

IN THE MATTER OF

the Resource Management Act
1991

AND

IN THE MATTER OF

Plan Change 79 – Deferred Zoning
to the Tasman Resource
Management Plan under Schedule
1 of the Resource Management
Act 1991

MINUTE 3 OF THE HEARING PANEL APPOINTED BY TASMAN DISTRICT COUNCIL

Introduction

1. The hearing of Plan Change 79 – Deferred Zoning (PC79) to the Tasman Resource Management Plan (TRMP) was held on Monday 23 June 2025.

Hearing adjourned and next steps

2. The Hearings Panel adjourned the hearing after hearing from the Council and the submitters, as we had identified a number of matters which we want to have addressed before closing the hearing and deliberating.
3. Before we adjourned the hearing, we advised that we would be:
 - (a) Directing expert planner conferencing between the Council and submitters' planners
 - (b) Directing the provision of a will-say statement from Mr Taylor in advance of expert conferencing on the broader PC79 provisions, on behalf of Appleby 88 and Mt Hope Ltd
4. We provided the submitters and Council the opportunity to provide us with questions that they thought would be appropriate for conferencing. We received recommended questions from Counsel for Mt Hope Holdings Ltd and Appleby 88, the Lower Queen Street submitters¹, A and S Talley and the Council. We thank Counsel for the time taken to prepare the questions and for advising of their planners' availability. We also thank the Council for sending through their questions.
5. During the hearing, we were advised by Council that they had an email from NZTA regarding access that was relevant to the submission from Appleby 88. This was provided to us and all parties through the course of the hearing. We subsequently provided Counsel for Appleby 88 the opportunity to review the NZTA email and respond to us as to how they'd like to address that. Counsel requested that they have the opportunity to provide us with a written response by Friday 27 June 2025. In the circumstances, we agree and

¹ AB & SL Family Trust (OS 4222); Wai West Horticulture Limited (OS 1651); Coral and Tracy Yelverton (OS 4230); Flowerlands Ltd (OS 4228)

consider this appropriate. Counsel for Appleby 88 is thereby requested to provide a response by no later than **4pm Friday 27 June 2025**.

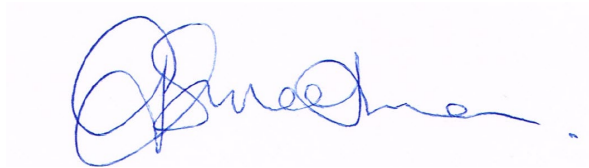
6. Concurrently, we also direct Council to contact NZTA to advise whether they prohibit access of the State Highway at Appleby if the access is for a commercial purpose? What are the restrictions, if any, for commercial activities accessing the State Highway in this location? This information is to be provided to all parties by no later than **4pm Friday 4 July 2025**, unless otherwise agreed with the Chair.
7. During the hearing, we also asked the Council whether they had obtained legal advice on the vires of the proposed PC79 and their recommended amendments. We were subsequently advised that they had, but this was not able to be made available to us. We indicate at this point in time that we may need to commission our own legal advice before commencing our deliberations, dependent on the outcome of expert conferencing.

Directions for Expert Conferencing

8. We hereby direct, pursuant to s41C of the RMA, that expert conferencing occurs on the questions that we have set out in **Appendix 1** to this Minute. In this appendix, we have indicated which planners are to participate in responding to each of the questions. In particular, Mr Philip Percy is not required to participate in conferencing on the Lower Queen Street natural hazard provisions.
9. Prior to expert conferencing, Mr Hayden Taylor is directed to provide a will-say statement on the wider PC79 provisions, given his evidence to date has been specific to the Lower Queen Street natural hazard-related provisions. This will-say statement is to be provided no later than **4pm Thursday 3 July 2025**. On receipt, it will be posted on the Council website and made available to parties.
10. The joint witness statements being provided for each suite of questions by no later than **4pm Friday 25th July 2025**. The Panel is to be kept informed of progress on the conferencing, including any constraints on availability of either information or availability. The Council planners are expected to organise when conferencing is to occur and ensure the joint witness statements are provided by the due date. The parties are to confer together as to whether the conferencing sessions are independently facilitated.
11. The joint witness statements are to identify points of agreement on the issues, and, where experts disagree, a brief commentary on specific points of agreement. Expert conferencing is to occur in accordance with the Environment Court Consolidated Practice Note 2023–Code of Conduct for expert witnesses available at the following website <https://environmentcourt.govt.nz/about/practice-note/>
12. On receipt, the joint witness statements will be posted on the Council website and made available to parties.
13. We will then review the joint witness statements and issue further directions on next steps.

Communication and questions

14. Any enquiries regarding these Directions or related matters should be directed to the Hearing Administrator, Narissa Armstrong (narissa.armstrong@tasman.govt.nz). No party is to directly contact any member of the Hearings Panel.



Gina Sweetman
Chairperson, on behalf of the Hearings Panel
27 June 2025

Appendix 1 – questions for expert conferencing

Topic 1 – Lower Queen Street natural hazard provisions

1. Do the relevant higher order documents target avoidance of increased risk or the avoidance of subdivision, use and development in areas prone to coastal hazards?
2. Specific to the lower Queen Street Light Industrial zone, of the relevant (key) statutory considerations, where do you agree and disagree as to whether these are met?
3. Is the existing built form (buildings and seawall/structures) on the seaward side of lower Queen Street relevant when considering the appropriate activity status for subdivision within the scheduled area, and if so, why?
4. What evidence is before the panel that would justify the introduction of a prohibited activity status for subdivision in Schedule 17.4A? Does the s32 evaluation report, the s42A report or council rebuttal statement contain an adequate evaluation of the appropriateness of applying a prohibited activity status to subdivision to satisfy the requirements of s32AA RMA?
5. Is the use of a prohibited activity status consistent with contemporary planning practice in other RMA plans relating to similar circumstances?
6. To what extent would a prohibited activity status for subdivision impact on the ability of landowners to develop their land?
7. What regulatory/non-regulatory measures are available to Council to manage risk and minimise liability associated with development within the Schedule 17.4A area, beyond those proposed by the Council?
8. Is it appropriate, effective and efficient that the area lower Queen Street Light Industrial zone within Schedule 17.4A be managed differently to land outside the scheduled area?
9. Is the boundary for the deferred area contained in Schedule 17.4A the most appropriate, effective and efficient means of achieving the objectives? Identify any agreed boundary changes on a plan.
10. Taking into account other Light Industrial live zones within the vicinity, if subdivision were to be provided for through a different activity status, what would an appropriate minimum lot size be within the scheduled area?
11. Should the Panel consider that Mr Taylor's recommended exemption pathway to be the most appropriate, are there any drafting improvements that could be made?
12. Is the use 'short' 'medium' and 'long' term used in the proposed provisions effective and efficient and certain for plan implementation?

Planners to attend conferencing: Jeremy Butler and Hayden Taylor

Topic 2 – Plan Change 79

1. What are the roles that the deferred zone provisions need to perform in the TRMP? Are the roles set out at the beginning of Mr Percy's speaking notes from the hearing correct?
2. Are each of these roles required throughout the district or just in some locations? If just in some locations, how are the TRMP provisions best framed to provide the distinction?
3. For both deferred zone sites in Schedule 17.14A ("Scheduled sites") and deferred zone sites not listed in Schedule 17.14A ("Non-scheduled sites"), what are the policies and rules that manage the different roles?
4. How would these provisions work in each circumstance? Are there gaps in the policies and rules in order for them to work as intended? What would appropriate rewording be to address any gaps?

5. In light of the above, do the Plan Change 79 provisions not affect deferred zones in Māpua and Motueka and preserve the status quo in those zones (in accordance with the stated notified purpose of Plan Change 79). If they do impact on Māpua and Motueka, what amendments are required to PC79?
6. In respect of the above, what amendments are required to the “rule flip” trigger to ensure that the PC79 provisions are viable? In considering this:
 - a. Is it appropriate that the “rule flip” from the deferred zone to the urban zone could occur before the necessary infrastructure contained in Schedule 17.14A is physically in place? What would the implication be should the urban zone be “flipped on” because infrastructure was funded in the Long Term Plan, but it was then not proceeded with and an application had been received for urban development?
 - b. For those deferred areas in Schedule 17.14A which rely on future funding and/or delivery of infrastructure that is reliant on one or more third parties sufficiently certain for the purposes of rules?
 - c. Are the provisions clear, certain and able to be implemented on face value?
 - d. Do the provisions require a subjective evaluation by a third party?
7. Is it appropriate that under Policy 6.3.3.4D urban development must be “avoided” unless the infrastructure specified in Schedule 17.14A is delivered. Would it be appropriate for Policy 6.3.3.4D to be more flexible in how necessary infrastructure is provided, and is there scope to do so?
8. Are amendments required to ensure that the PC79 provisions treat Non-scheduled sites as rural deferred zones and not as rural zones? (e.g. 17.14.2.1, 17.14.20)
9. In relation to 17.14.2.2, what should the starting date of the 10-year sunset period be?
10. Are all columns in Schedule 17.14A needed, and are the column headings appropriate?
11. From a planning perspective, is there scope to and is it appropriate to recommend amendments to 166 Mapua Road as part of Plan Change 79?

Planners to attend conferencing: Mary Honey, Hayden Taylor and Philip Percy

Topic 3 – NZTA access – RW5 specific

1. Is it appropriate or necessary for Policy 6.3.3.4D(a) to be amended to refer to “or the site otherwise has road access approved by NZTA”?
2. Is it appropriate for the sunset period to be extended to 15 years for transportation requirements?
3. Is it appropriate to amend Schedule 17.14A Column D to refer to the alternative transportation infrastructure sought in Appleby 88’s submission?

Planners to attend conferencing: Mary Honey and Hayden Taylor