

Tasman Resource Management Plan

Plan Change 73: Omnibus 2 Amendments

Decision Report

**Pursuant to Clause 10 of the
First Schedule of the Resource Management Act 1991**

16 September 2022

Contents

1	Introduction.....	1
2	Plan Change and Hearing Timeline	1
3	Decision Overview	1
4	Background.....	2
	4.1 The Plan Change.....	2
5	Statutory Context	4
	5.1 Introduction	4
	5.1.1 Resource Management Act 1991	4
6	Decision and Reasons for the Decision	5
	6.1 Topic 1 PC ref 73.16 Indicative Roads and Reserves	7
	6.1.1 Introduction.....	7
	6.1.2 Submitter 4196 - Te Ngahere Koura Ltd, DRB Trust (David & Nadine Bott), Kelso Building Ltd	7
	6.1.3 Submitter 872 - Neighland Nominees Ltd	8
	6.1.4 Submitter 3353 – Port Tarakohe Ltd	9
	6.1.5 Submitter 4190 – Matenga West Ltd per Joan Butts.....	12
	6.1.6 Submitter 4193 – Rachele Rabbitts	13
	6.1.7 Submitter 4203 – Jason and Jo-anna McKay	13
	6.1.8 Submitter 1046 – Alexander D Johnston	14
	6.1.9 Submitter 4184 – Batton Developments Ltd (N & A Cardiff) – now Wahanga as successor in title	15
	6.1.10 Submitter 3428 – Joanne Westbrooke	17
	6.1.11 Submitter 4183 – Nathan and Nicola Anderson	18
	6.1.12 Submitter 4185 – Peter and Adrienne Black.....	19
	6.1.13 Submitter 4187 – Ann and David Briggs	19
	6.1.14 Submitter 2886 – Mapua and Districts Community Association	20
	6.1.15 Submitter 4186 - Haydn Bone	23
	6.1.16 Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd	23
	6.1.17 Submitter 3757 – ASJ Property per Jason Inch	23
	6.1.18 Submitter 4188 – D T King and Co Ltd per Paul Balneaves (551 Lower Queen Street).....	24
	6.1.19 Submitter 4192 – Alan McLean (563 Lower Queen Street).....	25
	6.2 Topic 2 PC ref 73.22 Relocated Buildings.....	28
	6.2.1 Submitter 4189 – House Movers Section of NZ Heavy Haulage Association.....	28
	6.3 Topic 3 PC ref 73.25 Rezone existing reserve land as Open Space or Recreation.....	30
	6.3.1 Submitter 783 – Philip and Rose Windle	30
	6.3.2 Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd	30

6.4	Topic 4 PC ref 73.26 / 73.28 Specific area provisions	32
6.4.1	Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd	32
6.4.2	Submitter 4191 – Neil and Sue McCliskie	32
7	Appendix 1: Schedule of Amendments (Plan Text)	35
8	Appendix 2: Schedule of Amendments (Plan Maps)	35

1 Introduction

This report provides the decision of Tasman District Council (Council) for Plan Change 73 – Omnibus 2 Amendments (Plan Change 73). The decisions on the Plan Change and reasons for those decisions can be found in Section 6 of this report. The specific changes to the Tasman Resource Management Plan (TRMP) arising from this Plan Change can be found in Appendix 1: Schedule of Amendments (plan text and maps) and Appendix 2: Schedule of Amendments (Plan Maps).

2 Plan Change and Hearing Timeline

- 2.1 On 5 November 2020 the Strategy and Policy Committee resolved that the Plan Change be notified. On 19 December 2020, PC 73 was publicly notified. The period for making submissions closed on 9 February 2021. Twenty-three submissions were received.
- 2.2 The summary of decisions sought was publicly notified on 27 March 2021 with the further submission period closing on 14 April 2021. Further submissions were received from three original submitters and two new parties.
- 2.3 The Hearing Panel consisted of Cr Maling (chair) and Crs Dowler and MacKenzie.
- 2.4 The hearing was held at the Tasman District Council Chambers on 27 October 2021, 9:30 am. The hearing related solely to proposed Plan Change 73 Omnibus 2 Amendments.
- 2.5 Submitters present: Māpua and Districts Community Association (Submitter – Represented by Mr McIntosh and Ms Satherley), Ms Jackie McNae and Mr Duane Whiting (Representing Wahanga Developments Ltd and Paton Rise Ltd - Submitters), Mr Jason McKay (Submitter), Mr Graham Thomas (Representing Mr Allan McLean, Submitter), Mr Bob Butts (Submitter), Mr Daniel Hames (Submitter), Ms Jackie McNae and Mr McCliskie (Representing Mr & Mrs McCliskie - Submitter).
- 2.6 Council officers present: R Peterson (Consultant planner and reporting officer), B Johnson, R Squire, D Ley, N Armstrong.
- 2.7 The deliberations were held on 27 and 29 October 2021 and finalised on 2 December 2021.
- 2.8 The commissioners released minute 1 on 8 November 2021 seeking clarification from reporting officers and submitters in relation to 52 Paton Road, Golden Hills Road, Port Tarohe and Higgs Road locations. Responses were to be provided by 15 November 2021.
- 2.9 A site visit was undertaken by the Commissioners on 9 November 2021.
- 2.10 The hearing was closed on 2 December 2021.
- 2.11 The recommendations of the Hearing Panel were approved by the Strategy and Policy Committee on the 3 March 2022.

3 Decision Overview

The submissions received on Plan Change 73 and evidence presented at the hearing were mixed in support and opposition to specific aspects of the Plan Change. All submissions were on specific aspects of Plan Change 73 which were of relevance to the individual submitter. Several submissions suggested

amendments to the proposed text for functionality, or changes to mapping showing the location of mapped items such as indicative roads and walkways. There were also submissions requesting parts of Plan Change 73 be declined. Having had regard to the issues raised by the submitters, evidence presented at the hearing and statutory requirements, the decision of Council regarding Plan Change 73 is to **Accept with Modification** in response to specific submission points. A copy of Plan Change 73 incorporating the modifications can be found in Appendix 1: Schedule of Amendments and Appendix 2: Schedule of Amendments (Plan Maps).

After considering the recommendations of the Hearing Panel, the Strategy and Policy Committee made the decision to accept Plan Change 73 with modification on the 3 March 2022.

4 Background

4.1 The Plan Change

Council has an internal process of identifying and recording provisions within the Tasman Resource Management Plan (TRMP) which require amendment. Typically, these are minor corrections to rules, zones or mapped items that are out of date, require improvement to their function or interpretation, or have errors in the current wording. Other provisions may not be working as intended or have resulted in a gap in the regulatory framework of the TRMP. Where these items are beyond the scope of a cl20A¹ amendment but are not of sufficient complexity to require a stand-alone plan change process, the changes are collated together into a single plan change process known as an Omnibus Plan change. Simply, it is a plan change process that contains multiple proposed changes to a variety of provisions within the TRMP.

The first omnibus plan change was notified on 14 July 2018 with a hearing on 19 November 2018 and decisions notified on 15 December 2018. This then became operative on 15 June 2019.

Following the first omnibus plan change, this current plan change process (Plan Change 73) was undertaken to include a further tranche of proposed changes.

Plan Change 73 includes 31 separate items which cover a wide range of topics. In summary, the proposed provisions involve the following changes:

- Minor amendments to correct errors or anomalies
- Simple adjustments to improve clarity of interpretation or implementation
- Removal of redundant items where these are no longer required
- Amend rules which result in different permitted activity allowances for various activities
- Updates various zones
- Removes unnecessary rules
- Extends rules where these are inconsistently applied across the district
- Adjusts locations of some mapped Plan items
- Remove site specific rules that are now redundant

The full list of changes is set out in the table below. As can be seen, the majority of the proposed changes are entirely independent of each other and are spread throughout separate chapters of the TRMP. The proposed changes include both plan rules and mapping elements. Full details of the proposed changes can be found in the Schedule of Amendments document and the associated Section 32 Assessment².

¹ Resource Management Act 1991, Schedule 1, Preparation, change, and review of policy statements and plans, clause 20A 'Correction of operative policy statement or plan'.

² The Schedule of Amendments and the Section 32 are available from Council, and on Council's website.

Table 1: Proposed Plan Change 73: Omnibus 2 Amendments - Content

Plan Change Ref.	Action	Title
73.1	Clarify	Extent of activities excluded from the Residential Zone
73.2	Rectify	Inconsistent setbacks in the Golden Edge Industrial Zone
73.3	Clarify	Setback rule provisions for accessory buildings, including carports, in the Residential Zone
73.4	Update	Protected Tree Schedule – Additions, removals and edits
73.5	Rectify	Omission of a pole height rule in the Mixed Business Zone
73.6	Rectify	Inconsistency between Fire Ban and Fire Sensitive Area restrictions
73.7	Rectify	Inconsistency of various terms used for a road boundary
73.8	Clarify	Sleepout provisions in Rural 3 Zone
73.9	Remove	Redundant Road Area and resultant rezoning
73.10	Clarify	Co-operative living rule status
73.11	Clarify	Richmond Intensive Development Area (RIDA) rules
73.12	Clarify	Building extension provisions in the Coastal Environment Area (Height)
73.13	Modify	Building extensions in the Coastal Environment Area
73.14	Modify	Remediation of relocated building sites in the Coastal Risk Area
73.15	Modify	Exemptions to height and daylight controls for solar panels
73.16	Modify	Protection of indicative road and reserves, and updating positioning and existence
73.17	Modify	Deferred zone rules to enable automatic removal of indicative roads, reserves and walkways once vested
73.18	Modify	Automatic lifting of Fire Ban and Fire Sensitive Area deferral
73.19	Modify / New	Permitted activity rule for accessory structures in the Tourist Services, Recreation and Open Space Zones and the Coastal Environment Area
73.20	New	Signage in Recreation, Open Space and Conservation Zones as a permitted activity – specific rule
73.21	New	Permitted activity rule for activities included in the Reserve Management Plans in Open Space and Recreation Zones
73.22	Modify	Relocated buildings as a permitted activity
73.23	Remove	Remove rule requiring rainwater collection systems for toilet flushing in Mapua and Ruby Bay.
73.24	Modify	Rezone existing reserve land as Open Space or Recreation
73.25	Modify	Rezone 397 Lower Queen St and Mapua Waterfront Park
73.26	Modify	Site specific provisions - Little Kaiteriteri (Talisman Heights)
73.27	Modify	Site specific provisions - 32 Broadsea Ave, Ruby Bay
73.28	Modify	Site specific provisions - Golden Hills Rd, Waimea West
73.29	Modify	Site specific provisions - Milnthorpe Residential Zone
73.30	Modify	Site specific provisions - Closed Rural 2 Zone Pupu Springs Road
73.31	Modify	Site specific provisions - 580 Lower Queen Street

5 Statutory Context

5.1 Introduction

The Resource Management Act 1991 (RMA) provides the statutory framework for decision-making on Plan Changes and Part 1 of the Schedule 1 applies. After considering a plan change, Clause 10 of the Schedule 1 requires Council to give a decision on the provisions and matters raised in the submissions. The decision must include the reasons for accepting or rejecting submissions and must include a further evaluation of the plan change in accordance with section 32AA (if changes are made); and may include consequential alterations and any other matter relevant to the Plan Change arising from submissions. Council is not required to address each submission individually in the decision however, in the case of this decision on Plan Change 73, each submission is responded to individually. This is due to each submitter generally raising issues specific to their own properties or properties they have an interest in.

Council has delegated the authority to make decisions on plan changes to the Strategy and Policy Committee, and by resolution on 3 March 2022 the Strategy and Policy Committee accepted the recommendations from the Hearing Panel and approved notification of this decision.

The following documents have been considered in making this decision and due consideration and weight has been given to the various provisions. The key provisions are detailed below.

5.1.1 Resource Management Act 1991

5.1.1.1 Section 32 and Section 32AA

A detailed Section 32 report accompanied the Plan Change and the matters raised in the Section 32 report were further considered in the Section 42A report and in the deliberations. Section 32AA requires a further evaluation of any changes that have been made to Plan Change 73 after the Section 32 report was completed. The Committee has decided to accept the majority of the Plan Change without modification. Where modifications occurred the Section 32AA was undertaken as part of the decision-making process and is noted in this report in accordance with S32AA(1)(d)(ii) as the changes made are minor in nature.

5.1.1.2 Section 37(1)(b)

Section 37(1)(b) gives the consent authority the ability to decide to “waive a failure to comply with a requirement under this Act, regulations or a plan for the time or method of service of documents. In response to two late submissions the Section 42a report took into account the relevant matters specified in Section 37A (1) and recommended that these late submissions were accepted.

The late submissions, numbered 2886 (Mapua & Districts Community Association – 24 February 2021) and 4203 (McKay, Jason & Jo-Anna – 17 March 2021) are accepted and included in the decision-making process for Plan Change 73.

6 Decision and Reasons for the Decision

This section contains a summary of submissions, summary of evidence, the decision and the reasons for the decision. Each topic within Plan Change 73 that has received submissions is addressed in turn in this section. This is in the same order as the Section 42A report and provides the decision and reasons for specific changes sought through the submissions. A consolidated copy of the Plan Change, including any changes arising from the decisions, can be found in Appendix 1: Schedule of Amendments and Appendix 2: Schedule of Amendments (Plan Maps).

The decisions on submissions are separated into four topics as follows:

Section 6.1 – Topic 1 PC ref 73.16 Indicative Roads and Reserves

Section 6.2 – Topic 2 PC ref 73.22 Relocated Buildings

Section 6.3 – Topic 3 PC ref 73.25 Rezone existing reserve land as Open Space or Recreation

Section 6.4 – Topic 4 PC ref 73.26 / 73.28 Specific area provisions

The table below identifies the submission and further submission points and which section these are located in.

Table 2: Section 6.1 – Topic 1 PC ref 73.16 Indicative Roads and Reserves

Submitter Number	Submitter Name	Ref	Further Submitter Number	Further Submitter Name	Ref
4196	Te Ngahere Koura Ltd, DRB Trust (David & Nadine Bott) Kelso Building Ltd	6.1.2	n/a		
872	Neighland Nominees Ltd	6.1.3	FC73.3353.3	Port Tarakohe Ltd	6.1.3
3353	Port Tarakohe Ltd	6.1.4	FC73.3353.4	Port Tarakohe Ltd	6.1.4
4190	Matenga West Ltd per Joan Butts	6.1.5	FC73.3353.1	Port Tarakohe Ltd	6.1.5
			FC73.3353.2	Port Tarakohe Ltd	6.1.5
4193	Rabbitts, Rachele	6.1.6	n/a		
4203	McKay, Jason & Jo-Anna ²	6.1.7	n/a		
1046	Johnston, Alexander D	6.1.8	FC73.4184.1	Batton Developments Ltd	6.1.8
			FC73.3417.2	Paton Rise Ltd	6.1.8
4184	Batton Developments Ltd (N & A Cardiff)	6.1.9	FC73.3417.1	Paton Rise Ltd	6.1.9
3428	Westbrooke, Joanne	6.1.10	n/a		
4183	Anderson, Nathan & Nicola	6.1.11	n/a		
4185	Black, Peter & Adrienne	6.1.12	n/a		

Submitter Number	Submitter Name	Ref	Further Submitter Number	Further Submitter Name	Ref
4187	Briggs, Ann & David	6.1.13	n/a		
2886	Mapua & Districts Community Association	6.1.14	n/a		
4186	Bone, Haydn	6.1.15	n/a		
923	Beaches and Bays (Kaiteriteri) Ltd	6.1.16	n/a		
3757	ASJ Property per Jason Inch	6.1.17	n/a		
4188	D T King & Co Ltd per Paul Balneaves	6.1.18	FC73.4192.1	McLean, Allan	6.1.18
4192	McLean, Allan	6.1.19	n/a		

Table 3: Section 6.2 – Topic 2 PC ref 73.22 Relocated Buildings

Submitter Number	Submitter Name	Ref	Further Submitter Number	Further Submitter Name	Ref
4189	House Movers Section of NZ Heavy Haulage Association	6.2.1	n/a		

Table 4: Section 6.3 – Topic 3 PC ref 73.25 Rezone existing reserve land as Open Space or Recreation

Submitter Number	Submitter Name	Ref	Further Submitter Number	Further Submitter Name	Ref
783	Philip and Rose Windle	6.3.1	n/a		
923	Beaches and Bays (Kaiteriteri) Ltd	6.3.2	n/a		

Table 5: Section 6.4 – Topic 4 PC ref 73.26 / 73.28 Specific area provisions

Submitter Number	Submitter Name	Ref	Further Submitter Number	Further Submitter Name	Ref
923	Beaches and Bays (Kaiteriteri) Ltd	6.4.1	n/a		
923	Neil and Sue McCliskie	6.4.2	FC73.4204.1	Jeff and Sophie Marr	6.4.2

6.1 Topic 1 PC ref 73.16 Indicative Roads and Reserves

6.1.1 Introduction

This decision considers the 18 submissions made which relate to Plan Change reference 73.16 Indicative Roads and Reserves. As a subset of this some submissions also relate to indicative walkways.

6.1.2 Submitter 4196 - Te Ngahere Koura Ltd, DRB Trust (David & Nadine Bott), Kelso Building Ltd

Submission point 4196.1, Oppose in part: The submitter opposes the suggested change associated with 17.1.3.1 (Building setback requirements from indicative roads).

Submission point 4196.2, Oppose in part: Use this Plan Change to remove the indicative roads located on 93 Richmond Road (all references include all three titles).

6.1.2.1 Summary of the Section 42A Report

Submission Point 4196.1: It was recommended that the Hearing Panel accept the decision sought by the submitters to not apply the building setback rules, in particular to those indicative roads within their property. The Section 42A report recommended that this setback requirement is not applied to indicative roads to the west of Falconer Road.

Submission Point 4196.2: It was recommended that the indicative roads establishing the main connection between Falconer and Richmond Road be retained. The Section 42A report further notes that the indicative roads can be repositioned within the property provided the connections are still achieved.

6.1.2.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.2.3 Decision

Submission Point 4196.1: Accept to the extent that the building setback provision does not apply to indicative roads between Falconer Road and Richmond Road in the Pohara area. See Appendix 1: Schedule of Amendments for final Plan text.

Submission Point 4196.2: Reject in part. Revise position of indicative roads on the submitters property while maintaining desired connections. See Appendix 2: Schedule of Amendments for final Plan mapping.

Scope: The decision is made that the removal of indicative roads from the submitter's property which provide connectivity not otherwise available is outside of the scope of Plan Change 73.

6.1.2.4 Reasons

Submission Point 4196.1: Building setback provisions should not apply to indicative roads between Falconer and Richmond Roads due to the high level of uncertainty of the road positioning in these locations. This is driven by the steep and complex topography and geotechnical conditions in this area. The building setback exclusion area is refined to the area between Falconer and Richmond Roads. This is different to the broader recommendation within the Section 42A report to not apply the building setback anywhere to the west of Falconer Road. This change is due to the potential for future indicative roads further to the west of Richmond Road having a higher degree of certainty in their location. The standard approach to building setbacks should not be constrained in those areas.

Submission Point 4196.2: The removal of indicative roads from the submitter's property which provide connectivity not otherwise available is beyond the scope of Plan Change 73. This is because it would change the status quo, in terms of future connectivity, beyond that envisaged in Plan Change 73. Parties who may have an interest in these connections being established have not been involved in Plan Change 73 and have not had a real opportunity for participation.

Wider aspects of Plan Change 73 include wording in TRMP Schedule 16.3A and 16.3B to assist with the potential to reposition the road during any subdivision consent process. The existence of the indicative road on this property, and any possible alternative route, can be properly considered in a future planning process. In this plan change process, the position of existing indicative roads can be rationalised to follow existing formations and avoid a steep portion of land where there is an alternative connection available. This retains the desired connections currently in the TRMP.

Section 32AA: An additional evaluation of the changes relating to the removal of the building setback requirement was provided in the Section 42A report. This decision adopts that additional evaluation under Section 32AA however notes that this has since been refined to apply to the area between Falconer and Richmond Roads, rather than everywhere to the west of Falconer Road, or to the wider Pohara / Tarakohe / Ligar Bay area. The amendment achieves the benefits set out in the Section 32 evaluation, while reducing some of the identified costs to the area of particular uncertainty between Falconer and Richmond Roads. It is therefore considered to be the most appropriate way to achieve the objective of Plan Change 73.

6.1.3 Submitter 872 - Neighland Nominees Ltd

Submission Point 872.1 Oppose: Delete proposed provisions in 73.16 – Schedule 16.3A Assessment Criteria for Subdivision (42).

Submission Point 872.2 Oppose: Delete proposed provisions in 73.16 – Schedule 16.3B Transport Conditions (e).

Submission Point 872.3 Oppose: Delete proposed provisions in 73.16 – Chapter 17.

Submission Point 872.4 Oppose in part: Add 'Indicative Road' over the Deeds Land between 75 Pohara Valley Road and 59, 65 and 71 Pohara Valley Road to connect with Pohara Valley Road.

Further Submission FC73.3353.3 – Port Tarakohe Limited – Oppose Submission Point 872.4: The Deeds Land route leads to a redundant indicative road that should be deleted from the planning maps.

A second part of this further submission goes on to note support for the statements in submission points 872.1 – 872.3 in so far as agreeing that the proposed Plan Change section 73.16 is premature; that a feasible indicative roading system has not been identified; and, that the 40m wide corridor (consisting of a 20m wide indicative road and 10m building setback on either side) will penalise landowners by restricting development in areas that will never be used as a road.

6.1.3.1 Summary of the Section 42A Report

Submission Points 872.1 – 872.3: It was recommended that the Hearing Panel reject the decision sought by the submitter. Consideration of the wider issue raised, being legalisation of sections of Abel Tasman Drive, is out of scope and cannot occur as part of this plan change process and is not an RMA matter. The plan change process is limited to refinements to protect the existing indicative road network, include the position of some indicative roads.

Submission Point 872.4: It was recommended that the Hearing Panel rejects the decision sought by the submitter. The indicative road in question already exists in the TRMP and does not connect through to a legal road. Other submitters (Port Tarakohe Ltd- submitter 3353, including further submission

FC73.3353.3 relevant to submission point 872.4) have sought that the indicative road is removed from the TRMP due to the lack of connection to a legal road, and the topographical constraints in this occurring.

6.1.3.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.3.3 Decision

Submission Points 872.1 – 872.4: Reject. No change to Plan Change 73 arising from these submission points.

Further Submission FC73.3353.3: Accept in terms of removal of the indicative road (as per submitter 3353). Reject in terms of support for submitter 872.1 – 872.3.

6.1.3.4 Reasons

Submission Points 872.1 – 872.3: Plan Change 73 can be progressed without the ownership of the portion of Abel Tasman Drive in question being resolved. The indicative roads within the TRMP are to provide for a future alternative connection independent of the current status of Abel Tasman Drive. The changes within the notified Plan Change, and those made in response to other submission points, do not impact on the status of Abel Tasman Drive. Council is aware of this issue of ownership of the road.

Submission Point 872.4: The indicative road exists in the TRMP and no changes were proposed within Plan Change 73. The indicative road passes over significant cliffs in the former quarry area and is not feasible to form in this location. Therefore, the desired connection to Pohara Valley Road (through the Deeds land) referred to by the submitter cannot be achieved. In addition, in response to submission point 3353.3, the indicative road in question is to be removed from the TRMP due to it not connecting to a legal road and not being feasible to form. Other indicative roads exist, and are to be retained, which achieve the desired connections between Pohara, Port Tarakohe and Ligar Bay. Further Submission FC73.3353.3: Accept.

6.1.4 Submitter 3353 – Port Tarakohe Ltd

Submission point 3353.1, 3353.2, 3353.3 and 3353.4 Oppose in part: Removal and repositioning of indicative roads and walkways are sought within the submitters land. Suggested changes are set out in the maps attached to the submission.

Further Submission FC73.3353.4 – Port Tarakohe Limited – Support: The further submission clarifies that the original submission point (3353.2) which seeks that the point where the current indicative road connects with Abel Tasman Drive is discussed with both Council and Talley's to resolve a final location.

Submission point 3353.5 Oppose in part: Replace the proposed 10m building setback from the indicative roads with a 5m setback – proposed rule 17.4.3.1 (ka).

6.1.4.1 Summary of the Section 42A Report

Submission point 3353.1: It was recommended that the Hearing Panel accept the decision sought by the submitter. The changes are minor and within the property boundaries of the submitter. The changes are to better align the indicative road with the existing road network and feasibility of forming a future connecting road.

Submission point 3353.2: It was recommended that the Hearing Panel accept the decision sought by the submitter. The change involves moving the point the indicative road connects with Abel Tasman Drive northwards towards the cliffs generally in the location of the existing vehicle access to the Port

Tarakohe property and incorporating a portion of the property at 1006 Abel Tasman Drive. Note the further submission (FC73.3353.4) is by the submitter and supports the original submission.

Submission point 3353.3: It was recommended that the Hearing Panel accept the decision sought by the submitter. The removal of this indicative road reflects the fact the road does not connect through to an existing legal road and has been shown to be unable to be constructed due to it terminating at a cliff at the boundary of the Port Tarakohe Limited land.

Submission point 3353.4: It was recommended that the Hearing Panel accept the decision sought by the submitter. This includes removing indicative walkways from the property. These can generally be achieved along the route of existing indicative roads. The exception is a small portion of indicative walkway which was recommended to be retained where this heads in an easterly direction towards Nyhane Drive West and the hills beyond.

The Section 42a report has assessed the submission points above and found them to be within the scope of Plan Change 73.

Submission point 3353.5: It was recommended that the Hearing Panel rejects the decision sought by the submitter. No change was recommended to the building setback rule in terms of the submitter's property.

6.1.4.2 Summary of Evidence Presented at the Hearing

Mr Butts and Mr Hames spoke to their submission points as representatives of Port Tarakohe Ltd and provided written evidence. The key points raised in the hearing were:

- Moving the indicative road that currently goes through 1006 Abel Tasman Drive to position nearer the cliff face (where the access road is) will establish a 20-metre road all the way up to Matenga Road to form the rest of the roading system and walkway. The current cliffs are still shedding rock, and this will need to be managed.
- The existing Port entrance to Abel Tasman Drive has poor sightlines and increasing heavy vehicle numbers due to the growing aquaculture industry. The existing intersection requires upgrading and any new intersection shown by the indicative road will need to be carefully designed for safety. Safety of the existing intersection was noted as being out of scope of Plan Change 73.
- A reduction from a 10m to a 5m building setback was requested from the indicative roads as industrial land is scarce and Council's desired roading widths can still be achieved within those setbacks.
- A 110-metre section of indicative walkway is proposed to be retained to the East. The submitters identified this as hilly terrain. They suggest removing that section and moving it onto the indicative road, along Matenga Road, to connect onto Nyhane Drive West and back up to the indicative walkway.

6.1.4.3 Decision

Submission Point 3353.1: Accept. Make changes to indicative road alignment. See Appendix 2: Schedule of Amendments for final Plan mapping.

Submission Point 3353.2: Accept. Make the changes to where the indicative road intersects with Abel Tasman Drive. See Appendix 2: Schedule of Amendments for final Plan mapping. Further Submission FC73.3353.4: Accept.

Submission Point 3353.3: Accept. Remove the existing indicative road in the west of the Port Tarakohe property. See Appendix 2: Schedule of Amendments for final Plan mapping.

Submission Point 3353.4: Accept. Remove indicative walkways from the submitter's property. See Appendix 2: Schedule of Amendments for final Plan mapping.

Submission Point 3353.5: Reject. Retain building setback rules at 10m from indicative roads on the submitter's property.

6.1.4.4 Reasons

Submission Point 3353.1: The changes to the indicative road positioning are minor and within the property boundaries of the submitter. The changes are to better align the indicative road with the existing road network and feasibility of forming a future connecting road. The indicative road layout demonstrates that the Matenga Road to Falconer Road connection will be the through road, with the Abel Tasman Drive link connecting to this.

Submission Point 3353.2: The changes to where the indicative road intersects with Abel Tasman Drive are to allow the future road to follow the existing alignment of the private vehicle access to the Port Tarkohe land. This follows the line of the cliffs and incorporates the northern portion of 1006 Abel Tasman Drive to allow the final roading width to be established to a suitable width, and with setbacks from the cliff to avoid rockfall. This position is agreed by both landowners and ensures a more suitable future connection that does not bisect 1006 Abel Tasman Drive.

Recommendation to Council: The Hearing Panel recommends to the Council that a reduction to the speed limit along this portion of Abel Tasman Drive should be considered in the next speed limit review process. The Hearing Panel also makes the comment to the Council that when the future road is established the safety of the intersection will be a fundamental part of the design. The submitters have noted that the heavy vehicle traffic is likely to increase in the area as the aquaculture industry grows. They report that there are already some issues with vehicles crossing in this location. Council's Development Engineer, Mr Ley, confirms while the final design of any intersection is not known at this stage, a satisfactory outcome in terms of traffic safety can be achieved.

Submission Point 3353.3: The indicative road in the west of the Port Tarkohe land is able to be removed for the following reasons: The road is not able to be feasibly formed as the route passes over a cliff formed as part of the original quarry operations; the indicative road does not connect with a current public road, and another future connection remains available from Falconer Road through to both Abel Tasman Drive and Matenga Road.

Submission Point 3353.4: The indicative walkways on the submitter's property are generally not feasible to form and suitable connection routes are able to be achieved within the alignment of the indicative roads which are to be retained as part of this decision. The wider network of connections is still able to be achieved. The now redundant portions of indicative walkways on other parties' land have not been removed as those parties were not involved at any point during the Plan Change 73 preparation, submissions, and deliberations process. As such removal of those portions is beyond the scope of Plan Change 73.

Recommendation to the Strategy and Policy Committee: The Hearing Panel recommends to the Committee that the now redundant portions of indicative walkway on neighbouring properties should be removed from the TRMP at the next appropriate opportunity. The Hearing Panel understands that the existence of these portions of indicative walkway do not result in any requirements on those properties through the TRMP.

Submission Point 3353.5: The building setback of 10m from the indicative roads on the submitter's property is to be retained as notified. This is to protect the future alignment of those roads from further building construction and to retain consistency of the application of this rule across the district.

6.1.5 Submitter 4190 – Matenga West Ltd per Joan Butts

Submission point 4190.1, Oppose in part: Indicative road around Lot 7 and 51 Falconer Road to be amended so it is on stable land as shown in Attachment 3 to the submission.

Submission point 4190.2, Oppose in part: Portions of indicative road in 45 and 49 Falconer Road land titles should be adjusted to be included entirely in the Lot 7 road title.

Further Submission FC73.3353.1 / 2 – Port Tarakohe Limited – Support: This road title has the potential to act as an alternative road from Ligar bay to Pohara Valley in an emergency situation.

6.1.5.1 Summary of the Section 42A Report

Submission Point 4190.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. Moving the indicative road into the submitter's suggested alignment area would require a potentially unstable steep cut batter slope which may mean future ongoing costs to Council.

Submission Point 4190.2: It was recommended that the Hearing Panel accept the decision sought by the submitter. The indicative road is proposed to be located within the boundaries of lot 7 as was sought by the submitter. Further submission FC3353.1 /2 supports both the submissions.

6.1.5.2 Summary of Evidence Presented at the Hearing

Mr Hames spoke on behalf of Joan Butts for Matenga West Ltd and provided written evidence. This evidence highlighted that legally the right of way over Lot 7 DP 18584 is split into part A and part B. The distinction being that Section A has a requirement that owners of section A will surrender their interest in the ROW when called on by Council to create a legal road. This does not apply to section B. Property negotiations in the future will need to resolve this when the intended road is legalised.

6.1.5.3 Decision

Submission Point 4190.1: Reject. Retain the indicative road location as notified. Further submission FC73.3353.1: Reject.

Submission Point 4190.2: Accept. Retain the indicative road location as notified. The indicative road is proposed to be located within the boundaries of Lot 7 as was sought by the submitter. Further submission FC73.3353.2: Accept.

6.1.5.4 Reasons

Submission Point 4190.1: The revised location of the indicative road sought by the submitter is with the intent of establishing this future road on stable ground. As has been outlined by the submitter, the existing portion of road in this location runs across the edge of a tomo that has previously been used as a rubbish dump by Golden Bay Cement Company and has experienced instability in the past. Council's Development Engineer, Mr Ley, stated that moving the road further towards the hillside may result in a potentially unstable steep cut batter slope which may mean future ongoing costs to Council. Mr Ley further explained that a non-standard road formation and width in this location would be a suitable outcome to enable the road to be formed and the unstable area to be avoided. For these reasons we accept this outcome, and the location of the indicative road remains as notified.

Submission Point 4190.2: The indicative road was located on the alignment of Lot 7 DP 18584 when notified. This is the outcome sought by the submitter. Therefore, no changes are required to meet the decision sought by the submitter.

6.1.6 Submitter 4193 – Rachele Rabbitts

Submission point 4193.1, Oppose in part: Opposition to the indicative road running through 80 Haile Lane, Pohara.

6.1.6.1 Summary of the Section 42A Report

Submission Point 4193.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. This indicative road has existed for many years and is not proposed to be changed as part of PC73. Any changes to this portion of indicative road would therefore be out of scope of Plan Change 73.

6.1.6.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.6.3 Decision

Submission Point 4193.1: Reject.

Scope: The decision is made that the removal of indicative road from the submitter's property is outside of the scope of Plan Change 73.

6.1.6.4 Reasons

Submission Point 4193.1: The outcome sought by the submitter is out of scope of Plan Change 73.

6.1.7 Submitter 4203 – Jason and Jo-anna McKay

Submission point 4203.1, Oppose in part: Oppose the placement of the indicative road on their property.

6.1.7.1 Summary of the Section 42A Report

Submission Point 4203.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The road formed along this alignment would be the most cost-effective route with at least half of the route is already in Council ownership for the new road link. It is also the most direct route and involves easier construction than the current alignment.

6.1.7.2 Summary of Evidence Presented at the Hearing

Mr McKay spoke at the hearing and invited the Hearing commissioners to visit his property. Mr McKay stated he believes there is a more practical way of achieving the future road connection on his property which does not use his only flat land and the area he would like to build in and plant trees. Mr McKay also referred to the setbacks which he considers would impact on the ability to use his land. Mr McKay raised the issue of Council using the private right of way to access the Pohara Valley Water Scheme. He acknowledged this was out of scope of Plan Change 73. Mr McKay was provided with contact details to follow up on this matter with the correct team.

6.1.7.3 Decision

Submission Point 4203.1: Reject. Retain indicative road changes as proposed.

6.1.7.4 Reasons

Submission Point 4203.1: The site was visited by the Hearings Commissioners on 9 November 2021. Subdivision consent RM070197 (2007) allowed Council to reassess the future roads in the area and this application was accepted by Council. This is the road to vest portion of Mockingbird Ridge which runs to the submitter's eastern boundary. The continuation of this portion of road to vest through the submitter's property will enable this connection to be formed in a logical and cost-effective route along

alignments already secured by Council for this purpose. This decision includes the removal of the indicative road across the southern boundaries of the submitter's property. As per the decision made under submission point 4196.1 the proposed building setback would no longer apply to the indicative road in this location which resolves an aspect of the submitters concerns.

6.1.8 Submitter 1046 – Alexander D Johnston

Submission point 1046.1, Oppose in part: Opposes the existing and proposed location of indicative roads at 28 Collins Road, Richmond. The submitter seeks deletion and repositioning of the indicative roads within their own property and on neighbouring properties. A map is provided with the submission to indicate where these changes are sought to occur.

Further Submission FC73.4184.1 – Batton Developments Ltd (N&A Cardiff) – Oppose: The further submission seeks that the submission by AD Johnson be declined in respect of the existing indicative road positions and in respect of the new indicative road extensions shown over Batton Developments Ltd (N&A Cardiff) land.

Further Submission FC73.3417.2 – Paton Rise Limited – Oppose: The further submission seeks that the submission by AD Johnson be declined in respect of the existing indicative road positions and in respect of the new indicative road extensions shown over Batton Developments Ltd (N&A Cardiff) and Paton Rise Ltd land. The further submitter notes that these changes are outside of the scope of PC 73.

6.1.8.1 Summary of the Section 42A Report

Submission Point 1046.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. Submission scope was identified as an issue with this submission. Those aspects relating to the notified changes to the indicative roads are within scope, while those seeking a new layout for indicative roads in the area are out of scope.

The Section 42A report specifically addressed the two further submissions (FC73.4184.1 and FC73.3417.2) as these also raised the issue of scope and opposed the submission. The report recommended accepting the further submissions.

6.1.8.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

Evidence was presented by the further submitters agent and this stated the following key points relating to A D Johnston submission (1046):

- The roading pattern being developed in the area already follows the indicative road positions. It is too late in the piece to seek changes to this.
- There is no scope in Plan Change 73 to consider the changes sought by the Johnston submission.
- The suggested alignment is not suitable due to the position of the existing stormwater channels and interim stormwater management areas. Also, as it alters the sequencing of development in the area.

6.1.8.3 Decision

Submission Point 4203.1: Reject. Retain indicative road changes as proposed. Further submissions FC73.4184.1 and FC73.3417.2: Accept.

Scope: The decision is made that changes to the indicative roads in the area (aside from the indicative road connecting to 65 Main Road Hope) is outside of the scope of Plan Change 73.

6.1.8.4 Reasons

Submission Point 4203.1: The wider changes to the indicative road layout in the area is out of scope of Plan Change 73. Council's Development Engineer, Mr Ley stated that the layout of the current indicative roads was settled through an appeal process to the Environment Court in 2009. Any changes now, even if within scope, would not be appropriate due in part to the roading and stormwater networks already being developed along the alignment of the existing indicative and designated networks. Plan Change 73 has not sought to change that pattern. The one aspect that is within scope of the addition of an indicative road connecting through to 65 Main Road Hope. The reasons for this additional indicative road connection as set out by Mr Ley are accepted. These are:

- a) It enhances road connections;
- b) Aligns with the existing stormwater channel from Whites Road where it connects with Reed Andrews Stream. This is the low point identified in the Section 42A report;
- c) Is located in the existing stormwater designation D247; and,
- d) Is consistent with the Nelson Tasman Land Development Manual 2019 (LDM) in that public infrastructure (in this case an existing stormwater/farm drain) should be contained within roads or public property and that roads are preferred locations for secondary stormwater flow paths.

6.1.9 Submitter 4184 – Batton Developments Ltd (N & A Cardiff) – now Wahanga as successor in title

Submission point 4184.1, Oppose: Reinstate the indicative road across the indicative reserve on the submitter's land.

Further Submission FC73.3417.1 – Paton Rise Ltd – Support: The indicative road positions have been subject to a long planning process and were settled through an Environment Court process in 2009. The landholding does not have a legal right of access from Paton Road and therefore a road crossing over the greenway is a necessity because of the position where Council has placed the indicative greenway reserve.

6.1.9.1 Summary of the Section 42A Report

Submission point 4184.1: It was recommended that the Hearing Panel accept the decision sought by the submitter. At the time of drafting the Section 42A report, formal approval from the requiring authority (Council) to cross the designation D247 had not been provided. For this reason, the submission point to reinstate the indicative road was recommended to be accepted as the submitter's property would technically be left with no legal access to an existing or future road network. Further submission FC73.3417.1 supported the submitter was therefore also recommended to be accepted.

6.1.9.2 Summary of Evidence Presented at the Hearing

Ms McNae spoke on behalf of the submitter (Batton Developments Ltd (N & A Cardiff) and further submitter Paton Rise Ltd) and provided written evidence. Ms McNae also outlined that the submission had been lodged in the name of Batton Developments Ltd but have now been taken over as successor in title by Mike Greer Wahanga Developments Ltd Partnership (Wahanga) who have purchased 52 Paton Road.

The evidence stated the following key points relating to the Batton Developments / Cardiff (now Wahanga) submission:

- It provided a summary of the Section 42A report outlining the reasons for the indicative road across the designation.
- It identified that the submitters concern about the proposed removal of the indicative road relates to the need to cross the greenway to service the subject land (and other land beyond this), as well the issue of compensation for the greenway.
- It provided the history of the greenway purpose and Council negotiations with the previous owner on the potential purchase of this land.

- Outlines that vehicle access is required over the greenway as the TRMP do not permit a road connection to Paton Road.
- The submitter is '*... concerned that the motivation for removing the indicative road when this is still required, is to seek to undermine or reduce compensation for the greenway land.*'
- Explains the creation of a new stormwater channel within the designation alignment and how Council agreed by way of email correspondence that this would not penalise future compensation negotiations.
- Reinforces the submission which seeks to retain the indicative road.
- The evidence also outlines the further submitters involvement in the development of this area since first consultation for the Draft Variation for Richmond South in 2005.

6.1.9.3 Decision

Submission Point 4184.1: Accept. Retain indicative road as currently shown in the operative TRMP.
Further submission FC73.3417.1: Accept.

6.1.9.4 Reasons

Submission Point 4184.1: The submitters agent has outlined the long involvement of the original submitters and supporting further submitters in the development of the land in this area. This has involved roading and stormwater networks all following the existing indicative and designated alignments. The submitter is concerned that removal of the indicative road from its current positioning across designation D247 would impact on compensation negotiations when the land is vested with Council. With this in mind we must carefully consider the planning rationale for removing or retaining the indicative road. Any decision to remove or retain the indicative road is not based on possible compensation.

Mr Ley and Mr Peterson were asked through the Commissioners minute 1, dated 8 November 2021 to respond to three questions. The first two were directed to Mr Ley:

- 1) *PC 73 proposes to delete a section of indicative road that crosses designation 247 on 52 Paton Road. Ms McNae for Wahanga stated the plan change documentation did not give an explanation as to why the subject indicative road was to be removed. Can you please provide a short history of designation 247 and 248 and the subject section of indicative road including reason for the design and layout and reasons for its proposed removal?*
- 2) *Please provide a description of the expected future drainage pattern and design for the area covered by designation 248 and the adjacent sections of designation 247.*

Mr Ley's response to these questions are summarised as:

- 1) The indicative road was placed on the planning maps as it co-located with the designations.
- 2) This was to follow Crime Prevention Through Environmental Design principles and for visibility into those future reserves.
- 3) The detention area indicated by D248 is not feasible in its planned form and the alignment of the associated Reed/Whites drain is debatable in terms of its location.
- 4) If these items are no longer fixed the Council should not be dictating the location of the roading network at this point. Council has provided an approval letter under RMA s176 for access over the designation for roading purposes.
- 5) The alignment of the future development pattern was confirmed to be within the existing designations however there is flexibility in the positioning of the Reeds/Andrews drain around designation D248.

Mr Peterson was asked one question:

- 1) *Please comment on the planning implications of retaining or removing the indicative road section at 52 Paton Road.*

Mr Peterson's response is summarised as:

- 1) The future road location is no longer required to be adjacent to the detention area identified as D248. This detention area is no longer proposed in this location.
- 2) If no indicative road is shown then the developer, in discussion with Council, can select the best location to provide the vehicle crossing point. The same applies if an indicative road is shown. As the name suggests the mapped position is indicative and final position will be as agreed by Council through the subdivision consent process.
- 3) The existence of the indicative road does indicate that Council anticipates this will cross the designation D247. Council has also provided approval under RMA s176 for this crossing to occur. For this reason, the existence of the indicative road has no additional bearing on the ability to access the designation for the purpose of providing vehicle access to the submitter's property.
- 4) Vehicle access across D247 directs traffic towards Bateup Road which then provides direct State Highway connectivity or access towards Richmond along Paton Road.
- 5) In planning terms there are no implications in whether the indicative road is shown crossing the designation D247 or not.

It is clear from these responses that Council does not need to demonstrate a fixed position for this future road crossing of the planned detention and drainage management areas. Removing the indicative road would enable the actual road to be positioned at any suitable point along the designated area. This is however still the case if the indicative road is shown due to the flexible nature of this provision. As there is no specific planning reason for the removal of the indicative road our decision is to accept the submitters request and retain the indicative road as shown in the operative TRMP.

6.1.10 Submitter 3428 – Joanne Westbrooke

Submission point 3428.1, Oppose: Remove indicative roads from the property.

6.1.10.1 Summary of the Section 42A Report

Submission point 3428.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. This is due to the submission to remove the indicative road completely being out of scope of Plan Change 73. Plan Change 73 only sought relocation of the existing indicative road.

6.1.10.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.10.3 Decision

Submission Point 3428.1: Reject. Retain indicative road changes as proposed.

Scope: The decision is made that the removal of indicative roads from the submitter's property is outside of the scope of Plan Change 73.

6.1.10.4 Reasons

Submission Point 3428.1: As outlined in the Section 42a report this submission is out of scope of Plan Change 73. The proposal involves the relocation of the indicative road and removing it in total was not part of the Plan Change proposal. The relocation is to match existing development patterns that have

occurred on adjacent land and ensures the future road connection between Campari Drive and Otia Drive is able to be achieved.

6.1.11 Submitter 4183 – Nathan and Nicola Anderson

Submission point 4183.1, Oppose in part: Remove the proposed 10m building setback, particularly along the back half of the property.

Submission point 4183.2, Oppose in part: Replace the indicative road extending off Jessie Street onto Aranui Road with a cul-de-sac leading into a walkway onto Aranui Road.

6.1.11.1 Summary of the Section 42A Report

Submission point 4183.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The building setback rule introduced in Plan Change 73 does not impact on the submitter's property.

Submission point 4183.2: It was recommended that the Hearing Panel reject the decision sought by the submitter. The submitter requests that the indicative road does not connect with Aranui Road but terminates in a cul-de-sac head with a walkway connecting to Aranui Road. The Section 42A report found this was out of scope of PC73.

6.1.11.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.11.3 Decision

Submission Point 4183.1: Reject. Retain the building setback rules as proposed in Plan Change 73.

Submission Point 4183.2: Reject. Retain the indicative road as is currently shown in the operative TRMP.

Scope: The decision is made that removing the indicative roading network connection to Aranui Road is outside of the scope of Plan Change 73.

6.1.11.4 Reasons

Submission Point 4183.1: The issue raised by the submitter was also raised through the initial consultation on Plan Change 73. This was resolved through the proposed rule 17.1.3.1 (wa) (ii) which states '*no building setback is required under this condition on properties which do not have the indicative road or indicative reserve shown within that property's boundaries*'. Therefore, no further changes are required to achieve the outcome desired by the submitter.

Submission Point 4183.2: Changes to the indicative road that connects to Aranui Road have not been signalled in the proposed Plan Change, therefore changes at this point are out of scope. However, the outcome sought by the submitter can potentially occur as part of development in this area. The Section 42A report explained that Council's Transportation Manager, Jamie McPherson, attended a Mapua and Districts Community Association meeting in July 2020. He confirmed that there is an opportunity in a future planning process to consider this connection along with the wider look at the transport system in Mapua. In the meantime, this indicative road connection is to remain to secure some form of a transport connection in this location. This connection may be for cyclists and pedestrians rather than vehicles, however, that is not something that can be resolved in this current planning process.

6.1.12 Submitter 4185 – Peter and Adrienne Black

Submission point 4185.1, Oppose in part: Remove the proposed 10m building setback.

Submission point 4185.2, Oppose in part: Replace the indicative road extending off Jessie Street onto Aranui Road with a walkway.

6.1.12.1 Summary of the Section 42A Report

Submission point 4185.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The building setback rule introduced in Plan Change 73 does not impact on the submitter's property.

Submission point 4185.2: It was recommended that the Hearing Panel reject the decision sought by the submitter. The submitter requests that the indicative road does not connect with Aranui Road but terminates in a cul-de-sac head with a walkway connecting to Aranui Road. The Section 42A report found this was out of scope of Plan Change 73.

6.1.12.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.12.3 Decision

Submission Point 4185.1: Reject. Retain the building setback rules as proposed in Plan Change 73.

Submission Point 4185.2: Reject. Retain the indicative road as is currently shown in the operative TRMP.

Scope: The decision is made that removing the indicative roading network connection to Aranui Road is outside of the scope of Plan Change 73.

6.1.12.4 Reasons

Submission Point 4185.1: The issue raised by the submitter was also raised through the initial consultation on Plan Change 73. This was resolved through the proposed rule 17.1.3.1 (wa) (ii) which states '*no building setback is required under this condition on properties which do not have the indicative road or indicative reserve shown within that property's boundaries*'. Therefore, no further changes are required to achieve the outcome desired by the submitter.

Submission Point 4185.2: Changes to the indicative road that connects to Aranui Road has not been signalled in the proposed Plan Change, therefore changes at this point are out of scope. However, the outcome sought by the submitter can potentially occur as part of development in this area. The Section 42A report explained that Council's Transportation Manager, Jamie McPherson, attended a Mapua and Districts Community Association meeting in July 2020. He confirmed that there is an opportunity in a future planning process to consider this connection along with the wider look at the transport system in Mapua. In the meantime, this indicative road connection is to remain to secure some form of a transport connection in this location. This connection may be for cyclists and pedestrians rather than vehicles, however, that is not something that can be resolved in this current planning process.

6.1.13 Submitter 4187 – Ann and David Briggs

Submission point 4187.1, Oppose in part: The submission seeks additional consultation in determining the placement of indicative roads and seeks changes to the text in the Section 32 report.

Submission point 4187.2, Support in part: Retain amendments to rules in so far as they allow for changes in the position of the existing indicative roads, reserves and walkways where these are

incorrect or outdated due to changes in development patterns and requirements. As implied through support for Option 1 set out in the section 32 report.

6.1.13.1 Summary of the Section 42A Report

Submission point 4187.1: It was recommended that the Hearing Panel accept in part the decision sought by the submitter. This submission point is recommended to be accepted in part as the intent of carrying out suitable consultation is valid, however the changes sought in the submission are not on the plan change itself and are therefore not in scope.

Submission point 4187.2: It was recommended that the Hearing Panel accept the decision sought by the submitter. This submission point is in support of changes to update indicative roads, reserves and walkways.

6.1.13.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.13.3 Decision

Submission Point 4187.1: Accept in part.

Submission Point 4187.2: Accept.

6.1.13.4 Reasons

Submission Point 4187.1: Changes to the Section 32 text is out of scope however the intent of the submission is supported. Consultation should occur in a manner and scale determined by the content of the Plan Change at the time. Sufficient consultation was carried out for the Plan Change 73 process.

Submission Point 4187.2: The submission effectively supports the Plan Change 73 proposal and as such is accepted.

6.1.14 Submitter 2886 – Mapua and Districts Community Association

Submission point 2886.1, Oppose in part: Retain indicative reserve alongside Māpua Drive where large gum trees are located.

Submission point 2886.2, Oppose in part: If the three parcels of indicative reserve are to be removed on the southern side of Higgs Road, and if or when these areas are opened up for residential development, that:

(a) smaller local reserve spaces are included within the residential land development

(b) *off-road walking/cycleway links are made, not only between new and existing road networks, but also in several locations to and from the reserve areas around the coastal margins.*

Submission point 2886.3, Oppose in part: Remove the indicative road exiting onto Aranui Road and replace with a Walkway / Cycleway only.

Submission point 2886.4, Oppose in part: Remove small indicative reserve to the west of the Catherine Road indicative road extension and add/retain a larger indicative reserve to the east next to Seaton Valley Road. Includes additional walkway requests.

Submission point 2886.5, Oppose in part: Remove the rest of the indicative road to the east of the Catherine Road indicative road extension.

6.1.14.1 Summary of the Section 42A Report

Submission point 2886.1 – 2886.5: It was recommended that the Hearing Panel reject in part the decisions sought by the submitter.

6.1.14.2 Summary of Evidence Presented at the Hearing

Māpua and District Community Association (MDCA) evidence was presented by Mr McIntosh (Chair) and Ms Satherley (Secretary). They spoke to their submission using a PowerPoint presentation and the following key points were made:

- 1) The importance of trees to the community was stressed, including both native and introduced species.
- 2) MDCA do not think that the placement of a detention pond is a 'like for like' comparison, for removing an indicative reserve with large gum trees.
- 3) Establishing pathways for connectivity is important to achieve goals set by Council and to accommodate future development.
- 4) Detention ponds and other infrastructure can be an important part of the community as these link wetlands and reserves. Plans for these should consider preservation and protection of existing wetlands and enable future subdivisions to connect with active transport networks.
- 5) The village is focused on a cycle network and active transport options. They want to emphasise the importance of this for the upcoming planned developments. Including the management of transport along Aranui Road with an increase in vehicle movements.
- 6) Options to leave a car at home and walk, as well as removing parking from some roads to create more space and amenity should be considered.
- 7) Green spaces are important in forming a network of connected wetlands and reserves and to enable active transport. Including networks to take people off Aranui Road.
- 8) MDCA seek guidance on the correct process to be involved in regarding cycleway and walkway planning.

6.1.14.3 Decision

Submission point 2886.1: Reject. Remove indicative reserve on Māpua Drive around existing gum trees.

Submission point 2886.2: Reject. Remove the indicative reserves south of Higgs Road.

Submission point 2886.3: Reject. Make no change to the indicative road exiting onto Aranui Road.

Scope: The decision is made that removing the indicative roading network connection to Aranui Road is outside of the scope of Plan Change 73.

Submission point 2886.4: Reject. Retain indicative reserve, road and walkway network as per the operative TRMP and proposed changes in Plan Change 73 in the Catherine Road / Seaton Valley Road area.

Submission point 2886.5: Reject. Retain the proposed changes to the indicative road to the east of the Catherine Road indicative road extension.

6.1.14.4 Reasons

Māpua and District Community Association are active representatives of the community and are engaged with Council at many levels. Their work is acknowledged and, in many cases, aligns and influences the outcomes developed by Council for this community. While this decision is to reject the submission requests within the Plan Change 73 process, this does not represent Council rejecting the intent behind these items. Council will continue to work with MDCA to ensure Māpua continues to develop as a well-connected community with reserves where they are most needed. Council also acknowledges the role that trees in the urban environment play in carbon sequestration.

Submission point 2886.1: The submission sought the retention of the indicative reserve which encompassed the existing mature gum trees along Māpua Drive. The intent of the submission was to

retain open space on either side of the road, provide walking and cycling links and to ensure the trees could continue their role in carbon sequestration. Ms Squire, Consultant Planner for Council's Reserves Team advised that in place of the indicative reserve shown Council is seeking to establish a reserve in a different location further down Māpua Drive. She also advised that Council is working with a range of landowners and developers to establish the reserve and walkway networks within Māpua. Ms Squire stated that gum trees of this type are typically not compatible with reserves in an urban environment, however, other tree planting would occur as a feature of further reserve development. Plan Change 73 also adds a further indicative walkway from Māpua Drive which improves connectivity in this area. For these reasons the decision is to remove the indicative reserve as per the notified plan change.

Submission point 2886.2: The submission sought that smaller local reserves are established instead of those to the south of Higgs Road, and off-road walking and cycling networks are established. Ms Squire was asked about the background and status of QEII covenant that covers 55 Higgs Road, Māpua as this is relevant to the decision to remove the indicative reserves in this area. Her reply was that the covenant was established in 2008 and binds the land in perpetuity. The area concerned is known as Nyce-Pearson Bush and covers an area of 9.4ha. The covenant objectives include protection and enhancement of native flora and fauna, outstanding landscape values, restoration of indigenous vegetation cover to protect indigenous biodiversity, enable continued pastoral farming that does not conflict with other objectives and to prevent subdivision of the land. The covenant also allows for public access with the permission of the owner.

While the proposal is to remove identified indicative reserves in this area the existing indicative walkways and the coastal indicative reserve are to remain. With the covenant provisions in place and the retention of the indicative items noted above there is no requirement for Council to maintain these indicative reserves. For the reasons noted here the decision is to remove the indicative reserves as per the notified Plan Change 73.

Submission point 2886.3: Changes to the indicative road shown as connecting with Aranui Road has been discussed for submitters Peter and Adrienne Black (4185) and Nathan and Nicole Anderson (4183). For the same reasons of the submission point being out of scope the decision is to make no changes to the indicative road in this location.

However, the outcome sought by the submitter can potentially occur as part of development in this area. The Section 42A report explained that Council's Transportation Manager, Jamie McPherson, attended a Mapua and Districts Community Association meeting in July 2020. He confirmed that there is an opportunity in a future planning process to consider this connection along with the wider look at the transport system in Mapua. In the meantime, this indicative road connection is to remain to secure some form of a transport connection in this location. This connection may be for cyclists and pedestrians rather than vehicles, however, that is not something that can be resolved in this current planning process.

Submission point 2886.4 and 2886.5: These submission points relate to reserves and walkway/cycleway connections in the Catherine Road area. The submitters are requesting a different configuration than that shown in Plan Change 73. Ms Squires and Mr Peterson explained how the mapping shown in Plan Change 73 does not represent the full reserve network in the area. There is land already purchased by Council for stormwater management purposes which will also serve as public open space, provide for connectivity and an ecological / carbon sequestration function. There are also additional indicative walkways in the area which improve connectivity. Beyond these items there may be other reserves and connections established in the area as Council works with developers over time. For these reasons the decision is to retain the amendments in this area as per the notified Plan Change 73.

6.1.15 Submitter 4186 - Haydn Bone

Submission point 4186.1, Oppose in part: Delete the indicative reserve that crosses part of the submitter's title Lot 2 DP304288.

6.1.15.1 Summary of the Section 42A Report

Submission point 4186.1: It was recommended that the Hearing Panel accept the decision sought by the submitter. This submission opposed the indicative reserve where it crosses their Right of Way. Plan Change 73 is proposing to remove the indicative reserve subject to the submitters request, thereby meeting their desired outcome.

6.1.15.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.15.3 Decision

Submission point 4186.1: Accept. Remove the indicative reserve as per the notified Plan Change 73.

6.1.15.4 Reasons

Submission point 4186.1: The submitter has requested the indicative reserve crossing a portion of their property is removed. This was already removed as part of the notified Plan Change 73 and thereby achieves the outcome sought by the submitter. Of note is the underlying indicative walkway which remains in this location, retaining Council's intent to establish a walkway in this location in the future.

6.1.16 Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.1, Support: Retain proposed amendments in 73.16 – Chapter 16.

Submission point 923.2, Support: Retain proposed amendments in 73.16 – Chapter 17.

Submission point 923.3, Support: Retain proposed amendments to the Area maps relating to indicative roads and reserves.

6.1.16.1 Summary of the Section 42A Report

Submission point 923.1 – 923.3: It was recommended that the Hearing Panel accept the decisions sought by the submitter.

6.1.16.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.16.3 Decision

Submission point 923.1 – 923.3: Accept.

6.1.16.4 Reasons

Submission point 923.1 – 923.3: The submissions are in support of the Plan Change items in 73.16 – Chapter 16, 73.16 – Chapter 17 and the Area maps relating to indicative roads and reserves. The decision is made to accept these submission points in support.

6.1.17 Submitter 3757 – ASJ Property per Jason Inch

Submission point 3757.1, Oppose in part: Retain the current status of the indicative road and associated rules on the property. The submitter does not support the location of the indicative road on their property and therefore cannot support the addition of a rule managing building placement on the property.

6.1.17.1 Summary of the Section 42A Report

Submission point 3757.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The location of the indicative road is not within the scope of PC73. The building setback rule is to be added to this indicative road for consistency with other indicative roads in Motueka where this already applies and to other indicative roads in the district.

6.1.17.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.17.3 Decision

Submission point 3757.1: Reject. Introduce building setback rules as per the notified Plan Change 73 and retain the indicative road in its current position.

Scope: The decision is made that changing the location of the indicative road is outside of the scope of Plan Change 73.

6.1.17.4 Reasons

Submission point 3757.1: The indicative road is shown in its current location in the operative TRMP as this runs across land which is currently zoned Residential and Rural 1 deferred Residential. It also provides access to the back of Motueka South School and the Rural 1 deferred Residential block to the north of the school. The placement was part of a public process. Any change to the location of the indicative road would be out of scope of Plan Change 73 and would require a wider plan change process with additional consultation and zoning considerations. The introduction of a building setback rule was proposed in the notified Plan Change 73 to ensure that this requirement applies consistently across all areas within Motueka, and other parts of the district. The reasons for the position of the indicative road and the building setbacks proposed to apply to it are supported.

6.1.18 Submitter 4188 – D T King and Co Ltd per Paul Balneaves (551 Lower Queen Street)

Submission point 4188.1, Oppose in part: Oppose the removal of the indicative road (551 Lower Queen Street). The submission proposes a new indicative road layout.

Further Submission FC73.4192.1 –Allan McLean – Support: Support for the submission as, if the requested changes were granted, it would at the same time satisfy the requested changes that outlined in the further submitter's own submission (C73.4192.1) regarding the same matter.

6.1.18.1 Summary of the Section 42A Report

Submission point 4188.1: It was recommended that the Hearing Panel reject the decision sought by the submitter and the supporting further submission (FC73.4192.1). The indicative road is proposed to be removed due to the increased risk posed by coastal inundation. Placing a road and associated infrastructure in this corridor would increase the risk to Council and the cost to future rate payers.

6.1.18.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.18.3 Decision

Submission point 4188.1: Reject. Remove the indicative road as per notified Plan Change 73. Further submission FC73.4192.1: Reject.

Scope: The decision is made that changing the location of the indicative roads in the wider area as requested by the submitter is outside of the scope of Plan Change 73.

6.1.18.4 Reasons

Submission point 4188.1: The submitter seeks that the indicative road running across their property from Lower Queen Street is retained. They explained in the submission that development and services have been installed on the property based on the assumption that this would be a public road and that these services would eventually carry on to further development in this area. A suggestion was also made to remove all indicative roads in the area replacing them with a single alignment running along the back of their property and across others in the area. This latter request was determined in the section 42a report to be out of scope of Plan Change 73 as this change was not signalled during the development of the Plan Change, or at the time of notification. Also, other parties who would have an interest in this arrangement have not had an opportunity to comment. While the arrangement presented by the submitter may have merit it is out of scope of this current planning process.

The reasons set out below relate to the decision to remove the indicative road. Mr Ley provided a report (as attached to the Section 42a report) identifying the reasons for the proposed removal of the indicative road. These reasons are:

1. The indicative roads were added to the TRMP when the wider Richmond West area was rezoned, in the case of this property the zone is Light Industrial. This was based on climate change and sea level rise predictions at the time.
2. Recent modelling and actual storm events have shown that the property will become inundated at an accelerated rate over the coming years.
3. When development occurs, individual buildings will have to have elevated building pads and floor levels. The whole property cannot be unilaterally filled as this would impact on inundation of other properties.
4. The existing indicative road and services within it would also become regularly inundated.
5. This creates a risk for Council and a cost to future rate payers.
6. The area is well served with indicative roads to the south and inland which are less susceptible to climate change and sea level rise.
7. Development of the site can still occur with raised building platforms and private Right of Ways for access from Lower Queen Street.

The decision to remove this portion of indicative road is therefore based on sound resource management reasons of avoiding roading and servicing infrastructure being built in an identified hazard risk area. To do so could result in reduced resiliency in a major event, or due to future sea level rise. Avoiding placing new Council infrastructure in this area will also reduce the future financial burden on Council and ratepayers of increased maintenance and protection of this infrastructure.

The submitter is still able to develop their property and receive access off Lower Queen Street via a private right of way arrangement.

For the reasons given above the decision is to remove the indicative road as per the notified Plan Change 73.

6.1.19 Submitter 4192 – Alan McLean (563 Lower Queen Street)

Submission point 4192.1, Oppose in part: retain the indicative road onto Lower Queen Street at 551/563 Lower Queen Street, or if not agreed to:

- 1) Allow for private accesses (ROW's) or private roads off Queen Street and record as such in the TRMP under Plan Change 73.

- 2) Relocate the lateral side road that crossed the indicative public road to the rear boundary of numbers 563 and 551 and other adjoining lands that front Lower Queen Street.

6.1.19.1 Summary of the Section 42A Report

Submission point 4192.1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The indicative road is proposed to be removed due to the increased risk posed by coastal inundation. Placing a road and associated infrastructure in this corridor would increase the risk to Council and the cost to future rate payers.

Scope: The decision is made that changing the location of the indicative roads in the wider area as requested by the submitter is outside of the scope of Plan Change 73.

6.1.19.2 Summary of Evidence Presented at the Hearing

Mr Thomas presented evidence at the hearing on behalf of Mr McLean who was also in attendance and spoke to his submission. The submitter described the background to locating the road in this position so it could serve both 551 and 563 Lower Queen Street (Submitter 4188 and 4192 respectively). They outlined the differences they see between a public road, and a private right of way access. Principally, this is around a public road which is built to standard being able to handle an unlimited number of industrial users, while a right-of-way is limited to 6 titles, but uncertainty remains when there are more discrete users than this. There are also security issues which will become the responsibility of the landowner while public roads can rely on the Police.

The submitters identified that the potential for increased sea levels to adversely affect Council infrastructure appear to the driver for the removal of the indicative road. The submitters stated raising the land would result in diverting stormwater to other properties, but that this would not occur and could be prevented by the TRMP. To link development and raising land to divert stormwater into the removal of an indicative road seems misleading and should not be there. The services which may be flooded are already there (water, sewer, power and phone), stormwater control need to be ungraded to handle the overland flow coming from upstream.

The submitters raised concern about the removal of this portion of indicative road effectively making other portions of the indicative road network redundant. This is particularly the case when considering that the land owned by Nelson Pine Industries is not intended to be developed and therefore the road not formed. The alternative alignment put forward by submitter 4188 is relevant.

6.1.19.3 Decision

Submission point 4192.1: Reject. Remove the indicative road as per the notified Plan Change 73.

Scope: The decision is made that changing the location of the indicative roads in the wider area as requested by the submitter is outside of the scope of Plan Change 73.

6.1.19.4 Reasons

Submission point 4192.1: The submitter seeks that the indicative road running from Lower Queen Street is retained. They explained that development has been planned for this property with the existing indicative road in its current position. They consider the removal of the indicative road would render the development unviable, reducing the availability of industrial land. A suggestion was also made to move the indicative roads to form a single alignment running along the back of their property and across others in the area. This latter request was determined in the section 42a report to be out of scope of Plan Change 73 as this change was not signalled during the development of the Plan Change, or at the time of notification. Also, other parties who would have an interest in this arrangement have not had an opportunity to comment. While the arrangement presented by the submitter may have merit, it is out of scope of this current planning process.

The reasons set out below relate to the decision to remove the indicative road. Mr Ley provided a report (as attached to the Section 42a report) identifying the reasons for the proposed removal of the indicative road. These reasons are:

1. The indicative roads were added to the TRMP when the wider Richmond West area was rezoned, in the case of this property the zone is Light Industrial. This was based on climate change and sea level rise predictions at the time.
2. Recent modelling and actual storm events have shown that the property will become inundated at an accelerated rate over the coming years.
3. When development occurs, individual buildings will have to have elevated building pads and floor levels. The whole property cannot be unilaterally filled as this would impact on inundation of other properties.
4. The existing indicative road and services within it would also become regularly inundated.
5. This creates a risk for Council and a cost to future rate payers.
6. The area is well served with indicative roads to the south and inland which are less susceptible to climate change and sea level rise.
7. Development of the site can still occur with raised building platforms and private Right of Ways for access from Lower Queen Street.

The decision to remove this portion of indicative road is therefore based on sound resource management reasons of avoiding roading and servicing infrastructure being built in an identified hazard risk area. To do so could result in reduced resiliency in a major event, or due to future sea level rise. Avoiding placing new Council infrastructure in this area will also reduce the future financial burden on Council and ratepayers of increased maintenance and protection of this infrastructure.

The submitter is still able to develop their property and receive access off Lower Queen Street via a private right of way arrangement.

For the reasons given above the decision is to remove the indicative road as per the notified Plan Change 73.

6.2 Topic 2 PC ref 73.22 Relocated Buildings

6.2.1 Submitter 4189 – House Movers Section of NZ Heavy Haulage Association

Submission point 4189.1, Support: Retain provision 16.8.3.1 which provides for relocated buildings as a permitted activity.

Submission point 4189.2, Support in part and opposition to a specific provision: The submission seeks to delete the proposed performance standards relating to relocated dwellings at 16.8.3.1 (b) – (d) and replace with standards provided in the submission. Specific opposition to clause 16.8.3.1 (c).

Submission point 4189.3 and 4189.4, Support in part: Removal and re-siting to also be provided for as permitted activities, subject to the same zone standards as in situ dwellings. Also add definitions for 'removal' and 're-siting' in addition to the definition for 'relocated dwelling'.

6.2.1.1 Summary of the Section 42A Report

Submission point 4189.1: It was recommended that the Hearing Panel accept the support of the submitter relating to retaining the provision providing for relocated buildings as a permitted activity.

Submission point 4189.2: It was recommended that the Hearing Panel partly accept the change sought by the submitter with modifications provided in an appendix to the Section 42a report.

Submission point 4189.3 / 4: It was recommended that the Hearing Panel partly accept the change sought by the submitter with modification provided in an appendix to the Section 42a report.

6.2.1.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.2.1.3 Decision

Submission point 4189.1: Accept. Retain provision 16.8.3.1 which provides for relocated buildings as a permitted activity.

Submission point 4189.2: Accept in part. A modified version of the proposed provisions (16.8.3.1) taking into account the matters raised by the submitter are to be incorporated into the TRMP – see Appendix 1 for the schedule of amendments relevant to this decision.

Submission point 4189.3 / 4: Accept in part. A modified version of the proposed provisions (16.8.3.1) taking into account the matters raised by the submitter are to be incorporated into the TRMP – see Appendix 1 for the schedule of amendments relevant to this decision.

6.2.1.4 Reasons

Submission point 4189.1: The submission is in support of the status of the relocated buildings being permitted within the bounds of the proposed rule. The modifications to the rule included in Appendix 1 to this decision maintains that permitted activity status.

Submission point 4189.2: The submitter is generally in support of the changes but seeks a revised and expanded set of permitted activity standards. As stated by the submitter these are stricter permitted activity standards to ensure that amenity effects are adequately provided for in a quality manner and to a degree that is acceptable for residents in the district.

The most significant change being that the building intended to be used as a dwelling must have previously been designed, built and used as a dwelling. Also, the requirement to provide a report with the building consent, identifying the external reinstatement works required is a stricter obligation. The

submitter requests that the standard requiring Council to be notified of the timing of the relocation at least 48hrs before it occurs is removed.

The requirement that the building to be relocated and used as a dwelling must have been designed, built and used as a dwelling previously, is accepted. This provides improved amenity when utilising the permitted activity rule. It ensures that other buildings which may be converted for use as a dwelling after being relocated can be considered, through resource consent, for their suitability for this purpose at the intended site.

The requirement to provide a report identifying all exterior reinstatement works is to be added to the permitted activity standards to provide increased certainty of the works that need to be completed within the specified 12-month period. The requirement for Council to be advised 48 hours prior to the building being relocated is retained to provide certainty for monitoring that the permitted criteria are achieved, including a starting point for the 12-month reinstatement period. The time to place the building on its permanent foundations is also reduced from six months to two as requested in this submission from the industry. Other aspects have not been introduced as they are more relevantly managed through the building consent process.

The decision is made to provide an amended set of permitted activity standards for relocated dwellings.

Submission point 4189.3/4: The definition of 'relocated building' is adjusted through this decision to clarify that it includes removing a building off a site and also moving it within a site. This is to ensure that no unintended application of rules is applied, or gaps created by only managing buildings which are relocated from one site to another.

Section 32AA: An additional evaluation of these changes was provided in the Section 42A report. This decision adopts that additional evaluation under Section 32AA with particular note to that this change continues to achieve the objective of the change by removing unnecessary consenting requirements while maintaining a level of control over the amenity outcomes of dwelling relocation. The recommended amendments to the approach included in this decision is therefore considered to be the most appropriate way to achieve the objective of Plan Change 73.

6.3 Topic 3 PC ref 73.25 Rezone existing reserve land as Open Space or Recreation

6.3.1 Submitter 783 – Philip and Rose Windle

Submission point 783.1, Oppose: Ensure that the verge of Motupipi River is not planted with any sort of vegetation, e.g. trees or shrubs.

6.3.1.1 Summary of the Section 42A Report

Submission point 783.1: It was recommended that the Hearing Panel reject the decision sought by the submitter due to this being out of scope of PC73.

6.3.1.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.3.1.3 Decision

Submission point 783.1: Reject.

Scope: The decision is made that managing the planting of vegetation in this area is outside of the scope of Plan Change 73.

6.3.1.4 Reasons

The submitter has requested that the verge of Motupipi River is not planted with any sort of vegetation, e.g. trees or shrubs. This submission is not within the scope of Plan Change 73 as whether planting occurs in this area is not a matter that is covered within Plan Change 73.

This submission request has been forwarded to TDC's Reserves team for their information and consideration when this river is restored ecologically and for the management of flooding.

6.3.2 Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.4, Support: Retain proposed amendments to zone maps relating to the rezoning of reserve land as Open Space or Recreation.

Submission point 923.5, Support in part: Amend plan change to also rezone Lot 51 DP536838 (vested in Council as Recreation Reserve in 2020) as Open Space Zone.

6.3.2.1 Summary of the Section 42A Report

Submission point 923.4: It was recommended that the Hearing Panel accept the supportive submission by the submitter relating to rezoning of reserve land as Open Space or Recreation.

Submission point 923.5: It was recommended that the Hearing Panel accept the decision sought by the submitter to rezone an additional Lot which has been vested by Council.

6.3.2.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.3.2.3 Decision

Submission point 923.4: Accept.

Submission point 923.5: Accept. Rezone additional reserve land (Lot 51 DP536838) as Open Space Zone.

6.3.2.4 Reasons

Submission point 923.4 / 5: The submitter supports the rezoning of reserve land as Open Space or Recreation zones. They also seek the addition of a further area of reserve land which has come into Council ownership as a result of subdivision that has occurred since Plan Change 73 was notified. The neighbouring property owners have been consulted and understand how this impacts their properties. The opportunity was provided for further submissions to be made and none were received. This change therefore brings this land into a zoning consistent with other reserve land vested in Council and included within Plan Change 73. The decision is made to accept these submission points.

6.4 Topic 4 PC ref 73.26 / 73.28 Specific area provisions

6.4.1 Submitter 923 – Beaches and Bays (Kaiteriteri) Ltd

Submission point 923.6, Support: Retain amendments to condition (q) relating to site-specific provisions at Talisman Heights, Little Kaiteriteri, particularly the clarification that the rule applies only to vegetation within the Coastal Environment Area.

Submission point 923.7, Support: Retain amendments to 17.1.2.1(a) (vii) and 17.1.3.1(u)(i).

6.4.1.1 Summary of the Section 42A Report

Submission point 923.6: It was recommended that the Hearing Panel accept the support of the submitter.

Submission point 923.7: It was recommended that the Hearing Panel accept the decision sought by the submitter to retain 17.1.2.1(a) (vii) and 17.1.3.1(u)(i).

6.4.1.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.4.1.3 Decision

Submission point 923.6: Accept.

Submission point 923.7: Accept.

6.4.1.4 Reasons

Submission point 923.6 – 923.7: The submissions are in support of Plan Change 73 items, Retain amendments to condition (q) and amendments to 17.1.2.1(a) (vii) and 17.1.3.1(u)(i). The decision is made to accept these submission points in support.

6.4.2 Submitter 4191 – Neil and Sue McCliskie

Submission point 4191.1, Oppose in part.

Either:

- (i) Delete the site-specific rules noted in Plan Change 73.28 and delete the closed status of the Rural 1 Zone around the enclave and have the land revert to Rural 1 zoning;

And:

- (ii) Provide a commitment to rezoning the land to a Rural Residential Zone as part of the review of the TRMP;

Or:

- (iii) Delete the site-specific rules in Plan Change 73.28 and rezone this location of Golden Hills Road to Rural Residential.

Further Submission FC73.4204.1 – Jeff and Sophie Marr – Support: Fully supportive of the original submission for similar reasons as given below and in more detail in the further submission.

6.4.2.1 Summary of the Section 42A Report

Submission point 4191.1: – Reject due to being out of scope of PC73. Further Submission FC73.4204.1: - Reject.

Scope: The Section 42a report specifically considers the changes sought by the submitter in terms of scope. The Clearwater/Machinists tests³ are referred to. The Section 42a reports finds that the changes sought by the submitter are beyond the scope of Plan Change 73 and are therefore not 'on' the Plan Change. The reasons for this were outlined to be that Plan Change 73 did not seek to change the pre-existing status quo in terms of the zoning of the land. Zoning changes have not been assessed in any way and have not been signalled in any of the consultation with property owners within the zone concerned, or those adjacent landowners. As there has been no consultation with the property owners concerned, or those neighbouring the area there have been no real opportunity for participation by those potentially affected.

6.4.2.2 Summary of Evidence Presented at the Hearing

The submitter's evidence was presented by consultant planner, Mc McNae with the submitter Mr McCliskie in attendance. Ms McNae referred to the evidence circulated prior to the hearing and spoke to this at the hearing. Ms McNae's evidence represents both submitter 4191 (Neil and Sue McCliskie) and further submitter FC73.4204.1 (Jeff and Sophie Marr).

Ms McNae described the submitter and further submitters properties in terms of being a lifestyle property. They are too steep for many productive uses such as orcharding, hops and market gardens. It does grow grapes but at around one third of the productivity of other blocks on the Waimea Plains. The further submitters have removed their grapes and the submitters are looking to do the same. The properties are 'at a crossroads' of where to go next.

Ms McNae outlined the history of the establishment of the Rural 1 Closed Zone and associated provisions which apply to this area. This was a result of a mediation process to resolve an appeal to the original notified Tasman Resource Management Plan. The closed zone and provisions were accepted by the original landowner, as stated by Ms McNae '*...it achieved the landowner's aspiration*'. Ms McNae also stated that the landowner at the time retained the larger allotments for the vineyard activity, that is now the land owned by the submitter, with the rest of the land in the enclave subdivided into smaller blocks, giving seven titles. The rural 1 zoning is not seen to make sense in terms of the agreement to the lifestyle type subdivision. The submitters have greater concerns about the closed status of this zoning where additional subdivision is prohibited.

Ms McNae explained the submitters seek the zoning to be changed to Rural Residential Zoning as this is to all intents and purposes what the mediation process agreed to with the allowance for the 4ha minimum subdivision area. Ms McNae acknowledged that this is not an option available as it is outside of the extremely narrow scope of Plan Change 73. As an alternative the submitters seek to delete the Closed status of the Rural 1 Zone and for Council to provide a commitment to rezone the land to Rural Residential Zone as part of the review of the TRMP. This is to resolve what is seen to be an anomaly to the zoning in this enclave on Golden Hills Road.

6.4.2.3 Decision

Submission point 4191.1: – Reject. Make no changes to the zoning of the area.

Further Submission FC73.4204.1: - Reject.

Scope: The decision is made that the changes to the zoning sought by the submitter are not within the scope of Plan Change 73.

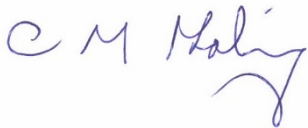
6.4.2.4 Reasons

³ Clearwater Resort Ltd v Christchurch City Council HC Christchurch AP 34/02, 14 March 2003; Palmerston North City Council v Motor Machinists Ltd [2-13] NZHC 1290, [2014] NZRMA 519

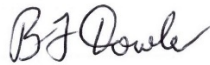
The reason for rejection of the change sought by the submitter (and supported by the further submitter) is due to the change not being within the scope of Plan Change 73. As has been outlined in the Section 42a report Plan Change 73 did not seek to make any changes to the zoning of the land. The changes made were to remove redundant rules, and any greater changes such as rezoning land would be considered in a separate planning process. As Council did not seek to make any changes to zoning this was not assessed as part of the Plan Change process and was not consulted on with affected parties (predominantly landowners and neighbours).

The decision is to retain the changes as notified and not to change the zoning of the area.

Recommendation to the Strategy and Policy Committee: The Hearing Panel makes the comment to Council that the zoning of the land within the Rural 1 Closed Zone on Golden Hills Road be considered as part of a future planning process. As identified by the submitter the Rural Residential Zone may be suitable. It is noted that the future planning process will determine the appropriateness of any change and will involve consultation with affected parties and opportunities to be involved through the statutory planning process. The development of the Aorere ki uta, Aorere ki tai Tasman Environment Plan is suggested as the planning process where this should occur.



Cr Kit Mailing (Chair)



Cr Barry Dowler



Cr Christeen MacKenzie

7 Appendix 1: Schedule of Amendments (Plan Text)

[Under separate cover]

8 Appendix 2: Schedule of Amendments (Plan Maps)

[Under separate cover]