plans for the future of Oākura
 - formal local representation
 - family, community, and social networks.
238. Most submitters either in their original submissions or in their submission to the hearing raised concern for social impacts as a result of the proposed plan change. Many requested that a social impact assessment be prepared by an expert.
239. The key issues were centred around the impact of a sudden and large population increase undermining the village social cohesion and overwhelming community facilities and services. These community facilities and services included the Oākura School and sports ground, early childhood centres, Corbett Park (sport ground), carparking, shops, lifesaving, and fire service.
240. Forty-nine of the submitters believed sufficient social impact had been articulated in submissions and felt that any further SIA would provide the same results.⁵⁴

⁵² Sarah Foreman #159

⁵³ Sam Dixon #266

⁵⁴ Further evidence on behalf of 49 submitters, 2 December 2019

241. Acting for some of the submitters in opposition, Cameron Twigley was of the view that the scale and significance of those effects will be dependent on the scale and nature of the rezoning.⁵⁵ He gave considerable weight to the views of KCB submission on the social impacts of the request. Mr Twigley holds a Bachelor of Social Science in Geography from Waikato University and a Postgraduate Diploma (with Distinction) in Urban and Regional Planning from Heriot Watt University, Edinburgh.⁵⁶
242. The Kaitake Community Board (KCB) represented many of the community views. Their submission was broad and detailed. The KCB made specific comments regarding the context for social matters by saying:
- “...the FUDs identified for the Oākura community were developed with the specific intent to highlight the necessity for development and population growth in the community to be undertaken in a manner that does not compromise the natural or social environment, and conserves and maintains the rural character and the associated amenity values of Oākura”.*⁵⁷
243. The KCB compared the engagement processes of the Kaitake Community Plan with the plan change.
244. The KCB facilitated the community involvement in all this work with no foregone conclusions, no ulterior motive, and no self-interest. The combined outcome of these processes provides a clear view of the social foundation of Oākura and how residents want their residential and business community to develop over time. The applicant has not liaised as effectively with the community to ensure anywhere near as wide public participation in the development of this proposal. Yet the application attempts to convince that the proposed scheme is in sync with the outcomes of all this extensive work.⁵⁸
245. The KCB submission has importantly contextualised the social matters as part of, and connected to, other factors that make Oākura special.
246. The submission states that the subdivision will compromise the community’s natural and social environment and endanger the rural character and the associated amenity values of Oākura.⁵⁹

⁵⁵ Statement of Further Evidence. 15 November 2019. Para 6-10

⁵⁶ Cameron Twigley, Planning Expert, 25 June 2019

⁵⁷ Kaitake Community Board Submission. 23 July 2019.

⁵⁸ Kaitake Community Board Submission. 23 July 2019. Page 13, para 54

⁵⁹ Kaitake Community Board Submission. 23 July 2019. Page 46. para 207

Reporting officer views

247. The Reporting Officer relied on the views of submitters to inform their view of social impacts. He went further to recommend the undertaking of a social impact assessment to understand how the development would contribute to or detract from the economic and social prosperity of Oākura.⁶⁰ In terms of s32 (2)(c) RMA, the social impacts of this proposal could be significant, particularly considering the scale of this proposal in the context of the existing settlement.
248. I was presented with a range of strategies, plans and documents. Of particular note to social matters, were the Oākura Structure Plan and Kaitake Community Board Plan, and considered relevant strategies, prepared under the Local Government Act by the reporting officer.⁶¹
249. The Kaitake Community Board Plan: A Thirty-Year Vision 2017 sets out the visions and aspirations for Oākura, Okato and Omata, with the plan being developed with the community. The Plan provides an indication to NPDC about the matters important to the Board, where investment and action is required and a blueprint for the communities to shape future growth and development. In the Plan the Board stresses, Oākura requires managed, staged, and targeted growth. It is believed rapid and widespread expansion would negatively affect the special character of Oākura and adversely impact on matters such as education services, traffic, and environmental assets.
250. In the Plan, the Board have organised their priorities to align with the eight areas of the blueprint and thus community feedback is organised in regard to: Environment, Communities, Citizens, Growth, Industry, Talent, Central City and Destination, to guide Council in its decision making for Oākura. I consider the directions and priorities in this report in evaluating the plan change below, particularly in relation to the appropriateness of the rezoning.
251. Mr Wesley concluded that, in terms of s32 (2)(c) RMA, based on the available information, they consider there is still uncertainty with regards to the social impacts. Therefore, they consider the risk of acting (in the form of approving the plan change) with insufficient or uncertain information remains uncertain.⁶²
252. With the reduced scale of the revised proposal, the reporting officer deemed the social impacts likely to be less. However, the magnitude of the social impacts were still uncertain, and it was unclear whether specific measures were required to manage these effects. While Mr Wesley saw merit in the suggested community development liaison group, he questioned the

⁶⁰ Reporting Officers Response to Evidence presented at Hearing, 19 August 2019, para 4.100 and 4.101

⁶¹ S42A Report on Proposed Private Plan Change 48: Wairau Road, Oākura Rezoning
31 May 2019. para 71 and 72.

⁶² Section 42A, 22 November 2019, para 3.69.

effectiveness and ability to implement such a group via District Plan provisions – this group could be a method outside the District Plan.⁶³

253. He concluded that PPC48 is silent on what mechanisms may be available to provide community infrastructure. There are no specific or measurable upgrades or new facilities identified apart from the new sports field/facility in the West FUD.

Discussion and findings

No social impact assessment

254. The absence of a social impact assessment has not assisted deliberations on whether the social effects can be articulated by an appropriate and suitably qualified expert in social impact terms and related directly to the RMA. The applicant and the Council have not contracted an expert in social effects in the preparation of the plan change or in the proceedings. The Council has not produced any expert evidence or sought advice from its community development staff.
255. I have been left to make a value judgement in respect of social matters based on the views of the parties in lay evidence (mostly in opposition) rather than any expert opinion.
256. I do not have a baseline of social conditions (other than that articulated in impact terms by lay submitters) and do not have a clear view of the scale and duration of positive and negative effects that might be relevant.
257. I have not heard any evidence of social impact on minority groups including tāngata whenua.
258. I am left to consider strong community sentiments and shared perceptions from submitters in opposition and the view of the applicant that no further assessment was required, and that there was sufficient information upon which to make a decision.

Demographics

259. Oākura had a population of approximately 1,200 residents in 2001, and on average has grown at two per cent per year. There has been demand for new dwellings in Oākura, and for lifestyle development within the rural area. The population of Oākura encompasses a diverse group of people that represent a variety of views on pertinent issues. There is a deep-seated sense of identity amongst the people in the community, who share a strong vision for the future.⁶⁴

⁶³ Section 42A, 22 November 2019, Para 3.67

⁶⁴ Oākura Structure Plan 2007. New Plymouth District Council. page 7

260. In 2006 the population had about 1,356 residents. The population growth assumptions underlying Statistics New Zealand projections do not take account of potential impacts from local planning directions for population growth and socio-economic development.⁶⁵
261. The population of Oākura has been stated to be between 1,200 and 1,380. We understand that Oākura has a population of more than 1,380 (Census 2013) and 516 occupied dwellings.⁶⁶
262. Submissions have quoted 549 dwellings in Oākura in 2018, demand for a further 247 new dwellings by 2048, in 30 years' time. That is growth of about eight dwellings per annum.⁶⁷
263. Oākura is identified as a hub for future permanent and holiday settlement and growth in the New Plymouth District Coastal Strategy. Given these strategic drivers it is likely that the actual population growth for Oākura will be considerably higher than that projected by Statistics New Zealand. The projection estimates made by Statistics New Zealand are based on existing patterns of births, deaths, and migration, and do not take account of such localised factors and drivers in Oākura and its surrounding district.⁶⁸
264. There are at least a dozen different sports clubs, however there are a number of sports that are not played at Oākura, mostly due to not having facilities. Some examples are basketball (NZs most played school sport), touch rugby and swimming.⁶⁹
265. The s42A report 19 Aug 2019 (p7) does not provide any information on the anticipated or projected population or housing growth being planned for, apart from a general reference in the introduction that 'Oākura had a population of approximately 1,200 residents in 2001, and on average has grown at two per cent per year.'
266. Estimates of new residents from the original proposal vary from 1,065-1,200 people, or a 60-62% increase.

Reduction in scale

267. The applicant has changed the proposal considerably in size and scale to what was originally proposed. By doing so the applicant has in my view raised considerable anxiety and mistrust among community members. This turnaround appears to be both pragmatic and tactical. The structure of what is proposed now is as mentioned reduced in size and scale [and some measures have dropped out – such as the underpass, lifestyle blocks and ecological, and

⁶⁵ Oākura Recreation and Community Facility Study Report. 2011. Section 2.1, page 7.

⁶⁶ Taken from Statement of Stefan Kiss

⁶⁷ I Frame #133, para 9

⁶⁸ Oākura Recreation and Community Facility Study Report. 2011. Section 2.1, page 7.

⁶⁹ Oākura Recreation and Community Facility Study Report. 2011. Section 2.1, page 7

uncertainty of land not part of plan change [with stub roads]. These matters have some bearing on maintaining or enhancing social well-being, for example an underpass would facilitate alternative modes of transport between the plan change area and the village commercial centre, facilitating leisure and recreation activity.

268. The applicant has relied on this approach to address any and all social effects resulting from the plan change. It can only be assumed that there is no appetite to address social effects actively, rather achieve a plan change with little or no encumbrances.
269. It is assumed that the reduced lot and staged development would result in less pressure on community facilities and services, however this would be a simple and untested view in the absence of understanding what the nature, scale and duration of the impacts may have been for both the original proposal and the reduced scale proposal. The 'revised' plan change may now not include aspects of the original proposal that enhanced positive social effects and mitigated against negative ones. The nature of effects may still be present, regardless of the reduced scale of the development.
270. If population growth occurred at a slow rate community infrastructure may be able to cope, if its planned for, however, there is no mechanism in the plan change which manages this rate of development, or provides a link with the capacity of the community infrastructure.
271. The applicant is ultimately relying on the community facilities and services to respond and absorb any pressure derived from the plan change and provide access to the existing community lifestyle and facilities/services.

Reliance on the vehicle

272. The applicant has developed and proposes a vehicle centric residential development, with some internal open spaces that will have walking access. This would on face value mean that future plan changes (extensions of residential development) in this area would follow and be led by existing infrastructure, service corridors and spatial planning. The lack of future proofing other modes of access will be a constraint on future development that may have to retrofit.
273. It is difficult to identify and quantify any such measures being proposed as of themselves which provide obvious and measurable benefit to the wider community in social terms.
274. It seems clear the applicant wishes to preserve their ability to seek either further plan changes and/or resource consents in the future to develop the balance of the land in Mr McKie's ownership.

275. I am of the view that the apparent reliance on private vehicle modes for transport, as a result of both the reduction in size and not proceeding with an underpass access, is an important strategic risk to future development in the area.

Positive social impacts

276. There are likely to be positive effects as a result of the proposal. New residents of the proposed plan change area are likely to add to the melting pot of nationalities. New residents will bring vitality and diversity to the village, assuming that new residents actively engage and are accepted by the existing residents. Based on the views of many submitters, I am of the view that new residents will likely be attracted to Oākura because of the special character of the place.

277. It is difficult to identify and quantify what has been proposed as providing obvious and measurable benefit to the wider community in social terms. A community liaison group, without a clear and measurable monitoring method, is unlikely to achieve much, notwithstanding that the community is unlikely (based on the submissions of the Oākura School Board of Trustees and the Kaitake Community Board) to participate willingly or actively.

Nuisance effects

278. We expect there will be nuisance effects from construction (noise, dust, traffic) over many years, particularly when using one entry and exit point. It is most likely there will be community disruption (traffic, noise, dust) as a result of construction over more than 10 years.

Community facilities

279. We have not heard any evidence suggesting that there will be any short-medium term plan to purchase, develop and operate new sports fields.

280. In response to some submitters suggesting that slums and drug use will prevail, I find these suggestions unfounded. It is difficult to accept an argument that the resulting residential development will be of low quality, high density (multi-storey apartments) and by itself attract or encourage drug use.

281. Increased population will result in more demand for local services, potentially new services if the demographics are different to those in Oākura, for example retired or empty nesters.

282. The New Zealand average household occupancy for 2003 and 2006 is 2.7. The highest household occupancy in New Zealand, is in Mangere at 4.0. The New Plymouth household occupancy in 2013 was 2.5 and has been the same since 2001.

	2.5	2.7 (NZ average)	4.0
144 lots	360pp	388.8pp	576pp
395 lots	987.5pp	1,066.5pp	1,580pp

283. The table above shows a rudimentary calculation of expected resident occupancy at the proposed plan change area based on New Plymouth, NZ average and highest occupancy rates. A 360-person population increase (more than 25%) is significant, however, the development is proposed to occur over five stages, with each stage comprising 24 – 33 lots, with an average and median of 29 lots. If this is done sequentially, this will reduce any sudden and significant population increases that may overwhelm community facilities and services.
284. The most recent and comprehensive study of community facilities was conducted in 2011. The study found that there was capacity within existing meeting spaces and club facilities, informal spaces, and walkways but there were either no multi-sport facilities, swimming, and limited toilets. Corbett Park was confirmed as having limited space and a significant natural hazard (flooding and inundation) that would limit and constrain any expansion.
285. None of the examined facilities available for public use reported being fully booked at peak times on a regular basis. For example, an examination of available booking records for the Oākura Hall suggests that capacity at the most desirable times from 3.30pm to 10pm weekdays and on weekends was still available. Capacity at less desirable times such as during midweek days was also available.
286. Organisations which either owned or leased facilities from Council, indicated that they also had capacity to lease space to other community groups so long as this activity did not interfere with their primary purpose or operation. Many of these organisations such as the Board Riders Club and the Rugby Club saw wider community use as desirable because it generated increased revenue and forged improved links into the community.
287. All facility managers indicated that increased community utilisation was possible and desirable. The issue was often one of how well a facility catered for the needs of potential hirers, rather than an actual lack of availability of potential quality booking times.⁷⁰
288. Oākura has a range of meeting spaces (in addition to the Oākura Hall) which are available to the community on either a casual or regular booking basis. Most facility managers are happy to hire space so long as the hireage does not get in the way of their core facility use. However, hireage is

⁷⁰ Oākura Recreation and Community Facility Study Report. 2011. Section 6.7, page 61

not coordinated and often not advertised widely to the general community. Some optimisation of spaces was highlighted, however this was generally at a minor level.⁷¹

Impacts at Oākura School

289. In New Zealand one third of households have children and of those an average of 1.9 children per household. As a very rough guide, some 90 children may be expected in the proposed plan change area. Some of these children will be of early childhood age (under 5), primary and intermediate (5-12) and secondary school age (12-17). Again, as per above, if the population of children is expected over the ten years of the development, the impact on enrolments in any particular age group at Oākura School are difficult to estimate or predict. Oākura School has a roll between 341 and 355. An increase of more than 10% of the roll (overall) is likely to cause some short-term challenges and difficulties with resourcing.
290. As an example, the applicant has chosen to not address qualitative matters of concern at the school, rather point out that the mandate and responsibility of effects sits with the Ministry of Education and the Board of Trustees. Whilst this is true to some extent, the applicant has side stepped addressing any potential and actual effects of the proposal. The applicant has stated that the school and the Ministry will provide extra classrooms and the school has technical capacity for up to 1000 students and any traffic matters can be addressed through a school led and resourced carparking plan.
291. Having considered the issues raised by the Board of Trustees, I conclude that there are benefits of undertaking a community wide social/community impact assessment and planning for growth in a manner that does rely on private plan change approaches. The Council, Community Board, and other key entities such as the Board of Trustees and community should be engaged and be key participants in a more holistic planning approach.

Proposed Mitigation: Proposed Community Development Liaison Group

292. The applicant has proposed that a Community Development Liaison Group would be best to monitor social impacts, however they have not provided any baseline, methodology for monitoring, no draft terms of reference and no details regarding the responsibility for establishing and maintaining the liaison group including its resourcing.
293. I am of the view that a Community Liaison Group will not be sustainable and likely to be ineffective in the absence of community support.

⁷¹ Oākura Recreation and Community Facility Study Report. 2011. Section 6.7, page 60

Overall Finding

294. Social impacts are one of the key issues raised in submissions and the hearing.
295. No expert social impact evidence has been prepared and presented by the applicant. No social impact assessment has supported this plan change.
296. The applicant chose to emphasise the positive social effects on the new residents and generalise the positive impacts on the existing residents. The effects on the existing Paddocks residents appears in the main to have been ignored or in the case of their opposition dismissed through clauses in sale agreements. The potential negative social effects of the proposal were acknowledged and a 'reduced' scale and size of plan change was proposed that would make all negative social effects 'fall away'.
297. The reporting officer has been inconclusive stating that the social impacts are uncertain and PPC48 is silent on what mechanisms may be available to provide community infrastructure. There are no specific or measurable upgrades or new facilities have been identified apart from the new sports field/facility in the West FUD.
298. I am of the view that the social effects of the proposed plan change are likely to be experienced by the community over the duration of the development that occurs as a result of the plan change, estimated to be some 10 years.
299. I have been left to assess the 'reduced' plan change, however, the strong impression I am left with is that further development of residential dwellings in the original plan change area will be sought at a future date.
300. Those closest to the plan change area on Upper Wairau Road and the Paddocks subdivision will likely experience nuisance effects such as noise, dust and peak times for service vehicles and heavy vehicle trucks.
301. The apparent reliance on private vehicle modes for transport, as a result of both the reduction in size, and not proceeding with an underpass access, I think is an important strategic risk to future development in the area.
302. It is likely that community facilities and services will need to grow to meet more demand, but this demand should be expected, understood, and planned for. The management of these effects will best be linked to the size of each stage of development and the sequential roll-out of the stages over a long period e.g. ten or more years. A ten-year timeframe for development of the plan change area is likely to facilitate forward planning and implementation of new or

extended community facilities and services. I am not convinced that any of this work is going to be undertaken.

303. If population growth occurred at a slow rate community infrastructure may be able to cope, if its planned for, however, there is no mechanism in the plan change which manages this rate of development, or links with the capacity of the community infrastructure.
304. The applicant is ultimately relying on the community facilities and services to respond and absorb any pressure derived from the plan change and provide access to the existing community lifestyle and facilities/services. As a result, the development is unlikely to provide for the social well-being of the existing residents of Oākura.
305. Any effects experienced at the school as a result of the plan change (traffic, carparking roll pressure, sports grounds) are unaccounted for and no measures have been recommended by the applicant to address them.
306. The applicant has recommended a community liaison group be established and maintained, to address social impacts. I am of the opinion that a Community Liaison Group will not be helpful, unwelcome, and likely to be ineffective in the absence of a baseline, methodology and community ownership.
307. There are likely to be positive effects as a result of the proposal. New residents of the proposed plan change area are likely to add to the melting pot of nationalities. New residents will bring vitality and diversity to the village if new residents actively engage and are accepted by the existing residents. The special character of Oākura is likely to attract new residents.
308. It is clear from reading the NPDC Response to Evidence Report that the reason a SIA has been requested is due to the constant theme that came through in the submissions on the potential social impacts that the development could have on the village, its occupants and people's enjoyment of Oākura. While I acknowledge the reduced size of the scheme, I consider it is likely many of the concerns related to social impacts of the request will remain.
309. The social impact of PPC48 was an issue raised by a majority of the 396 submitters in opposition, however the plan change did not have the benefit of social impact assessment or expert opinion. This would have assisted the decision-making process and its participants in understanding and confirming the scale of effects and any appropriate measures to avoid, remedy or mitigate those effects.
310. In particular, the effects relating to community facilities and services, the relationship between social-community values and rural character and amenity values, reliance on the vehicle, nuisance effects during the construction of the development, and potential impacts on the school roll/resources and capacity of the school.

311. I am of the view that these matters should have been addressed in a comprehensive and professional manner and their absence has not brought these matters to a close.
312. On balance, this is a key issue that is required to be addressed and that there is uncertainty of acting given that the social impacts have not been adequately assessed in my opinion.

Traffic Matters

313. Mr Wesley⁷² referred to Policy 23.1 of the ODP which provides direction in respect of the design and layout of future urban areas. Of particular relevance to traffic matters, are the following:

To control the design and layout of future urban areas through structure plans to allow for the comprehensive development of the area by ensuring:

- b) Infrastructure is provided in a co-ordinated manner by considering location, type and staging*
- d) That the constraints are identified and managed to ensure resilient and safe communities*
- g) Connectivity and accessible urban form is provided for.*

314. During the hearing, there was considerable uncertainty expressed by submitters and the reporting officer regarding how traffic effects were to be managed, whether there were to be two access points to the subject site and what the effects on the wider transport network, and any measures to address these effects.
315. The amended proposal resolved many of the concerns and uncertainties in respect of traffic matters. The reduction in scale and lot yield being limited to 144 lots, and a consequential reduction in total daily trip generation to 1,224 vehicle movements.
316. It is noted that Mr Doherty in response to the amended proposal, concluded that in the short term, interim measures could be put in place at the Wairau Rd/ SH45 intersection to effectively manage traffic effects. However, in the longer term he believed that the preferred solution was a roundabout. He further suggested that a trigger point for traffic on Upper Wairau Road is required as to when the roundabout would be required. Mr Doherty stated that:

“To enforce this trigger, a District Plan provision could be applied to the plan change area which would be assessed at the time of subdivision and/or development. However, in terms of the wider network, there is still uncertainty about how the nature and magnitude of the

⁷² Wesley-Response to Further Evidence for Reconvened Hearing- 22.11 2019

traffic effects, and what measures (if any), are required to ensure a resilient and safe transport network”.

317. Mr Skerrett⁷³ proposed that various upgrades would be required such as footpath improvements, improvements to the cross-section of Upper Wairau Road and pedestrian crossing points. He concluded that the extent of the proposed upgrades can be determined at the time of subdivision consent and this could include any staging in accord with the development stages of the proposal.
318. Ms Standish⁷⁴ of NZTA confirmed its opposition to any new access onto SH45 on the basis that the highway is a limited access road and that no evidence had been presented that provided a compelling reason for it. It was noted that with the reduction in site yield due to the amended proposal, it could be demonstrated that the existing intersection would perform to an acceptable level even with 10 years of growth. The agency noted that traffic calming measures would be appropriate which would assist in speed reduction, and that there were options to improve vehicular and pedestrian safety in the vicinity of the SH 45/ Wairau Road intersection. In addition, Ms Standish sought some amendments to Policy 23.9 and Rule Res 100 to provide for the provision of vehicular and pedestrian safety improvements.
319. Mr Gladstone⁷⁵ was of the view that the applicant had taken a minimalist approach to the mitigation of undesirable traffic and mobility consequences of the amended proposal. He was of the view that the proposal had a focus on vehicular movement and that there should be greater provision for the safety and movement of vulnerable road users.
320. It is noted that Mr Wesley⁷⁶ in his response highlighted remaining concerns in respect of traffic effects and suggested that a range of traffic effects should be addressed by the plan change provisions. Amended plan change provisions were submitted with the closing submissions and various works are envisaged as outlined under Policy 23.9- Reasons. The provisions note that works would be required prior to any approval of the second stage of the development of Wairau Estate subdivision and the method of implementation would be via subdivision rules and matters of discretion to be addressed.
321. Overall, I am satisfied that any traffic effects have been addressed through the reduced scale of development as outlined in the amended proposal, and by the proposed amendments to Policy 23.9 and associated rules and the matters of discretion wen future applications for subdivision are considered.

⁷³ Skerrett Evidence: 11.10.19: Paras 22-26

⁷⁴ Standish Evidence :15.11.19- Paras 14 & 15, Appendix 1

⁷⁵ Gladstone Evidence:15.11.19

⁷⁶ Wesley Response to Evidence:02.12.19

Three Waters

322. The applicant relied on the evidence of Mr Bain (landscape, layout, water supply allocation), Mr Bunn (stormwater), Mr Comber (water supply), Mr Bevers (ecology) and Mr Doy (structure plan and yield) with respect to the original proposal for 399 lots and reduced 144 lot plan change.
323. The reduced plan change was significant with regard to infrastructure capacity, availability, and likely performance.
324. The applicant ultimately referred to Council Three Waters Manager and the overall findings of the reporting officer.⁷⁷
325. Many submitters raised concerns for the availability, capacity, and potential adverse effects of provision of three waters infrastructure.
326. The Iwi concerns for stormwater and wastewater were captured in the CIA prepared by Ngati Tairi and Taranaki iwi. I understand the key points in the CIA related to stormwater to be:
- Ngati Tairi supports retaining the Wairau Stream tributaries, planting, weed-pest-predator control, protection, and enhancement of waterbodies⁷⁸
 - Concern for potential contaminants entering the Wairau Stream
 - Managing flow fluctuations
 - Remediating the mouri of these waterbodies⁷⁹
 - Concern for waterbodies being turned into stormwater infrastructure and the impact on flow⁸⁰
 - Promote water sensitive urban design⁸¹
 - Require specific provisions to avoid adverse effects on mouri⁸²
 - Uncertainty regarding ownership, maintenance, and ongoing management⁸³
 - Use of other stormwater treatment solutions such as swale drains, constructed wetlands, and tree bowels⁸⁴
 - Support planting along road frontages⁸⁵

327. And the concern for wastewater to be:

⁷⁷ Closing submissions of the applicant, 20 December 2019, paragraphs 39, 40 and 44

⁷⁸ Cultural Impact Assessment, 30 November 2019, paragraph 7.24

⁷⁹ Cultural Impact Assessment, 30 November 2019, paragraph 7.25

⁸⁰ Cultural Impact Assessment, 30 November 2019, paragraph 7.26

⁸¹ Cultural Impact Assessment, 30 November 2019, paragraph 7.27

⁸² Cultural Impact Assessment, 30 November 2019, paragraph 7.28

⁸³ Cultural Impact Assessment, 30 November 2019, paragraph 7.29

⁸⁴ Cultural Impact Assessment, 30 November 2019, paragraph 7.30

⁸⁵ Cultural Impact Assessment, 30 November 2019, paragraph 7.31

- The proximity of wastewater services to Wairau Stream and its tributaries⁸⁶
- Specific provision and information regarding wastewater services and avoiding any impact on the Wairau Stream and tributaries.⁸⁷

328. The CIA sets out in Appendix 1, a series of suggested plan provision drafting edits which are designed to address cultural issues. Those suggested edits are incorporated by the applicant into the proposed plan provisions through the introduction of new Amendment 3 Policy 23.10.1 through Policy 23.10.6, which provide a comprehensive set of policy provisions and implementation methods, which are then reflected in the residential rule framework. I have discussed the matter of stormwater and Te Mana o Te Wai in the cultural effects section of this decision and do not repeat it. Just to say I have found that those matters are not relevant considerations for the plan change.

329. The KCB submission raised concerns on a range of issues, however, following the reduced plan change scale and size, the KCB were silent on the matter of three waters. This is not unexpected as the thrust of their submissions was their view that the plan change was misaligned and out of step with the community vision and expectations for growth at Oākura.

330. Mr Twigley provided expert evidence on behalf of submitters. I understand his evidence to be:

- He supports the conclusions of the reporting officer Section 42a report as it relates to wastewater.⁸⁸
- He accepts the NPDC advice that the maximum proven aquifer capacity to supply Oākura which is sufficient to meet Peak Day Demand is a total of 1279 residential lots.⁸⁹
- The NPDC's groundwater take consent (ref:6114) expires in June 2020. An application for renewal has not been lodged yet and NPDC are designing/consenting and drilling a new bore before the end of this year to replace a failed bore. I understand that once the second bore has been drilled and pump tested, and a sustainable yield confirmed, that NPDC will be in a position to say with confidence how much water is available.⁹⁰
- He agrees with the section 42a report that all existing zoned land should be apportioned the available capacity in the aquifer in the first instance.⁹¹

⁸⁶ Cultural Impact Assessment, 30 November 2019, paragraph 7.32

⁸⁷ Cultural Impact Assessment, 30 November 2019, paragraph 7.33

⁸⁸ Mr Cameron Twigley, Evidence in Chief, 25 June 2019, para 100

⁸⁹ Mr Cameron Twigley, Evidence in Chief, 25 June 2019, para 83

⁹⁰ Mr Cameron Twigley, Evidence in Chief, 25 June 2019, para 84

⁹¹ Mr Cameron Twigley, Evidence in Chief, 25 June 2019, para 85

- He disagrees with a 50/50 split of water and considers a fairer way to split water supply would be 75% allocation to the West FUD (i.e. 250 lots) and 25% to South FUD/the triangle (i.e. 84 lots).⁹²
- If Mr Doy's figures are considered to be a more accurate estimate, then West FUD at his calculated yield of 283 lots would receive 69% allocation and South FUD/the triangle at a yield of 125 lots would receive 31% Mr Doy's revised water supply allocation figure is 358 lots, so West FUD would receive 247 lots and South FUD/the triangle would receive 111 lots.⁹³
- Appendix 22.2 of the ODP is clear that where reticulation is available, which in the case of the request it would be, then all new allotments shall provide a connection to the Council's urban reticulated water supply system via a service main, as per the Local Government Act 1974.⁹⁴
- Policy 22.1 of the ODP is also clear that subdivision and development should provide for connection to reticulated water, stormwater, and sewerage systems where they are available, and it is practical to do so.⁹⁵
- It would be highly unusual for a residential subdivision, where reticulation is available, to provide independent water supply at the scale proposed.⁹⁶
- It is common for subdivision provisions in district plans to require residential subdivisions to connect to reticulated services where they are available. This allows Councils to plan and develop three waters infrastructure with certainty and confidence.⁹⁷
- In Mr Twigley's opinion, the currently proposed provisions for water supply will not be efficient or effective in achieving objectives 22 and 23 and implementing policies 22.1 and 23.1 of the ODP.
- In regard to stormwater, I agree with Mr Peacock that for a proposal of the size and scale proposed a more detailed assessment should be undertaken as part of the request.⁹⁸
- The applicant should be required to assess the risk and potential adverse effects of stormwater run-off on downstream users including children.⁹⁹
- There is not enough information to determine the efficiency and effectiveness of the proposed provisions in achieving objectives 22 and 23 and implementing policies 22.1 and 23.1 of the ODP.¹⁰⁰

⁹² Mr Cameron Twigley, Evidence in Chief, 25 June 2019, para 88

⁹³ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 89

⁹⁴ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 93

⁹⁵ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 94

⁹⁶ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 95

⁹⁷ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 96

⁹⁸ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 102

⁹⁹ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 101

¹⁰⁰ Mr Cameron Twigley, evidence in chief, 25 June 2019, para 103

331. Mr Grieve on behalf of some 50 submitters provided a two-page summary response to the revised plan change and the evidence of the applicants' experts. The response clarifies the key matters of concern, however, does not identify three waters as an outstanding issue.¹⁰¹
332. At the reconvened hearing Mr Duff, a resident at The Paddocks subdivision, shared his observations of stormwater management during periods of heavy rainfall.¹⁰²

Reporting Officer/Council

333. At the reconvened hearing Council officers provided full advice on the proposals, their likely performance, effects, and the process for implementation.

*“Overall, we consider a degree of conservatism is necessary as ultimately there is a limit to the availability of water and capacity of the wastewater system. There are a number of uncertainties that make an accurate prediction of serviceable lots difficult, but we are aware of the uncertainties and the need to gain a better understanding of supply and demand profiles. We are confident that we can service up to a total of 1,279 lots with current water and wastewater infrastructure. There is a possibility that we may be able to service a greater number in the future once additional work is done (e.g. drilling a new bore and confirming actual wastewater peaking factors and per capita generation). But this will take more work over the next few years. Until this work is done, we cannot commit to this. There is some uncertainty around the impact of stormwater and this needs to be more accurately assessed due to a current lack of reliable modelling. A staged approach may be possible making the release of land subject to confirmation of some of the uncertainties noted above”.*¹⁰³

334. In regard to wastewater, the reporting officer concluded that measures were available to effectively provide for wastewater infrastructure for the original plan change proposed. These measures are included in the plan change as currently drafted, including consideration of the provision of infrastructure at the time of subdivision. No changes are proposed by the applicant relating to these measures, with the revised structure plan now proposed. The reporting officer previous assessment stands and there are no outstanding wastewater infrastructure matters.¹⁰⁴
335. The reporting officer relied on the evidence of the Infrastructure team at NPDC. Whilst they identified some uncertainties, they were confident that three waters matters would not be a fatal constraint on the plan change. Mr Wesney advised me that the outstanding matters to be

¹⁰¹ Mr Grieve on behalf of previous submitters, further submissions for Reconvened Hearing of 2nd December 2019

¹⁰² Reconvened Hearing transcript, 2 December 2019, page 263

¹⁰³ Response to evidence of hearing, 19 August 2019, NPDC Infrastructure Group Report, page 10

¹⁰⁴ Response to Further Evidence for Reconvened Hearing. 22 November 2019. Para 3.53

resolved were identified at 7.26 – 7.31 of CIA (stormwater and Te Mana o Te Wai) and 7.33 of CIA (wastewater).¹⁰⁵

336. Mr Hall provided advice at the reconvened hearing on stormwater as follows:

- There are three things that have been clarified with further evidence. The first of these is flooding of the Wairau Stream. Based on the applicants' evidence, and the modelling they have done, it is apparent that there are some capacity issues in the lower Wairau Stream. The Council believes that the applicants' evidence does demonstrate, though, that this development would not materially affect the current situation that is caused by existing development. This is subject to the applicant ensuring that the design is hydraulically neutral. We are satisfied with the process they have done that they have demonstrated that.
- The second point raised in the cultural impact assessment is regarding stormwater treatment. The ponds that are proposed by the applicant are themselves an effective form of treatment. It is noted, though, that there would be some refinement around the ponds' exact form, given that the proposal that they have put in their application was a pretty stock standard sediment control structure from the Waikato Regional Council, but that would be the sort of thing that would be done as part of detailed design.
- Thirdly, with regard to erosion, Council had concerns about the effect of a prolonged peak. When the detention ponds are put in, they can spread the peak of a flood over a longer period of time and cause erosion. The applicant responded to these concerns by commissioning a report from geotechnical experts Tonkin + Taylor. They have advised that while there are some increases in the duration of peaks, they do not pose a risk to the stability of the banks, so Council is satisfied with that.¹⁰⁶

Discussion and Finding

Wastewater

337. Council has confirmed that the plan change area would access a reticulation network, that the plan change includes provisions for wastewater reticulation and its implementation would be considered at the time of subdivision. I have not identified any outstanding or matters of contention in this regard.

338. I am confident that there is currently available infrastructure capacity for wastewater reticulation capacity, the subject of significant investment in the last 20 years, with the

¹⁰⁵ Reporting Officer Response to evidence presented at hearing, 2 December 2019, page 1

¹⁰⁶ Mr Hall for Council, reconvened hearing, 2 December 2019. Transcript page 280-281

establishment of the trunk main between Oākura and the wastewater treatment plant at New Plymouth.

339. The cultural effects relating to the management of wastewater are addressed via Policy 23.10.2 in the provisions, and associated implementation methods.

Water supply

340. Much of the issues related to water supply at the start of the hearing centred around the capacity of aquifers to supply the West and South FUD areas. The subsequent reduced scale and size of the plan change and the removal of potential adverse visual effects of water tanks have contributed to resolving this matter.
341. I heard from Mr Hall, NPDC Manager Three Waters confirming that water supply was not a constraint of the plan change and would be available at each stage of development. The reduced size and scale plan change did not include water tanks.
342. The installation of water tanks to collect rainwater was received with mixed views from Council and submitters. On one hand there were perceived benefits from conserving water however there were visual effects with the potential storage of potable water.

Stormwater

343. At the conclusion of the hearing of evidence in July, further information was required regarding stormwater effects, including catchment modelling of run off, peak flow and potential flooding. Information was also sought on the management of water quality and integration with other matters, such as ecological effects and use and development of open spaces/reserves.
344. For the applicant, Mr Bunn's further analysis demonstrated that there is sufficient capacity in the proposed detention pond to accommodate storm events, and that the proposed pond would not increase peak flows at the discharge point. Further, he considered that the pond has a no more than minor effect on the SH45 culvert crossing and downstream confluence with the Wairau Stream. He states that in the modelled storm scenarios the development, resulting from the plan change, will have a negligible impact on the existing downstream environment.¹⁰⁷
345. These stormwater issues are addressed in the provisions at Policy 23.8 and implementation method 23.8 d) via a Stormwater Management Plan, and cultural issues are addressed via Policy 23.10.3.¹⁰⁸

¹⁰⁷ Closing submissions of the applicant, 20 December 2019, paragraph 43

¹⁰⁸ Closing submissions of the applicant, 20 December 2019, paragraph 45

346. The reporting officer upon the advice of Mr Hall, accepted the findings of the applicant and considered the proposal consistent with Policy 23.1 b) and d) of the District Plan in that stormwater infrastructure can be provided in a coordinated manner and ensures a resilient and safe community.

Landscape and Rural Amenity Matters

347. I note that the landscape expert witnesses did not agree whether the proposed changes to the landscape were appropriate, in relation to the proximity of the plan change area to the Oākura village, rural character and effects on the Kaitake Range which is defined as an Outstanding Landscape.

348. At the reconvened hearing, Mr Bain considered in his further evidence that the amended plan change documentation addressed the above issues. He was of the opinion that the amended proposal retains an open view for much of the length of SH45 towards the Kaitake Range, with the proposed urban area restricted to a smaller area abutting the edge of Oākura and avoiding the lower slopes of the Kaitake Range. Mr Bain believed the revised structure plan ensured that the associative values of natural character and legibility of the Kaitake Range/rural environment would be maintained. He outlined that there were no ODP provisions that supported the 'notion' that the views across the subject site were particularly important.

349. Mr Bain also in his further evidence outlined that 'adverse views from the 'The Paddocks' will be reduced as 'their middle-ground views' will remain farmland. He further noted that built views would be predominantly tucked beneath the area of the QE II covenant which will increasingly screen views of the proposal from 'The Paddocks'.¹⁰⁹

350. Disagreement between the landscape experts continued through the 'further evidence' process and the re-convened hearing. Mr Bain was of the view that that a comprehensive first principles review of the structure plan had been undertaken as opposed to an adjusting down approach.

351. Mr Kensington was of the view that the extent of the amended proposal would extend to an elevated part of the Oākura landscape which would result in an inappropriate outcome. He noted that adverse visual effects will be experienced by people viewing the landscape change from adjacent private properties including those located within 'The Paddocks' subdivision.

352. Mr Kensington highlighted his concerns which included a lack of integration into the landscape of the proposal, no opportunities or constraints analysis, the severance of important landscape features, a lack clarity of defensible rural-urban interface, and significant landscape and visual impacts that had not been addressed.

¹⁰⁹ Bain Further Evidence, 11 October 2019, paragraph 19

353. Mr Evans expressed similar concerns and outlined that the lack of information made it difficult to assess whether the form, scale and nature of the proposal was appropriate. He also noted that the associative values of tāngata whenua in relation to Kaitake had not been accounted for.
354. In his further evidence Mr Bain advised that he had addressed the concerns outlined and considered that the revised proposal was an appropriate form, nature, and scale of development from a landscape and visual perspective.
355. I note that further evidence from submitters contended that the amended proposal was a scaled-down version of the original proposal rather than a ‘fresh look’. Concerns about the location and scale of development, particularly when viewed from ‘The Paddocks’ area, were also re-iterated by submitters.
356. Mr Kensington was of the view that there needed to be a higher level of specification and detail contained in the structure plan regarding landscaping matters to enable assessment whether any adverse effects can be adequately mitigated.
357. Mr Wesley had concluded in his response report¹¹⁰ that insufficient detail had been provided to be able to conclude what the impact of the revised proposal might be on the Outstanding Landscape.
358. Having considered the amended proposal, the landscape expert evidence and the concerns expressed by Mr Wesley at the re-convened hearing which are captured in his response dated 2 December 2019 and, and the concerns of submitters, I remain uneasy and unconvinced that the landscape and visual effects of the proposal have been adequately addressed.
359. I have concerns as expressed elsewhere in this decision, that the impact of removal of the consent notice on Lot 29 in respect of rural character and views has not been adequately addressed notwithstanding part of the subject site is within the South FUD.
360. In addition, I am unsure of the impact of the proposal particularly the more elevated parts of it, will have on adjacent properties including ‘The Paddocks’ subdivision and whether the rules framework provided will adequately address those effects as well as the associative values of tāngata whenua.
361. The evidence of Mr Kensington supports this concern and I agree with his conclusion in his

¹¹⁰ Wesley: Response to Further Evidence for Reconvened Hearing

further evidence dated 15 November 2019, that adverse landscape and visual effects will be more than minor, and keeping the status quo will give better effect to the protection of rural character and landscape. It is the level of uncertainty of potential effects in respect of landscape and rural character effects that gives rise to my conclusion on these issues.

Noise Effects

362. Given the amended proposal submitted by the applicant, the proposed attenuation bund along SH 45 is no longer proposed on the basis the amended location of lots will result in dwellings being located beyond the set-back. This situation results in there being no reverse sensitivity matters associated with noise from the state highway requiring consideration. Accordingly, any noise matters would be managed through the relevant noise provisions of the DP.
363. I note that there were no specific comments regarding noise raised in the further evidence from submitters.

Appropriateness of Rezoning the Rural Environment Area Land

364. In respect of the amended plan change proposal, Mr Comber¹¹¹ noted that some 38.33 ha or 68% of the applicant's land will be retained in the Rural Environment area including land to be given over to open space. He was of the view that this was consistent with maintaining the site in its existing pastoral rural character.
365. Mr Comber outlined the general location was found to be appropriate as it is partially located in the FUD overlay identified in the District Plan and located close to the existing Oākura urban area. The reduced scale (reduction from 399 lots to 144 lots) of the plan change was considered to positively address submitter concerns about scale and intensity and would address community aspirations outlined in the various community planning documents that growth be managed, staged and targeted.
366. Mr Comber outlined that by reducing the overall scale of the proposal, the transport, traffic safety, social and cultural, landscape and infrastructure effects all reduce to an extent that the concerns raised by submitters and Mr Wesley, would fall away.
367. Mr Bain¹¹² outlined the rationale for the location, form and scale of the revised development proposal which primarily involved limiting built development to areas of flat land between vegetated gullies, setting development back from SH45 and utilising the unnamed tributary of the Wairau Stream as the boundary of residential development.
368. The further evidence of submitters¹¹³ is noted where it was contended that the overall

¹¹¹ Comber Further Evidence:11.10.19- Paras 9-30

¹¹² Bain Further Evidence: 11.10.19: Para 10

¹¹³ Kaitake Community Board:13.11.19: Para 16

concerns regarding the scale, location and need for the rezoning remained. In particular, that the revised proposal did not address the key concerns of submitters that the proposed rezoning is in the wrong location, that there is sufficient capacity for housing already provided for elsewhere in Oākura, and is contrary to the consent notice that currently does not permit subdivision of Lot 29.

369. Mr Wesley¹¹⁴ outlined that the revised proposal better responded to the nature and characteristics of the subject site and surrounding area. The location, form and density of the revised proposal may be appropriate in terms of Policy 23.1 a), subject to matters that he outlined such as the potential for reverse sensitivity effects with the dairy farm on the adjoining property to the southwest (Greensill property). With the removal of the Rural Lifestyle area and the separation of the residential development from the adjoining farm by retaining farmland on the southern portion of the subject site, he considered that the potential for reverse sensitivity effects had been significantly reduced.
370. He also noted that the applicant was proposing to treat the southwestern boundary of the proposed residential area as an area of open space with walking/cycling connections which would provide an appropriate physical buffer. Overall, he considered that the amended plan change, better interfaced with surrounding land uses by minimising reverse sensitivity issues with adjoining rural land and open space areas which was consistent with Policy 23.1 e).
371. A further consideration in respect of rezoning rural land to residential, is the supply and demand for residential land. As discussed elsewhere in this report, the land that is currently available in the Oākura area could meet the short and medium needs for residential land identified under the NPS-UDC through either infill housing or on undeveloped land already zoned for residential activity in Oākura.
372. I note that part of the subject site has been identified for residential development though the FUD overlay, and therefore assume that at least part of the land was considered appropriate to be rezoned in the future for residential purposes. However, there is no defined timeframe by when that rezoning should occur. Also, the Kaitake Community Board queried the appropriateness of the South FUD location, and whether it should even be developed, with a strong preference for development to occur in West FUD as a higher priority. The reasoning advanced for this view, was that West FUD was further away from the Kaitake Range and more logically connected to Oākura village.
373. In conclusion, while part of the subject site has been identified for future urban development, it is not intended to occur certainly within the next 10 years. It is most likely not appropriate to rezone the land now given the availability of existing opportunities. In addition, Lot 29 is precluded from further subdivision due to the current consent notice which has a focus on

¹¹⁴ Wesley Further Evidence:22.11.19

preserving rural spaciousness and character, and I am not satisfied that those matters will continue to be addressed by its removal or variation.

COMMUNITY PLANNING FRAMEWORK

374. A range of documents were referred to during the hearing that provided helpful background in respect of community aspirations, and what outcomes are sought in the future in respect of the growth and development of Oākura. Putting aside any national or regional planning instruments for the moment as they are discussed elsewhere, there are some key non-RMA documents that that are of relevance to consideration of the proposal.

Oākura: A Growing Community 2014/16

375. This report was referenced in evidence and in particular by Mr Wesley in his s42A report, and by the Kaitake Community Board in its submission and evidence presented at the hearing. It outlined the findings of an Oākura community engagement project following identification of the FUD Overlay in the District Plan. Part of the community engagement project involved testing the appropriateness of growing the village to the extent shown in the Overlay.

376. The work concluded that there was a strong desire to grow Oākura in a sustainable manner, through improving linkages between the beach, urban and rural areas and to the National Park, while retaining the character and quality of its environment. Feedback included that:

- Oākura was not ready to grow to the size (of the FUDs) in the short or medium term or in the foreseeable future
- There was a demonstrated need for staged growth
- The community preferred smart and targeted growth that takes into consideration the limitations on growth including changes to the character of Oākura, the size and location of the school and current school roll and traffic and parking issues on SH 45 and the CBD.

377. In considering this work, it does provide some clear guidance regarding community aspirations relating to the town and how it should develop and growth in the future. While not a statutory RMA document, it does assist in bringing together community thinking and input, where it could occur and the pace of development.

Kaitake Community Board Plan: A Thirty -Year Vision - October 2017

378. This plan outlines the visions and aspirations for Oākura, Okato and Omata, with the plan being developed with the community. It provides an indication to the Council about matters the Board considered on behalf of the three communities as being important and the actions and investment required to shape the future growth and development of the three identified communities.

379. It is noted that in respect of Oākura, the plan states that it requires managed, staged, and targeted growth. It is believed rapid and wide- spread expansion would negatively affect the special character of Oākura and adversely impact on matters such as education services, traffic, and environmental assets.¹¹⁵

Oākura Structure Plan 2006

380. The structure plan is a non-statutory document that provides for the overall nature and scale of the development of Oākura. The plan provides that new development needs to recognise the uniqueness and special values of Oākura including the views from the sea to the Kaitake Range. It is also recognised by the plan that there is a need to integrate the existing road network and existing utilities with any new residential development.

Discussion: Community Planning Direction

381. It has been notable in consideration of this matter the engagement and input by the Oākura community in respect of setting from a community perspective what the direction and scale of development of Oākura should be. As outlined in section 3 of this report, several plans have been developed with community input and engagement such as the Oākura: A Growing Community; the Kaitake Community Board Plan- A Thirty Year Vision; and the Oākura Structure Plan. There is a high degree of clarity around what the Oākura community would like to see in terms of staged and managed growth, and while the south FUD was subsequently put in place in 2013, there remains some question as noted by the KCB in its' submission, whether the south FUD should remain in place.
382. Notwithstanding that view, the FUD overlay only indicates where potential growth could occur, and still requires rezoning of land to occur. The FUD overlay places some restrictions on land-use given such land may possibly be developed for urban purposes at some stage in the future.
383. It is also noted that none of the planning documents outlined propose that any land beyond the South FUD be developed for residential purposes.
384. What I take from the community planning and Council planning processes to date is that there is other identified land in Oākura where development should occur and in respect of the FUDs, again other areas in Oākura should be utilised first before the South FUD.
385. In respect of the OSP, it had gone through an engagement process in its development and was publicly notified for submissions. There was subsequently a public hearing of submissions and then adoption by the Council. It has a 20- year horizon and was last subject to review in 2014.

¹¹⁵ Kaitake Community Board Plan- Executive Summary-Page 6

386. It identifies land to the south of SH45 for potential urban development which includes some of the subject site. In 2013, Plan Change 15 was approved by the Council which added an Urban Development Overlay that covered the same area of land defined in the OSP south of SH45 described as the South FUD.
387. I note in the KCB evidence¹¹⁶ the Board states that the community never envisaged that there would be further development of Lot 29. It is noted that the Board further outlines that the draft District Plan which has since been notified as a Proposed District Plan for submissions, does not envisage the south FUD being required for development until the 10 to 30- year period. The Proposed District Plan is discussed elsewhere in its report.
388. I note the evidence of Mr Twigley¹¹⁷ where he stated that both Oākura- A growing Community 2014/16 and the Kaitake Community Plan: A Thirty Year Vision 2017 should be had regard to, given they were prepared under the Local Government Act. He further noted that the community vision for Oākura supports managed, staged and targeted growth and that this as already mentioned does not include the village growing to the size indicated by the FUD overlays in the short to medium term, or the foreseeable future. He further referenced the Kaitake Community Plan which outlined that rapid and widespread expansion would negatively affect the special character of Oākura and adversely impact on matters such as education services and environmental assets.
389. The conclusion reached by me in respect of the various community and Council plans, is that while some of the subject site has been identified for the location of future growth (identified in the OSP and Plan Change 15- South FUD), it only related to part of the site and that the remainder of Lot 29 has not been envisaged for development for urban purposes.

OPERATIVE AND PROPOSED DISTRICT PLANS

Operative District Plan

390. The plan change request is made in respect of the ODP. The plan change request does not propose any amendment of existing ODP objectives but did seek to add two new policies and introduce new rules. In respect of the amended proposal the applicant did not submit revised plan provisions in the supplementary evidence, however amended provisions were submitted attached to Mr Muldowney's closing submissions.
391. The ODP does not provide for development of the subject site given its current Rural Environment zoning although part of the site is identified for future urban development purposes through the FUD overlay and its description as the South FUD. A significant portion of the amended proposal goes beyond the identified South FUD.

¹¹⁶ KCB Evidence- Para 76

¹¹⁷ Twigley Evidence in Chief- Paras 159 & 160

392. It is noted that the FUD overlay only identifies that land may be considered for rezoning for residential purposes and essentially has a planning framework in place to ensure development of land in a FUD does not compromise its future development for residential purposes.
393. Mr Wesley¹¹⁸ outlined that the nature and scale of the amended proposal of the amended proposal was more in keeping with the outcomes sought by the ODP but highlighted there were still outstanding matters to be resolved relating to cultural impact, traffic, landscape and visual effects.
394. It is noted that ODP Objective 1 relates to ensuring activities (which includes subdivision and development) do not adversely affect other environmental and amenity values within the district or adversely affected existing activities.
395. The following policies are to assist in achieving the objective being:
- Policy 1.1: Activities should be located in areas where their effects are compatible with the character of the area.
 - Policy 1.2: Activities within an area should not have adverse effects that diminish the amenity of neighbouring areas, having regard to the character of the receiving environment and cumulative effects.
 - Policy 1.3: New activities that are sensitive to the elements that define the character of the area in which they intend to locate should be designed and/or located to avoid conflict.
396. To implement these policies, the methods are the zone framework and associated rules, as well as the application of the Future Development Area Overlay.
397. The ODP contains a range of objectives relevant to the proposal and I note some of the key ones of relevance to consideration of the proposal and whether it is the most efficient and effective way of achieving them.

Objective 1: Ensure activities do not adversely affect the environmental and amenity values of areas within the district

Objective 4: Ensure subdivision, use and development of land maintains the elements of rural character.

Objective 5: Maintain and enhance the character and coherence of the urban areas of the New Plymouth District.

Objective 15: Protect and enhance Outstanding Landscapes and Regionally Significant Landscapes within the district.

Objective 22: Avoid the adverse effects of subdivision, use and development by ensuring

¹¹⁸ Response to Further Evidence: 22.11.19

appropriate and sufficient infrastructure, community facilities and new areas of open space are provided.

Objective 23: That land identified for future urban use is comprehensively planned to facilitate an integrated approach to land development while addressing site specific issues to provide for accessible, connected, efficient, liveable communities and coherent urban spaces.

398. A key theme of the objectives is to ensure activities do not adversely affect environmental and amenity values, maintenance of rural character, and a coherent and integrated approach to development.
399. There has been significant concern expressed by submitters about the loss of rural landscape and rural outlook as a result of the proposal and particularly on the rural outlook on the southern entrance to Oākura. Also, those submitters who are located in 'The Paddocks' subdivision have outlined their concerns about the impact on rural outlook and character and associated amenity by the proposal, and in particular with the proposal variation of the existing consent notice.
400. While it is accepted that there are some impacts on rural character, and landscape and visual effects anticipated by the ODP through the identification of part of the plan change area as the South FUD, I am not satisfied that such impacts have been adequately addressed and mitigated by the applicant in the amended proposal.
401. The proposal extends beyond the area identified in the South FUD which has not been identified for long term development, and that pastoral area does provide for the key elements of rural character such as spaciousness, and is maintained by its Rural Environment Area zoning and the consent notice in respect of Lot 29.
402. In terms of maintaining rural character, I am not satisfied that the proposal for rezoning is necessary given the existing and proposed opportunities for urban development that are available in the Oākura township. Hence the most efficient and effective way of providing for future urban development is not in respect of the amended proposal.
403. The applicant did not commission a social/ community impact assessment or make available an appropriate expert to adequately assess the nature and scope of any adverse effects for example on community facilities and services, connections with Oākura village and surrounds, the school capacity and how any impacts may manifest themselves due the proposal being approved and a significant increase in households albeit over a period of time, that would amount to an approximate increase of around 25% in total dwellings to what currently exists.
404. The impact of this increase would seem to be significant and appropriately considered through a social/ community impact assessment.

405. I am also not satisfied that the proposal allows for integration into the current urban fabric of Oākura, given there will be a reliance on vehicles for access to the subject site and that there is a lack of opportunities for integration into pedestrian and cycling access and provision and an example of this is the removal of the underpass under the state highway.
406. While the proposal is supported by some ODP objectives, I conclude that on balance that it does not adequately address matters related to rural character and amenity, is not appropriately integrated into the existing urban area, that there are other locations for growth and development that support a connected and liveable residential areas.

Proposed District Plan

407. During the hearing, the Council publicly notified the Proposed District Plan for submissions, the proposed plan is a relevant consideration in consideration of the evaluation of the plan change and consideration of the variation application for the consent notice.
408. I note that the proposed plan is at a very early stage of the plan making process and accordingly little weight can be accorded to it.
409. Of interest is that the plan does not envisage urban development beyond the general extent of the already defined South FUD although it is noted that the Thurman property which is part of the plan change area (1.7 ha of land between Wairau Road and the tributary to the Wairau Stream), is proposed to be rezoned to Residential in the Proposed Plan.
410. It also contains objectives in the 'Strategic Directions' section which provide for stronger guidance on matters of significance to tāngata whenua, housing supply and urban development and is a distinct move away from the effects based approach of the ODP, and which had little in the way of a strategic component or direction.

NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY 2016

411. It is noted that New Plymouth District is classified as a 'high growth area' under the NPS-UDC, although when the applications were lodged the classification was that of a 'medium growth area'. Mr Wesley advised that there were no additional or different matters in evaluating the plan change with this change in classification.
412. Furthermore, Mr Wesley's¹¹⁹ advice was as follows:

"The applicant's evaluation has assessed Objectives OA1 – OA3. I generally concur with the applicant's evaluation of these objectives. However, in regard to Objective OA2 and provision of sufficient opportunities and housing choices, this objective should be evaluated in the overall context of Oākura and the district. We understand that provision for more intensive

¹¹⁹ Wesley: s42 Report 31 May 2019- Paras 11.1-11.6

housing within the existing urban area of Oākura is being evaluated as part of the Proposed District Plan. In addition, other greenfield areas in Oākura which are already zoned residential under the Operative Plan would contribute to housing capacity in Oākura.

Under the policies implementing these objectives in the NPS-UDC, Council is to ensure there is sufficient housing land to meet short, medium, and long- term needs. As documented in the attached capacity assessment for Oākura, there is currently sufficient capacity to meet the short and medium- term needs. Therefore, the rezoning of land via this plan change is not needed to meet the NPS-UDC requirements. Notwithstanding the land is not needed for these requirements, the NPS-UDC does not preclude Council from rezoning additional land.

I also consider Objective OD1 ‘coordinated planning evidence and decision making’ is relevant given the proposed scale of the development and the pressure it places on infrastructure. Decision-making on rezoning needs to ensure there is integration between land use, development, development infrastructure and other infrastructure. To achieve this objective, for reasons set out later in this report, we suggest changes to the scale and extent of the rezoning to achieve this integration”.

413. It is noted that the capacity assessment for Oākura was disputed by the applicant and that there was a shortfall in actual yield of 88 lots according to Mr Doy¹²⁰.
414. Notwithstanding the differences of opinion on section yield, what the draft assessment referred to by the s42A report,¹²¹ is that the anticipated demand for new houses in Oākura in the next 30 years is 210 dwellings with an assessed supply depending on how the assessment is undertaken of between 542-630 lots. Even taking the lower figure of 542 lots, the supply is significantly greater than the likely demand.
415. I concur with the opinion of Mr Wesley that the rezoning of the subject land is not required to meet the requirements of the NPS-UDC. It is understood though that the NPS-UDC does not preclude Council from rezoning additional land.
416. I note that the NPS-UDC does not require the Council to ensure there is sufficient land for housing in each of the urban areas in a city or district. It takes a district -wide approach and any such need and where it is to be located, is ultimately a decision for the Council.¹²²

HOUSING CAPACITY ASSESSMENT

417. A consideration in evaluating the plan change is the capacity for additional housing in Oākura. This relates to whether current or proposed land supply can meet the anticipated future demand.
418. The Council during the hearing released its first ‘Housing and Business Development Capacity Assessment 2019’ in response to the NPS-UDC. The report sets out the estimated demand for

¹²⁰ Doy: Evidence in Chief

¹²¹ Wesley: s42A Report- Section 13.12

¹²² NPS -UD 2016: PA1, PC4, PC9, PC12, PC13(a), PD1(b)

dwelling in Oākura and the supply of land available (capacity) for housing.

419. Mr Wesley¹²³ in his report provided Table 1 which contained the estimated projected household growth (demand) in Oākura. This demand includes projections in the short, medium, and long term as well as total anticipated growth. This was based on the draft capacity assessment report prior to it being finalised by the Council. Based on that assessment, the total anticipated demand for new housing in Oākura in the next 30 years were 210 dwellings and the assessed supply being 630 lots.
420. Mr Wesley in response to the evidence of Mr Doy provided further evidence in his response¹²⁴ dated 22 November 2019 as follows:

“One of the further considerations with rezoning rural land to residential is the supply and demand for residential land. The Future Yield Analysis identified that the land that is currently available in the Oākura area could meet the short and medium needs for residential land identified under the NPS-UDC. That is, by way of either infill housing in Oākura as a part of the District Plan Review, or on undeveloped land already zoned for residential activity in the immediate area.

Mr Doy in his further evidence for the applicant has re-assessed the land supply in Oākura. He refers to the original evidence of Mr Kiss. Mr Doy concludes that in his analysis the potential lot yield/supply of dwellings in Oākura is 612, similar to Mr Kiss who concluded 590 lots/dwellings. This compares with the NPDC assessment of 756 lots/dwellings, with the main difference between Mr Kiss/Mr Doy and the NPDC assessment is the yield for infill and West FUD. The short term (2018-2021) and medium term (2021 – 2028) projected demand for dwellings in Oākura is 60 and 76 additional dwellings respectively. The long-term (2028 – 2048) projected demand for dwellings in Oākura is an additional 112 dwellings. Therefore, the total projected additional dwellings in Oākura in the next 30 years is 247. Utilising the lot yield from Mr Doy in his further evidence, the infill development and undeveloped residential land would meet the short and medium- term land supply requirements”.

421. Mr Wesley concluded that using Mr Doy’s assessment of yield, there was sufficient zoned land to meet housing needs in Oākura for the next 30- year period. This is by way of infill in the existing residential area or use of undeveloped land already having a residential zoning.
422. Based on the land capacity assessment including potential yield, I conclude that there is sufficient land to meet housing demand in the short to medium term without the plan change as noted in

¹²³ Wesley S42A Report- Paras 13.6-13.12

¹²⁴ Wesley Response to Further Evidence for Reconvened Hearing 22.11.19

the discussion on the NPS-UDC. When the land in the FUD areas (west and south) is brought on for re-zoning and development is a matter in my view for the Council to make an assessment on in due course. This will involve weighing up all relevant matters including community aspirations on growth and development and infrastructure provision, and then determining appropriate time frames for any timely re-zoning to occur. This also relates to previous discussion in this report where I note that the Council is best placed to take a holistic approach to overall growth and development, and it is very difficult for this to occur through a single private plan change process.

423. I also note that in its closing submissions Mr Muldowney¹²⁵ acknowledged that the amended plan change was not required to give effect to the NPS-UDC, and that the applicant does not rely on this factor to support the plan change.

TARANAKI REGIONAL POLICY STATEMENT

424. The Taranaki Regional Policy Statement (the RPS) was made operative in 2010.
425. The main policies that the plan change must give effect to under s75(3) of the RMA in relation to the private plan change are set out in the s42a report (31 March 2019) report. Mr Twigley has also identified relevant policies. In summary the main policies are:

Section 1 Use and Development of Resources UDC Objective 1, UDC Policy 1

Section 6 Fresh Water – WAL Objective 2, WAL Policy 3

Section 9: Indigenous Biodiversity

Section 10 Natural features and landscapes, historic heritage and amenity value – AMY Objective 1, NFL Policy 2 and AMY Policy 1

Section 15 Built Environment

Section 16 Statement of resource management issues of significance to iwi authorities – TOW Objective 1, TOW Policy 1, TOW Policy 2, KTA Objective 1, KTA Policy 1, CSV Objective 1, CSV Policy 1, CSV Policy 3.

426. *Section 1 Use and development of resources*
*To recognise the role of resource use and development in the Taranaki region and its contribution to enabling people and communities to provide for their social, economic, and cultural wellbeing.*¹²⁶

*Recognition will be given in resource management processes to the role of resource use and development in the Taranaki region and its contribution to enabling people and communities to provide for their economic, social, and cultural wellbeing.*¹²⁷

¹²⁵ Muldowney Closing Submissions: Para 19

¹²⁶ TRPS, UDR Objective 1, page 23

¹²⁷ TRPS, UDR Policy 1, page 23

427. Overall, this objective and policy goes to the heart of the concerns for the Oākura community. I am of the view that the plan change will provide for the economic, social and cultural well-being of the future residents of the area, however the vehicle-centric layout, lack of connectivity to the coast, particularly for vulnerable users and the lack of any community service and facility contribution will have medium to long-term effects on the social well-being of the Oākura community.

428. *Section 6 Freshwater*

*To protect the natural character of water bodies from inappropriate subdivision, use and development.*¹²⁸

*The in-stream values and life supporting capacity of water bodies will be maintained, and the natural character of rivers, streams, and lakes and their margins protected from inappropriate subdivision, use and development.*¹²⁹

429. I am satisfied that in-stream values and life supporting capacity of the Wairau Stream will be maintained as a result of the advice of the ecologist for the applicant, and the measures that have been established to control run-off and proposed planting on the stream margins.

430. *Section 9 Indigenous Biodiversity*

*To maintain and enhance the indigenous biodiversity of the Taranaki region, with a priority on ecosystems, habitats and areas that have significant indigenous biodiversity values.*¹³⁰

431. I am satisfied that the biodiversity, in terms of ecological habitat and species have been identified and measures are in place to maintain and enhance the biodiversity values of the plan change area over time.

432. Many of the submissions high-lighted the proximity of the plan change area to the Egmont National Park and the programmes to control weeds, pests, and predators. Cats and dogs have been identified as particular species that can impact on native bird species. A plan change rule or bylaw may be effective as a preventative method however the costs and difficulties with enforcement may preclude these measures from being implemented.

433. I am of the view that on balance, the plan change will be of no more concern than other development in the area, and an education response outside the plan is more likely to be effective.

434. *Section 10 Natural Features and landscape, historic heritage, and amenity value*

To recognise the positive contributions of appropriate use and development in terms of providing for the maintenance and enhancement of amenity values in the Taranaki region, while avoiding,

¹²⁸ TRPS, WAL Objective 2, page 36

¹²⁹ TRPS, Wal Policy 3, page 36

¹³⁰ TRPS, BIO Objective 1, page 82

remedying, or mitigating the adverse effects of inappropriate use and development on amenity values.¹³¹

The adverse effects of resource use and development on rural and urban amenity values will be avoided, remedied, or mitigated and any positive effects on amenity values promoted. Any positive effects of appropriate use and development will be fully considered and balanced against adverse effects

Those qualities and characteristics that contribute to amenity values in the Taranaki region include:

*-safe and pleasant living environment free of nuisance arising from excessive noise, odours and contaminants, and from traffic and other risks to public health and safety;
-scenic, aesthetic, recreational and educational opportunities provided by parks, reserves, farmland, and other open spaces, rivers, lakes, wetlands and their margins, coastal areas and areas of vegetation;
-a visually pleasing and stimulating environment;
-efficient, convenient and attractive urban forms; and
-aesthetically pleasing building design, including appropriate landscaping and signs.¹³²*

435. The variation to consent notice seeks to remove impediments to urbanising an area that had been protecting the rural character and amenity values of 'The Paddocks' residents and views from SH45. The plan change area is designed as a vehicle-centric subdivision with little opportunities for vulnerable road users to connect to the coast including beaches.

436. It is my view that the variation to the consent notice will be inconsistent with and not give effect to AMY Objective 1 and AMY Policy 1(a), (b) and (c).

Recognition shall be given to the appropriate management of other natural areas, features or landscapes not covered by Policy 1 (ONFL) above, but still of value to the region for one or more of the following reasons:

*-the maintenance of water quality and quantity;
-soil conservation;
-the avoidance or mitigation of natural hazards;
-natural character amenity and heritage values and scientific and educational significance;
-geological and geomorphological, botanical, wildlife and fishery values;
-biodiversity and the functioning of ecosystems;
-'sinks' or 'pools' for greenhouse gases; and
-cultural features of significance to tāngata whenua.¹³³*

437. I am satisfied that the plan change gives effect to the NFL Policy 2 as the area has natural character amenity, heritage values, cultural features of significance to tāngata whenua.

¹³¹ TRPS, AMY Objective 1, page 95

¹³² TRPS, AMY Policy 1, page 95

¹³³ TRPS, NFL Policy 2, page 90

438. *Section 15 The Built Environment*
*To promote sustainable urban development in the Taranaki region.*¹³⁴

To promote sustainable development in urban areas by:

- (a) encouraging high quality urban design, including the maintenance and enhancement of amenity values;*
- (b) promoting choices in housing, work place and recreation opportunities;*
- (c) promoting energy efficiency in urban forms, site layout and building design;*
- (d) providing for regionally significant infrastructure;*
- (e) integrating the maintenance, upgrading or provision of infrastructure with land use;*
- (f) integrating transport networks, connections and modes to enable the sustainable and efficient movement of people, goods and services, encouraging travel choice and low-impact forms of travel including opportunities for walking, cycling and public transport;*
- (g) promoting the maintenance, enhancement or protection of land, air and water resources within urban areas or affected by urban activities;*
- (h) protecting indigenous biodiversity and historic heritage; and*
- (i) avoiding or mitigating natural and other hazards.*¹³⁵

Include in district plans or resource consents, provisions or conditions that address sustainable urban development issues including among others:

- (a) objectives, policies, methods, rules, and performance standards controlling land use, development and subdivision;*
- (b) building and development controls or criteria;*
- (c) esplanade reserves or strips or access strips; and*
- (d) designations or other provision for public works.*¹³⁶

439. I have noted my view elsewhere in this report, that amenity values particularly those related to visual amenity and rural character will not be maintained. It is uncertain whether the plan change enhances or contributes to promoting energy efficiency in urban forms, site layout and building design.
440. The reduced plan change has diminished opportunities for recreation with a focus on vehicle centric access and lack of connectivity for vulnerable users with the village of Oākura. The current plan change does not include an integrated and connected network for walking, cycling and public transport.
441. The plan change contains limited information with regard to achieving SUD policies 1 (b),(c), and is likely to fail the test for SUD policy 1(f) related to *integrating transport networks, connections and modes to enable the sustainable and efficient movement of people, goods and services,*

¹³⁴ TRPS, SUD Objective 1, page 117

¹³⁵ TRPS, SUD Policy 1, page 117

¹³⁶ TRPS, SUD Method 5

encouraging travel choice and low-impact forms of travel including opportunities for walking, cycling and public transport.

442. *Section 16*

Act cooperatively and in good faith, showing flexibility and responsiveness and a desire to engage with Māori for the good governance of the Taranaki region.¹³⁷

Management of natural and physical resources in the Taranaki region will be carried out in a manner that takes into account the principles of the Treaty of Waitangi, including the principles of kawanatanga, rangatiratanga, partnership, active participation, resource development and spiritual recognition.¹³⁸

To have particular regard to the concept of kaitiakitanga in relation to managing the use, development and protection of natural and physical resources in the Taranaki region, in a way that accommodates the views of individual iwi and hapu.¹³⁹

Iwi and hapu will be consulted on an individual basis to determine how kaitiakitanga can be recognised and integrated in the management of the use, development and protection of natural and physical resources in the Taranaki region.¹⁴⁰

Management of natural and physical resources in the Taranaki region will be carried out in a manner that takes into account the cultural and spiritual values of Iwi o Taranaki and in a manner which respects and accommodates tikanga Māori.¹⁴¹

The special relationship that Taranaki tāngata whenua have with te taiao (the environment), as reflected in their respect for the spiritual integrity of te taiao as a living system infused with qualities of wairua (spirituality), mauri (life principle), wehi (reverence), mana (authority), tapu (sacredness) and noa (nontapu), will be given particular consideration in the promotion of the sustainable management of the region's resources.¹⁴²

Procedures will be adopted, which seek to recognise and accommodate tikanga Māori and the rangatiratanga rights of iwi and hapu over their mahinga mātaihai and other taonga in the environment and their role as kaitiaki, within resource management processes.¹⁴³

443. I have discussed earlier that Taranaki Iwi were not engaged with in a timely manner to have early, informed and meaningful participation and input, however the local hapu were given opportunities to be involved from an early period of the plan change development, and have a formal agreement with the applicant.

¹³⁷ TRPS, TOW Policy 1, page 128

¹³⁸ TRPS, TOW Policy 2, page 128

¹³⁹ TRPS, KTA Objective 1, page 130

¹⁴⁰ TRPS, KTA Policy 1, page 131

¹⁴¹ TRPS, CSV Objective 1, page 136

¹⁴² TRPS, CSV Policy 1, page 136

¹⁴³ TRPS, CSV Policy 3, page 136

444. The issues of concern from the late consultation have been recorded, assessed, and incorporated into the plan change and the iwi management plan has been taken into account. Whether the poor quality of the engagement and late inputs have given effect to the richness and depth of the objectives policies above, is a moot point. I am of the view that the relatively low key engagement with local hapu and the absence of Te Kahui o Taranaki for much of the plan development process is at the low range of giving effect to the objectives and policies of the RPS, in this regard.
445. Furthermore, whether what has been prepared can be translated into implementation is difficult to say.

STATUTORY CONSIDERATIONS

Resource Management Act 1991

446. Consideration is required to be given to Part 2 matters and whether the plan change request will promote the sustainable management of natural and physical resources in an efficient and effective manner.

Section 5: Purpose

447. The purpose of the Act is to “*promote the sustainable management of natural and physical resources*”. Sustainable management is defined under the Act as:

“Managing the use, development and protection of natural and physical resources in a way or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

-sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

-safeguarding the life supporting capacity of air, water, soil, and ecosystems; and

-avoiding, remedying, or mitigating any adverse effects of activities on the environment”.

448. The Council is required to ensure that any proposed changes to the District Plan will also result in outcomes that meet the purpose of the Act.
449. The proposal would allow for the provision of additional housing in Oākura and therefore opportunities for people to live in that community. It would also contribute to increased economic well-being by increased patronage of local businesses and activities.
450. However, there are existing locations and opportunities for residential growth and development in the town through existing zoning and District Plan provisions given the relatively modest annual growth that Oākura experiences. The subject site is therefore not currently required to achieve such opportunities. The targeted, and managed growth that the

community is seeking that is outlined in the various community planning documents is currently provided for.

451. It is noted that the part of the subject site which has a FUD overlay is not proposed for development in the next 10 or so years.
452. While the proposal will allow for the applicants' economic and social well-being, the impact of the proposal on wider social and community well-being is less certain and not well defined. Such impacts may include placing pressure on existing community and social facilities as discussed in this report and that the very qualities that people highly regard in Oākura, may be diminished.
453. It is the uncertainty of social impacts and how such impacts would be mitigated that results in my view that the status quo would in my opinion better achieve the purpose of the Act.
454. Notwithstanding the reduced scale of the amended proposal, it is considered that it would not use, develop or protect natural and physical resources in respect of the subject site or Oākura in a way or rate which enables people to provide for their economic, cultural, social or environmental well-being.
455. The proposal extends beyond the spatial extent of the South FUD and therefore is beyond what has been signaled or envisaged for urban development. There are potential impacts of removal of the consent notice in respect of Lot 29 that could result in adverse effects on rural character and amenity for adjacent property owners and in particular those residing in "The Paddocks" subdivision.
456. In addition, the proposal could result in about a 25% increase in households in Oākura over what already exist, and noting there are existing zoned development opportunities, the impact of such an increase is uncertain from a social and community perspective. Such potential cumulative impacts have not been assessed. Matters such as the 'small village feel', sense of place, social cohesion and connectedness could well be adversely affected.

Section 6: Matters of National Importance

457. This section sets out a number of such matters to be recognised and provided for.
 - “(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
 - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
 - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
 - (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
458. The subject site is situated on the foothills of the Kaitake Range (an Outstanding Natural

Landscape) and has the Wairau Stream and its tributary crossing the site.

459. I am satisfied that the proposal does not adversely affect the ONL. In addition, it would provide for access along waterways.
460. As outlined in the discussion on cultural matters, it is considered that the adverse effects on iwi and hapu relationship with the Kaitake will be more than minor.

Section 7: Other Matters

461. A range of matters are set out in this section that particular regard must be had to. It is considered that the following are of relevance:

“(b) the efficient use and development of natural and physical resources;
(c) the maintenance and enhancement of amenity values;
(f) maintenance and enhancement of the quality of the environment.”

462. The proposal will not result in an efficient use of natural and physical resources. There is already adequate provision for urban development in Oākura, and indeed the South FUD is not proposed to be utilised for urban development for at least 10 years. In addition, there are existing zoned opportunities for growth and development in Oākura.
463. I am satisfied the plan change area can be appropriately serviced for waters infrastructure and traffic effects can be addressed. Outstanding issues include the social and community impacts of the proposal, the existing and available growth opportunities in the township and inadequately defined or assessed therefore cumulative impacts.
464. I am not satisfied that amenity values are maintained or enhanced particularly with the proposed variation of the consent notice to allow subdivision of Lot 29. The effects of such have not been assessed to enable me to be satisfied that it is no longer required to mitigate effects of the earlier ‘Paddocks’ subdivision.
465. Overall, I am not satisfied that ‘Other Matters’ have been appropriately addressed to lead to a conclusion, that any effects have been mitigated to an extent that the plan change be approved.

Section 8: Treaty of Waitangi

466. Section 8 of the Act requires the Council to take into account the principles of the Treaty of Waitangi. The relevant principles of the Treaty of Waitangi in this plan change are:
- The duty to consult
 - The principles of rangatiratanga
 - The principles of partnership
 - The principle of active protection, and

- The principle of resource development and spiritual recognition.

467. I am not convinced that the duties to consult with tāngata whenua through iwi authorities has been discharged in a satisfactory manner. The consultation with the iwi authority Te Kahui o Taranaki was conducted after the notification of the plan change and following the submissions period. The preparation of a CIA was prepared at haste and turned out to be inconclusive on a range of matters, in my view due to the short timeframe to consider matters and a lack of relevant information.
468. As noted below, the iwi management plan Taiao Taiora, was launched after the plan change had been lodged and publicly notified.

Section 74(2A) Taking Account of Iwi Management Plans

469. A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. (s74(2A)).
470. Taiao Taiora is a relevant planning document to be take account of under s74(2A) of the Act. Taiao, Taiora – Taranaki Iwi Environmental Management Plan was adopted and released in July 2018 after the plan change request had been publicly notified.
471. Taranaki Iwi spoke to the contents and relevance of this plan to this plan change. Taiao Taiora does not provide support for residential subdivision and development of the scale proposed, in the proximity proposed, to Taranaki Mounga. Relevant policies are outlined in section 11.16 of the 31 May s42A report.
472. Ms Wano-Bryant on behalf of Te Kahui o Taranaki and through other submitters raising the adequacy of the request's assessment against Taiao Taiora Taranaki Iwi's Environmental Management Plan.
473. The applicant responded by preparing an assessment of the provisions of Taiao, Taiora, and later commissioning a CIA to address the issues and concerns raised by Ngati Tairi and Te Kahui o Taranaki. Many of the recommendations of the CIA have been incorporated into the provisions of the plan change.
474. I have assessed the objectives, policies and methods included in the iwi management plan, and consider them to have been taken into account, in so far as the applicant and Council has jurisdiction.

Schedule 1

475. The consultation with tāngata whenua requirements for plan changes are contained in s3B of Schedule 1 of the RMA. As I have stated in the cultural matters section of this decision the consultation undertaken with Te Kahui o Taranaki (the mandated iwi authority) occurred following notification and submissions. I have considered this consultation to be at the lower range of compliance with the Schedule 1 requirements, and I am of the view that it potentially prejudiced their early, informed, and meaningful participation and input.
476. This has been somewhat mitigated by the involvement of the local hapu, Ngati Tairi representatives in three meetings, the consideration of their views into the plan change preparation, and although late, the assessment and response to Taiao, Taiora policies.
477. Overall, I am of the view that the duties of consultation in Schedule 1 have been marginally adhered to but are inconsistent with the implicit characteristics of the duty to consult as a principle of the Treaty of Waitangi.

SECTIONS 32 AND 32AA RMA EVALUATION

478. Section 32AA of the RMA requires us to include a further evaluation of any proposed changes to the plan change arising from submissions (to be undertaken in accordance with s32AA). Given that my recommendation is not to approve the private plan change and therefore there are no amendments to the proposal, no further evaluation is required.
479. In evaluating the options which are either the retention of the existing Rural Environment Area zoning, or rezoning as per the amended plan change request, I consider that maintaining the status quo is appropriate. This is on the basis that the proposal will not assist the Council in achieving its functions under s31 of the RMA nor will it assist in achieving the sustainable management purpose and principles of the RMA. The social and cultural implications have not been adequately evaluated and that by not acting and therefore maintaining the existing zoning, is an appropriate course of action.
480. The report conclusions that follow clearly identify why PPC48 is not the most appropriate way to achieve the objectives of the District Plan.

CONSENT NOTICE EVALUATION

481. In considering s104 and s221(3) regarding the application to vary or cancel the consent notice, I find that there may be potential effects on the environment through variation or cancellation of the consent notice that have not be fully evaluated and assessed particularly in respect of 'The Paddocks' subdivision which gave rise to the imposition of the consent notice. The consent

notice was imposed to mitigate potential adverse effects relating to rural character, visual amenity and amenity values more generally, and I am not convinced that it's removal will not give rise to such effects as outlined previously in this report.

482. The consent notice was determined to be relevant and reasonably necessary at that time to enable approval of 'The Paddocks' subdivision, and in my opinion there has been no significant change in circumstances to warrant its variation as sought by the applicant.

483. In summary, I have had regard to all relevant matters as required by s104 and s221(3) of the RMA.

CONCLUSIONS

484. Overall, I find that Private Plan Change 48 as amended not to be the most appropriate way to achieve the objectives in the District Plan as:

- Recommending approval of PPC48 would be a premature action given it does not align with the clearly defined Oākura community and the District Council aspirations and direction regarding growth and development of Oākura.
- The proposal is significantly greater than the area covered by South FUD. In addition, given the current stage of Oākura and the significant increase in lots proposed by PPC48, that an Oākura wide consideration of future growth and development opportunities through the current Proposed District Plan process would be an appropriate mechanism for consideration of such matters. It would provide for a wider consideration of the future development of Oākura and also an opportunity for the community wide social impacts of growth on existing community services and facilities such as the Oākura Primary School.
- Section 5 of the RMA has a strong focus on social, cultural, environmental, and economic well-being of communities and from the evidence and submissions presented, there is uncertainty about the social and cultural impacts of the plan change if approved. It is noted that no formal social impact assessment or expertise was provided by the applicant.
- There is the uncertainty of acting given the potential social and cultural impacts which have not in my opinion been adequately informed, evaluated, and implemented in respect of the proposal. The discussion in this report outlines these concerns and the uncertainty. It would appear more appropriate for a Council led initiative to comprehensively review the future growth and development challenges and opportunities in respect of Oākura.
- The private plan change process does not seem well suited to such an approach as the focus is similar to that of a resource consent process on a particular site or area of land as opposed to a more integrated Council led approach. This seems particularly appropriate given the community interest in well managed growth and development in respect of Oākura. The

several community-led and Council/ Community Board initiatives seem to support a more holistic approach.

- Community plans, reports and projects point to a clear theme which was represented by many submitters that the Oākura community had established its aspirations and outcomes for future development and growth in Oākura. The overall extent of these aspirations could be taken as being reflected spatially in the extent of the FUD overlays, although as noted in the evidence there was some uncertainty in respect of the South FUD from the KCBs perspective.
- Notwithstanding the uncertainty, it is not envisaged that land in the south FUD would be required for development within the next 10 years. Growth is enabled through existing District Plan provisions and land through existing zoning.

485. In addition, I find it is not appropriate to recommend any variation to Consent Notice 9696907.4 as:

- There is insufficient evaluation and assessment in respect of satisfying me on the change of circumstances to warrant its amendment or cancellation.
- The consent notice was imposed for a clear purpose, that being to mitigate and off-set the adverse landscape and visual effects of 'The Paddocks' subdivision, and to ensure open space is retained in respect of Lot 29. I am not satisfied that those effects no longer require mitigation through the continued imposition of the consent notice in its current form and although the lot included some land that was identified as South FUD, a significant portion of Lot 29 was identified as Rural Environment Area and not envisaged for residential development.

RECOMMENDATIONS

486. ***That pursuant to Schedule 1, Clause 10 of the RMA, it is recommended to New Plymouth District Council that PPC48 as requested and amended by Oākura Farm Park Ltd, to the New Plymouth District Plan, be declined.***

487. ***It is recommended that the submissions on PPC48 are accepted and rejected as set out in Attachment 1 attached to this report.***

488. **In addition to the findings made in this report, the summarized reasons for this decision are that Private Plan Change 48:**

- Will not assist the Council in achieving its functions under s31 of the RMA and the Part 2 sustainable management purpose and principles of the RMA.

- Is not fully aligned with the growth and direction for Oākura township as envisaged by the Operative District Plan; the Oākura Structure Plan or community planning aspirations of the Oākura community.
- That the social and cultural implications of PPC48 have not been adequately evaluated given the significant additional development proposed by the private plan change when compared to the existing size of Oākura.
- That there is adequate and demonstrated capacity to cater for development and growth in the foreseeable future, and certainly out 30 years.
- That declining the plan change would best achieve the purpose of the Act given there is no need for rezoning of land for residential purposes given there is demonstrated supply available in the short to medium term to provide land for housing demand and supply.
- That it has not be adequately demonstrated that the removal or variation of the consent notice will not result in effects in respect of rural character and spaciousness in respect of Lot 29.

489. ***That pursuant to sections 104 and 221(3A) of the RMA, it is recommended that the discretionary activity application of Oākura Farm Park Ltd to vary Consent Notice 9696907.4 be declined as:***

- The consent notice was imposed for a clear purpose, that being to mitigate and off-set the adverse landscape and visual effects of 'The Paddocks' subdivision and to ensure open space is retained in respect of Lot 29. It has not been adequately demonstrated that those effects have been mitigated by the plan change proposal.

490. ***That pursuant to section 37 of the RMA, the late submissions of John Newton (S427); George Newton (S429); Lee Newton (S429); Louis Newton (S430); Paul Bishop (S431); Toby Dixon (S432); Fiona Tait (S434); Karen White (S435) and Charles Cotton (S436) are accepted.***



**William Thomas Wasley
Commissioner**

22 May 2020

Appendix 1: List of Submitters to Private Plan Change 48

Submission No	Submitter Name
1	Paul Andre Lavoipierre
2	Jennifer Susan Lavoipierre
3	Jennifer Elaine Blyde
4	Anna Louise Hinton
5	Nicola Ann Lumb
6	Molly Jayne Lumb
7	Paul Joseph Veric
8	Heelan Tompkins
9	Trent Tscheuschler
10	Kevin Nielsen
11	Stuart Tinson
12	Tom Cloke - National Road Carriers Association
13	John Tanner
14	Madeline Layupan
15	Grant Stewart
16	John Grahame Christiansen
17	Leen Fiddelaers
18	Timothy John Costelloe
19	Ross Ingram
20	Jane Dove Juneau and John Riccitelli
21	Wibke Termath
22	Andrew Kenneth Marshall
23	Peter Newton
24	Alan Frederick Crawford
25	Arielle Mermin
26	Gerald Turner
27	Peter Cassie
28	Rachel Faye Schafer
29	Graeme Thomas Churchill
30	James JH Baxter
31	Manu Lee Schafer
32	Denise Mary Novak
33	Stuart J Wells
34	Sheree Jull
35	Howard Gordon Reid
36	Ben Tarrant
37	Jason Lee Peacock
38	Jacqueline Grieve
39	James Richard Matheson
40	Dennis Green
41	Heather Lofthouse
42	Matthew John Whittaker
43	Nicole Katherine Whittaker
44	Kate Whittaker
45	John Graeme Whittaker
46	Taranaki Equestrian Network (TEN)
47	Anita Christine Rebecca Luxton
48	Christian Keith Wingate

49 Steven Collier
50 Rodney Martin
51 Jeremy Hutchings
52 Jennifer Maree Wells
53 Jennifer Marjory Brown
54 Paul Jamieson
55 Katherine Vernon
56 Milou Barrett - Chairperson of Oakura School Board of
Trustees
57 Dana Hazard
58 Hailey Foster-Ander
59 Richard Shearer
60 Anthony James Ander
61 Cameron Murray
62 Elaine Jamieson
63 Kim Jennings
64 Nicholas John Gladstone
65 Rosemary Claire Moyes
66 Bryan Alan Moyes
67 Lycia Moyes
68 Vivien Angela Gladstone
69 Joanne Ruth Brown
70 Stephen John Wood
71 Michael George Anderson
72 Colin Roger Ellis
73 Mary Levett
74 Jonathon Heath
75 David Paul Herbert
76 Maura Conaglen
77 Craig Farrant
78 Helen Shearer
79 Neil Farrant
80 Glen Eugene Johns
81 Aaron Dwayne Hine
82 Rachel Hareb-Hine
83 Victoriaa Jane Johns
84 Chris Wells
85 Dianne Kay Brien
86 Loe and Lies Stolte
87 Milou Barrett
88 David Andries Willem Rood
89 Sophie Lily Crabtree
90 Alex Margaret Reid
91 Susan Imhasley
92 Ian Philip Coutanche
93 Paul Maurice Wynter
94 Lars Binsbergen
95 Jackie Keenan
96 Ronald Stratford
97 Jaynie McSweeney
98 Helen Margaret Fleming
99 Alex Ingram
100 Stuart Bennett

101 Vincenza Mancini Clark
102 Robert Brian Clark
103 Hayley Bennett
104 Allie Black
105 Simon Roche: Powerco Limited
106 Hayley Ingram
107 Lisa Wynter
108 Stefan Imre Kiss
109 Amy Cunningham
110 John Russel Ardern
111 Keith Manukonga
Chairperson, Oakura Pa
112 Jacqueline Molloy
113 Vince Fenning
114 Oakura Playcentre, Hayley Bennett
115 Anne Bridges
116 Richard Rollins
117 Rosemary Law
118 Rachel Anna Law
119 Queen Elizabeth the Second National Trust
120 Kylie Braddock
121 Climate Justice Taranaki
122 Dirk Schmidt-Rittershang
123 Tracey MacKenzie
124 Kim Sheree Winstanley
125 Sian Wingate
126 Rebecca Scott
127 Lyndon DeVantier
128 Ana Hislop
129 Robyn Ann McGregor
130 First Gas Limited, Shell Taranaki Limited and Liquigas
131 Nikki Ingram
132 Angela Lawn
133 Clare Knapton, NPOB Swimming and Surf Club
134 Taranaki Iwi, Wharehoka Wano
135 Amy Sutherland
136 NZ Transport Agency
137 Clare Knapton
138 Anna Marie Debreceeny
139 Scarlet-Rose Aitken
140 Jonathan Price
141 Mary Bishop
142 Wild for Taranaki
143 Claire Tompkins
144 Paul Cunningham
145 Sarah Cunningham
146 Rene Stefan Lepionka
147 Marvin Clough
148 Simon Anthony Bond
149 Keith Bond
150 Jason Bond
151 Olaf Wahlen
152 Brigit and Matthew Krueger

153 Steven Richard Looney
154 Stella Marie Bond
155 Mary Deken
156 Yvonne Peacock
157 Anne Elizabeth Clough
158 Matt Peacock
159 Sarah Foreman
160 Grant Aitken
161 Raymond Rooker
162 Diego Javier Romero Parra
163 Suzette Kaye Boddington
164 Margaret Dobbin
165 Luke Peacock
166 Kerry Peacock
167 Graeme John Duff
168 Stephen Lumb
169 Peta Bisset Hislop
170 Barbara Costelloe
171 Anna Blyth Costelloe
172 Helen Elizabeth Des Forges
173 Matthew Robert Crabtree
174 Layne Greensill
175 Catherine Deeley
176 Jessica Kate Churchman
177 Stephen Ruddlesden
178 Linda Kathryn Murray
179 Geoffrey Neil Murray
180 Craig Hunter
181 Marion McNeil Chitty
182 Maria Dawn Townsend
183 Max Gillespie
184 John William Freeman
185 Brigitte Hegner Freeman
186 Susan Michelle Rose
187 Mervyn Clarence Foster
188 Ngaio Marama Crook
189 Craig Peter Williams
190 Bianca Ruakere
191 Dominique France Blatti
192 Patricia Anne Brodie
193 Keith McLean Brodie
194 Candida Fox
195 Joseph Thomas Churchman
196 Sion Bridge
197 Kate Evans
198 Chris Evans
199 Alan Kindler
200 Clare Elizabeth Leven
201 Toni Maree Peacock
202 Sioban Luttrell
203 Madaleine Bourke
204 Finn Bourke
205 Shirley Lynette Fisher

206 Erica Thompson
207 Alexandra Thompson
208 Catherine Julia Lennox
209 Ingrid Whalen
210 Dr Jeanette Drury-Ruddlesden
211 Barney Walker
212 Max Shearer
213 Belle Evans
214 Kris Robinson
215 William Howard
216 Bruce Donald Hookham
217 Jennie Aitken-Hall
218 Sam Mortensen
219 Hannah Elisabeth White
220 Sarah Markert-Emans
221 Joseph Emans
222 Elayne Kessler
223 Ruth Elizabeth Morgan
224 Narelle Frampton
225 Karen Cave
226 Mike Vickers
227 Kate Ponga
228 Chris Kindler
229 Murray Hewitt
230 Emma Hislop
231 Philippa Dinnison
232 Campbell White
233 Susan Freeman
234 Claire White
235 Mikisela Nyman
236 Steven King
238 Stepphen John Roberts
239 Alwyn John Dinnison
240 Sacha Maria Bull
241 Gareth Luttrell
242 Andrew Paul Sherwood-Hale
243 Ian Douglas Corrigan
244 Rinn Frances Willetts
245 Lizaan Sherwood-Hale
246 Sara Elizabeth Frey
247 Thomas Paul Ellison
248 Gillian Elizabeth Gibbon
249 Ian Peter Gibbon
250 Kate Louise Hinton
251 Hannah Brieseman
252 Sara Jayne Matheson
253 Gina Milestone
254 Francois Husillos
255 Paul and Penny Holdcroft
256 Melissa Henwood
257 Chris Edward Henwood
258 Kaitake Community Board

259 Adam Christopher Thame
260 George Poole
261 Graeme Mitchell
262 Mark Bridges
263 Tobias Looker
264 Christophe Massa
265 Greg Shearer
266 Sam Dixon
267 James Harrop
268 Rowan Deuapt
269 Paul Donald Coxhead
270 Patricia Rae Coxhead
271 Elli Pillette
272 Jenna Pillette
273 John Tooman
274 Jan Bisset Brash
275 Heather McKinnon
276 Glenys Mair Farrant
277 Ruth Brieseman
278 Gary Brieseman
279 Ed Shearer
280 Shelley Tipler
281 Howard Evans
282 Christopher Edward Taylor
283 Christopher DJ Curd
284 Irene More
285 Dominic Barson
286 Corrin Grace Pryce-Baxter
287 Rowan Paul Oldfield
288 Jane Elizabeth Shearer
289 Michael Leonard Gibbon
290 Bruce Gordon Duggan
291 Suzanne Bloch-Jorgensen
292 Andrew Kingsley
293 Edward Roger Thompson
294 Barry Ross (Sam) Sutherland
295 Vicki Maree Looney
296 Tanya Farrant
297 Neil McLauchlan
298 Emma Kate Taylor
299 John Malcolm Quilter
300 Harry Nikau Looney
301 Mack Julian Looney
302 Brenda Lee Frampton
303 Warren Alexander Green
304 Neville Courtney Frampton
305 Karl Looney
306 Wendy Elizabeth Marshall
307 Hamish Shearer
308 Margaret Rose Fleming
309 Zaki Shamas Din
310 Heather Mary Weston
311 Kim Anne Fredrickson

312 Jillian Murdoch
313 Geoff Shearer
314 Melissa McQuaig
315 Joanne Hill
316 Dorrien Andrews
317 Phoebe Ruth Andrews
318 Ian Blair Ivess
319 Helen Anne Ivess
320 Marion Anne Duff
321 Adam Karl Hinton
322 Daisy Din
323 Toby Din
324 Paul John Haskell
325 Lisa Ann Haskell
326 Jill Angela Shearer
327 Maree Milestone
328 Yvonne Adele Blatti
329 Darrell Farmer
330 Michael Gerard Yardley
331 Julie Helen Yardley
332 Pamela Anne Frame
333 Ian Stewart Frame
334 Julia
335 Douglas Hislop
336 Audrey Stockman
337 Desmond Stockman
338 Natalie O'Donnell
339 Katy Hutchins
340 Gloria Zimmerman
341 Kathleen Anne Fraser
342 Christopher John Thame
343 Pauline Gay Thame
345 Joanne Mary Francis-Alles
346 Lagen Kumeroa
347 Gillian Slaney
348 Nina Lobb
349 Barbara Hawkins
350 Christy Warke
351 Julia McNeil
352 Shanon Carmel Dowsing
353 Maree Brown
354 Hayden Corkin
355 Margaret Anne Constance
356 Fiona Sorensen
357 Gabrielle Lloyd
358 Elizabeth Barrientos
359 Janet Sweet
361 Yulan Imhasly
362 Juraj Krajci
363 Lubos Krajci
364 Marie-Jose Griffin
365 Michael William Pillette
366 Hanan Michael Pillette

368 Belinda Pickford
369 Allen Douglas Charteris
370 Clare Sherlie Charteris
371 Lynne Le Roux
372 Shelley Dawn Landon-Lane
373 Robyn Jacqueline Prentice
374 Patrick Murray Brien
375 Stuart G McKinnon
376 Fay Rosalie Looney
377 Tanya Hansen
378 Ann Geraldine Hikaka
379 Robert and Carlene Dobbie
380 Francis Farmer
381 Nicholas Field
382 Mike Hareb
383 Ben Chapman
384 Leonie Smith
385 Heather Robyn Looker
386 Jono Watts
387 Stephen John Butter [Butland?]
388 Marine Derore
389 Tony Graeme Willetts
390 Luke Florence
391 Amber Christiansen
392 Claire Florence
393 Christine Gruys
394 Grace Pryce
395 Eleanor Rose Moyes
396 Shaun Thomas Churchill
397 Catherine Ongley
398 Rosalind McFetridge
399 Kama Ambrose
400 Brady Cates
401 Joy Woodward
402 Lee William Webb
403 David John Smith
404 Sharon Thomas
405 Helen Lamb
406 Michelle Jane Beekman
407 Neal Pullen
408 Janko Reinders
409 Constance Rebecca Reinders
410 Stephanie Marie Griffith
411 Valerie Neil
412 Greer Elise Thomas
413 Nadine Greaves
414 Emma Wilson
415 Jarran Neil Colman
416 Jack Kurta
417 Alexandra Power
418 Sarah Churchill
419 John Briesemann
420 Christina Wells

421 Patricia Elsie Hardy
422 Jan Roebuck
423 Matthew Brash

Late Submissions

L424 John Newton
L425 George Newton
L426 Lee Newton
L427 Louis Newton
L428 Paul Frederick Bishop
L429 Wayne Looker
L430 Grant Looker
L431 Philippa Holman
L432 Toby Dixon
L433 Glenda May Tyrrell

Appendix 2: List of Submitter Appearances: Hearing Private Plan Change 48

Submitter	Speaker	Sub
Kaitake Community Board (Tabled documents and USB)	Doug Hislop and Mike Pillette	258

Tuesday
23 July 2019

Submitter	Speaker	Sub #
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Wednesday
24 July 2019

10.10am	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Scott Grieve - Legal	various
11.04am	Maria Townsend (tabled doc)	Maria Townsend	182
11.12am	Ingrid Wahlen	Maria Townsend	209
11.13am	Anita Luxton	Maria Townsend	47
11.14am	Kerry Peacock	Maria Townsend	166

11.25am	Tanya Hansen	Jennifer Blyde	377
11.35am	Jennifer Blyde	Jennifer Blyde	3
11.44am	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Richard Rollins - Pesticides in Water & Potential Health Effects	various
12.25pm	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Nic Gladstone - Traffic Safety	various

1.50pm	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Matt Peacock - expert evidence in relation to land development and subdivision infrastructure	various
2.14pm	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Peter Kensington - Landscape	various
2.58pm	Matt Peacock, Richard Shearer, Steven Looney, Wayne Looker	Cam Twigley - Planning	various
4.10pm	Milou Barrett	Milou Barrett	87
	Hayley and Stuart Bennett	Milou Barrett	103 and 100
	Richie and Sara Matheson	Milou Barrett	39 and 252
4.29pm	Loe and Lies Stolte	Milou Barrett	86
4.30pm	First Gas	Erin Whooley	130
4.46pm	Ian Frame	Ian Frame	333
5.07pm	Fay Looney MNZM	Fay Looney MNZM	379
5.30pm	Graeme Churchill	Suki Bishop	29
5.32pm	Denise Novak	Denise Novak	32
5.39pm	Bruce Hookham	Bruce and Patti	216
5.30pm	Graeme Churchill	Suki Bishop	29
5.50pm	Stefan Kiss	Stefan Kiss	108

Date
Thursday
25 July
2019

	Submitter		Sub
9.10am	Rosemary Law	Rosemary law	117
9.20am	Sam Dixon	Sam Dixon	266
10am	Toby Dixon	Sam Dixon	L432
10.10am	Matt Peacock	Matt Peacock	158
10.37am	Barney Walker	Matt Peacock	211
10.39am	Luke Peacock	Matt Peacock	165
10.45am	Te Kohia O Taranaki	Puna Wano-Bryant	134
11.45am	Toni Peacock	Toni Howison	201
11.57am	Gina Milestone	Toni Howison	253
12noon	Jacqueline Kearns	Jacqueline Kearns	
12.18am	Richard Rollins	Richard Rollins (Did not finish)	116
12.21pm	Layne Greensill	Layne Greensill	174
12.40pm	Craig Williams	Craig Williams	189
12.51pm	Jacqueline Molloy	Jacqueline Molloy	112

2.07pm	Ed Shearer	Ed Shearer	279
2.08pm	Max Shearer	Richard Shearer	212
2.10pm	Richard Shearer	Richard Shearer	59
2.25pm	Yvonne Peacock	Yvonne Peacock	156
2.30pm	Jason Peacock	Jason Peacock	37
2.41pm	Dennis Green and Jennifer Brown	Dennis Green	40 & 53
	John Freeman	Dennis Green	184

	B Hegner Freeman	Dennis Green	185
	Shirley Fisher	Dennis Green	205
	Jenifer Wells	Dennis Green	52
2.58pm	Graeme Duff	Graeme Duff	167
3.23pm	Kate Evans	Kate Evans	197
3.27pm	Chris Evans	Kate Evans	198
3.33pm	Jane Dove Juneau	Jane Dove Juneau	20
3.42pm	Oakura Playcentre	Jane James	114
4.10pm	Board of Trustees, Oakura School	Paul Veric, Lynne	56
4.50pm	Catherine Lennox	Catherine Lennox	208
5pm	Rene Lepionka	Rene Lepionka	146
5.04pm	Birgit Kuriger	Catherine Lennox	152
5.10pm	Hayley Ingram	Hayley Ingram	106
5.13pm	Alex Ingram	Alex Ingram	99
5.20pm	Penny Holdcroft	Hayley Ingram	255
5.23pm	Glenys Farrant	Glenys Farrant	276
5.25pm	Olaf Wahlen	Glenys Farrant	151
5.26pm	Maura Conaglen	Glenys Farrant	76
5.28pm	Manu and Rachel Shafer	Craig Farrant	31 and 28
5.30pm	Craig Farrant	Craig Farrant	77
5.32pm	Helen Ivess	Dianne Brien	318
5.37pm	Di Brien	Di Brien	85
5.40pm	Rodney Martin	Rodney Martin	50
5.46pm	Rowan Oldfield	Rowan Oldfield	287
5.53pm	Brian and Vincenza Clark	Brian Clark	102 and 101
5.56pm	Graeme Mitchell	Graeme Mitchell	261
5.59pm	Max Gillespie	Max Gillespie	183
6.05pm	Dorrien Andrews	Dorrien Andrews	316
6.10pm	Helen Shearer	Helen Shearer	78
6.16pm	Howard Reid	Howard Reid	35
6.19pm	Mary Bishop	Mary Bishop	141
6.43pm	Jackie Keenan	Jackie Keenan	95
6.56pm	Gillian Gibbon	Gillian Gibbon	248
	Ian Gibbon	Gillian Gibbon	249
6.59pm	Michael Gibbon	Gillian Gibbon	289
7.04pm	Cam Murray	Cam Murray	61
7.10pm	Alexandra Thompson	Alexandra Thompson	207
7.20pm	Erica Thompson	Alexandra or Edward Thompson	206
	Edward Thompson	Edward Thompson	293
	Jaynie McSweeney	Jaynie McSweeney	97

Date	Tim	Submitter	Speake	Sub
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Friday
26 July 2019

10.45am	Tom Cloke	Tom Cloke	12
10.55am	Marvin Clough	Marvin Clough	147
11.01am	Anne Clough	Anne Clough	157
11.11am	Elaine Jamieson	Elaine Jamieson	62
11.19am	Kim Jennings	Ross Jennings	63
11.28am	Byran Moyes	Bryan Moyes	66
11.40am	Rosie Moyes	Bryan or Rosie Moyes	65
11.45am	Catherine Ongley	Catherine Ongley	397
11.56am	Ngaio Crook	Ngaio Crook	188
12.15pm	Taranaki Equestrian Network (TEN)	Megan Gundesen	46
12.27pm	Sarah Foreman	Sarah Foreman	159
12.41pm	Rebecca Scott	Rebecca Scott	126

1.20pm	Steven Looney	Steven Loony	153
1.28pm	Steven Wood	Steven Wood	70
1.42pm	Grant Stewart	Grant Stewart	15
1.46pm	Paul and Pat Coxhead	Paul Coxhead	269 and 270
1.50pm	Allie Black and Trent Tscheuschler	Allie Black	9 and 104
1.55pm	Janko Reinders	Mary Bishop	408
2pm	Doug and Peta Hislop	Doug Hislop	235 and 169

Date	Time	Submitter	Speaker
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Monday

2

December

3.16pm	Matt Peacock, Richard Shearer, Steven Looney and Wayne Looker	Cam Twigley
3.35pm	NZTA	Kelly Standish and Caron Greenough
3.49pm	Matt Peacock, Richard Shearer, Steven Looney and Wayne Looker	Peter Kensington
4.04pm	Matt Peacock, Richard Shearer, Steven Looney and Wayne Looker	Nic Gladstone
4.44pm	Kaitake Community Board	Doug Hislop
5.12pm	Oakura School	Paul Veric and Lynn Hepworth
5.27pm	Graeme Duff	Graeme Duff
5.45pm	Oakura Submitters	Richard Shearer

ATTACHMENT 1: ACCEPTANCE/ REJECTION OF SUBMISSIONS