

Topic 1 – Plan Change 79

Joint Planning Witness Statement

This joint witness statement has been prepared by Hayden Taylor and Jeremy Butler, being planning experts who participated in expert conferencing for Topic 1 of Plan Change 79. Planner conferencing was directed by the Hearing Panel in Minute 3 on 27 June.

Conferencing took place over several sessions.

Our conferencing discussions were directed at responding to the specific questions prepared for Topic 1, rather than addressing all aspects of the plan change or the full scope of matters in contention between planning witnesses. We have identified areas of agreement and disagreement in our responses to each of the questions. We are willing to undertake further drafting as directed by the hearing panel.

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?

HT considers that the higher order documents target avoidance of increased risk, not avoidance of subdivision, use and development in areas prone to coastal hazards. As detailed in evidence, and comments in tables below.

JB - I concur with Mr. Taylor's assessment that the higher order documents primarily target the avoidance of increased risk. However, it is important to emphasize that this is achieved through directives that require the avoidance of certain activities in areas prone to coastal hazards. Specifically, the higher order documents require the avoidance of subdivision, use, and development in these vulnerable areas as a means to mitigate risk. This approach ensures that the potential for adverse effects is minimized, thereby aligning with the overarching goal of risk reduction.

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?

The table below lists the relevant higher order provisions (column 1); our respective positions in respect of each as detailed in our evidence and s42A report (columns 2 and 3, respectively), and; where we now agree or disagree following caucusing (columns 5 and 6).

Table 1: Relevant Provisions of the NZCPS				
Provision	Mr Taylor Assessment	Mr Butler Assessment	Agreement	Disagreement
<p>Objective 5:</p> <p>To ensure that coastal hazard risks taking account of climate change, are managed by:</p> <ul style="list-style-type: none"> locating new development away from areas prone to such risks; considering responses, including managed retreat, for existing development in this situation; and protecting or restoring natural defences to coastal hazards. 	<p>Council’s s42A report confirms that, having considered coastal hazard risks, this area is generally appropriate for development for light industrial purposes. I support this position.</p> <p>I disagree with Council Officers in relation to additional controls that may be necessary for new development in the plan change area in relation to natural hazards.</p>	<p>Mr Taylor misconstrues the core position set out in the S42A report. Generally, I do not consider that the area is suitable for light industrial purposes, but I recognise that it can be suitable for a period of time, and moreover, that following Plan Change 10 the expectation from landowners and land purchasers was that it would be LIZ.</p> <p>Mr Taylor has not challenged the area that is prone to risk, and the first bullet point in the objective is clear about locating development away from that area. The</p>	<p>We agree that the Light Industrial zone exists and so this is not new development in the sense of rezoning land for urban purposes. However, we also agree that the physical construction of light industry should be considered as “new development”.</p> <p>We agree that there are spatial and temporal aspects to the risk. The spatial risk extends as far as the inland scheduled line. However, this area is not at risk immediately or for a period of time. Therefore, we consider that the “area of risk” for the purposes of this objective is:</p> <p>a) within the spatially defined area, AND</p> <p>b) beyond the timeframe when Sea Level Rise and inundation risks are more likely to occur. This has been formally</p>	<p>Hayden Taylor:</p> <p>This policy does not direct us toward ‘no development’ within the schedule area as a whole, and this is not what the PC provisions, as drafted, do.</p> <p>Disagreement remains as to what provisions are appropriate to manage risks of new development within the potential hazard area, in order to meet this policy.</p> <p>In summary, HT considers that the notified provisions, and the prohibition of subdivision proposed in the hearing version, go too far in achieving this objective.</p> <p>Jeremy Butler:</p> <p>I do consider that this objective directs us towards ‘no development’ within the scheduled area. But, as a pragmatic solution recognising the circumstances of</p>

		<p>relevant DoC guidance states that the objective:</p> <p><i>“emphasises the importance of locating development away from risk-prone areas. It also underpins Policy 25(b), under which local authorities and other decision-makers are directed to avoid redevelopment or change in land use (including intensified development) that would increase the coastal hazard risk”¹</i></p> <p>Natural defences to coastal hazards will only be enabled by minimising the above and below ground infrastructure.</p>	<p>defined as the period after the trigger level has been reached.</p> <p>The objective requires that hazard risks are managed by locating development away from areas prone to such risks. Council have undertaken a screening step where the schedule area has been identified as potentially prone to a hazard, but risk within that area is more nuanced, and there are spatial and temporal aspects to this risk, within the schedule area.</p> <p>While the entire scheduled area has been identified as subject to a hazard, we agree that the nature, magnitude and timing of that hazard varies over the area.</p>	<p>the situation, the variation in risks, both spatial and temporal, have been reflected in the plan change provisions.</p> <p>In comparing Objectives 5 and 6, JB notes that Objective 5 as an avoid objective contains a directive, compared with Ob 6 which is not. Therefore, in this matter greater weight should be placed on the direction in Ob 5. (per King Salmon decision)</p> <p>In summary, JB considers that the notified provisions appropriately reflect the higher order policy documents, but also accommodate the practical realities and circumstances.</p>
Objective 6:	The zoning of the land for light industrial purposes is required to meet the social and	Based on the Future Development Strategy 2022 and the Housing and Business	This analysis of demand is not detailed in the Section 32 analysis but is available.	HT – From my perspective the HBA and FDS assessments have assumed that the LQS Light Industrial land will be utilised for

<p>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:</p> <ul style="list-style-type: none"> the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits; 	<p>economic needs of the Richmond/ Tasman community in relation to the adequate provision of land suitable for light industrial land uses. This is confirmed in the Council's s32 report.</p> <p>In my opinion a prohibition on subdivision is likely to make realisation of this more difficult, particularly for the larger landholdings within the plan change area.</p>	<p>Assessment (HBA) there is sufficient industrial capacity available. Council is also preparing Plan Change 81 which will enable further LIZ land within the urban area.</p> <p>Therefore, this land is not required for the broad Objective 6 outcomes, and long term development and subdivision would not be <i>in an appropriate place and form</i>.</p>	<p>This objective is relevant to the landowners in the LQS scheduled area.</p> <p>The landowners may have a reasonable expectation of being able to utilise the land for their social, economic and cultural wellbeing in line with the zoning of the land.</p> <p>If this land were not to be developed as expected due to restrictive planning controls, this would reduce the supply and availability of industrial land. The latest HBA includes the LQS light industrial zone area within its assessment of industrial land resources. However, Council is actively working on replacing and expanding the industrial land resource in more resilient locations.</p>	<p>this purpose, rather than assuming that it will remain in rural use. The fact that Council is seeking to provide additional Light Industrial land in the area supports the conclusion that the LQS land is required to meet the needs of the community. Irrespective of this, the social, economic, and cultural wellbeing of the LQS landowners is equally applicable in consideration of this provision.</p> <p>In summary, HT considers that the notified provisions, and the prohibition of subdivision proposed in the hearing version, do not achieve this objective as they will preclude some forms of development that are appropriate within the plan change area, and this will not be sufficiently enabling of people and the community to provide for their social, economic, and cultural wellbeing.</p>
<p>Policy 3: Precautionary approach</p> <p>1. Adopt a precautionary approach towards</p>	<p>A precautionary approach is required, however in my opinion introducing very restrictive controls</p>	<p>Policy 3 clause 2 supports the approach taken in the PC as notified and as</p>		<p>No changes from our respective positions in columns 2 and 3.</p>

<p>proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.</p> <p>2. In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:</p> <p>1. avoidable social and economic loss and harm to communities does not occur;</p> <p>2. natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are</p>	<p>such as prohibited subdivision is an overly cautious approach, that does not recognise the range of potential vulnerabilities to coastal hazards within the Schedule 17.4A area, or the responses available to address these.</p> <p>In my opinion Council Officers have appropriately applied a precautionary approach in relation to <u>identifying areas of potential hazards</u>, in accordance with current MfE guidance.</p> <p>A precautionary approach can also be applied at consenting stage, based on detailed and site-specific expert assessment of risks and potential mitigation of these. In my opinion</p>	<p>set out in the S42A report.</p> <p>The plan change sets the strategic direction (applying a precautionary approach), and the framework enables flexibility to apply for a resource consent. Through the consenting process a precautionary approach will still need to be applied in consideration of site specific factors.</p> <p>I consider that the economic loss and harm of industrial worksites, plant, and equipment becoming increasingly frequently inundated by storm and coastal water inundation can be avoided by not allowing it to occur in the first place.</p>		
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<p>allowed to occur; and</p> <p>3. the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.</p>	<p>the concept of a precautionary approach should not be used to avoid the need to consider site-specific factors.</p>	<p>The approach set out in the plan change will provide for subclauses 2 and 3.</p>		
<p>Policy 7: Strategic planning</p> <p>1. In preparing regional policy statements, and plans:</p> <p>a. consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment at a regional and district level; and</p> <p>b. identify areas of the coastal environment where particular activities and forms</p>	<p>Council’s s42A report confirms that, having considered coastal hazard risks, this area is generally appropriate for development for light industrial purposes, which I support.</p> <p>Whilst the inclusion of provisions in the plan to manage significant risks is appropriate, insufficient technical assessment has been undertaken by Council to support the implementation of very restrictive provision (prohibited subdivision)</p>	<p>Again, I disagree with Mr Taylors characterisation of the Council’s position. The s42A report considers this area is generally appropriate for <u>appropriate forms of development for light industrial purposes in the short to medium term</u>, not in the longer term.</p> <p>Generally, I disagree that this policy is relevant to this plan change, but it does raise important context: The strategic</p>	<p>This policy is pointing to a more district / region wide approach to identify and manage hazards.</p> <p>More applicable to the hazards plan change that Council is preparing (PC85) and likely future spatial planning for the preparation of a new district plan.</p>	<p>HT – Considers that this policy is relevant, as the plan change is to a unitary plan, and that the policy is not met by the proposed provisions because it does not take a strategic approach to addressing coastal hazard risks across the region. The proposed provisions also do not adequately identify where subdivision, use and development ‘may be inappropriate without the consideration of effects through a resource consent application’ (Policy 1.2.2).</p> <p>JB - The s42A report considers this area is generally appropriate for appropriate forms of development for light industrial purposes in the short to medium term, not in the longer term. Generally, I disagree</p>

<p>of subdivision, use, and development:</p> <ol style="list-style-type: none"> 1. are inappropriate; and 2. may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Resource Management Act process; and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules. <p>2. Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at</p>	<p>to manage this risk, particularly over a large land area that has a range of vulnerabilities to coastal hazard risks.</p> <p>Policy 7 also refers to preparation of Regional Policy Statements. Policy 7 therefore should take some guidance from the Regional Policy Statement on strategic land development. I discuss this link below in relation to Policy 5.3 of the RPS.</p>	<p>planning required by Policy 7 has not, to date, been completed nor implemented in the TRPS or TRMP. A natural hazards plan change is in preparation and the s35 report for Chapter 13 Natural Hazards identified the need to give full effect to the NZCPS. The TRMP is therefore not consistent with the more up-to-date natural hazards mapping and modelling information (particularly sea level rise).</p>		<p>that this policy is relevant to this plan change, but it does raise important context: The strategic planning required by Policy 7 has not, to date, been completed nor implemented in the TRPS or TRMP. A natural hazards plan change is in preparation and the s35 report for Chapter 13 Natural Hazards identified the need to give full effect to the NZCPS. The TRMP is therefore not consistent with the more up-to-date natural hazards mapping and modelling information (particularly sea level rise)</p> <p>Furthermore, with the inherent strategic uncertainty, a precautionary approach is required.</p>
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<p>significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.</p>				
<p>Policy 24: Identification of coastal hazards</p> <p>1. Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard</p>	<p>In my opinion, Council Officers have fulfilled this requirement in identifying areas of potential hazard within the plan change area. Adoption of the 2024 MfE guidance controls the ‘screening’ and ‘identification’ of coastal hazards pursuant to Policy 24 but is not a directive</p>		<p>The assessment of potential coastal hazards undertaken by Dr Clements has not been challenged through expert evidence.</p> <p>We agree that the plan change is consistent with this policy, as it identifies areas potentially affected by coastal hazards.</p>	

<p>risks, over at least 100 years, are to be assessed having regard to:</p> <ol style="list-style-type: none"> 1. physical drivers and processes that cause coastal change including sea level rise; 2. short-term and long-term natural dynamic fluctuations of erosion and accretion; 3. geomorphological character; 4. the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent; 5. cumulative effects of sea level rise, storm surge and wave 	<p>policy on whether land development should occur.</p>			
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<p>height under storm conditions;</p> <p>6. influences that humans have had or are having on the coast;</p> <p>7. the extent and permanence of built development; and</p> <p>8. the effects of climate change on:</p> <p>1. matters (a) to (g) above;</p> <p>2. storm frequency, intensity and surges; and</p> <p>3. coastal sediment dynamics;</p> <p>taking into account national guidance and the best available information on the likely effects of climate change on the region or district.</p>				
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<p>Policy 25 Subdivision, use, and development in areas of coastal hazard risk</p> <p>In areas potentially affected by coastal hazards over at least the next 100 years:</p> <ol style="list-style-type: none"> 1. avoid increasing the risk of social, environmental and economic harm from coastal hazards; 2. avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards; 3. encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their 	<p>These provisions do not require avoiding use or development of land potentially affected by coastal hazards over the next 100+ years, rather avoidance of increasing risk of harm associated with these activities.</p> <p>Council Officers have determined that the land is suitable for light industrial purposes, having undertaken a screening exercise for the identification of potential coastal hazards. Relevant to this is the inherently lower risks associated with light industrial activities compared to other land uses, such as residential.</p> <p>Risk is a function of the likelihood of something happening, and the consequences of it</p>	<p>Mr Taylor’s first paragraph is incorrect. Clause 2 states “<i>avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards.</i>” Any fair assessment of this clause will show that subdivision and development will increase the risk of adverse effects.</p> <p>The position in the s42A report has already taken a lenient approach for the reasons stated above.</p> <p>The DoC guidance states: “<i>This clause reflects a risk management approach and the intention to avoid increasing the risk of</i></p>	<p>Points 1 and 2 seek to avoid increasing the risk of harm (clause 1) and adverse effects from redevelopment or land use change (clause 2).</p> <p>On the basis of the above, we agree that the focus of this policy is on “avoiding the increase of risk”, rather than “avoidance” per se.</p>	<p>HT considers that the notified provisions, and the prohibition of subdivision proposed in the hearing version, go too far in achieving this policy, in that they seek to avoid certain types of development, not avoid the harm or adverse effects associated with these activities.</p> <p>JB disagrees and considers that any development will increase the risk from extreme weather events and inundation. The provisions are appropriate to manage this risk.</p>
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<p>abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;</p> <p>4. encourage the location of infrastructure away from areas of hazard risk where practicable;</p> <p>5. discourage hard protection structures and promote the use of alternatives to them, including natural defences; and</p>	<p>happening. Both of these factors need to be assessed to determine the risk associated with a particular activity. As will be addressed further below, this is routinely done on a case by case basis as part of a resource consent application on the basis of expert assessment and taking into account mitigating factors.</p> <p>Policy 25 does not create a hierarchy between 'subdivision' and 'land use'. The policy only refers to 'redevelopment, or change in land use'. In my opinion, if Council Officers accept that risk of adverse effects can be appropriately managed at consenting phase, then it does not follow that Policy 25 then justifies imposition</p>	<p><i>adverse effects from coastal hazards. In particular, it recognises that some redevelopment or changes in land use can increase the consequences or harm from coastal hazards (and hence the risk), even if the coastal hazard itself remains unchanged. Examples of areas where such an increase has occurred include places where there has been:</i></p> <ul style="list-style-type: none"> • <i>intensified land use and increased asset values;</i> • <i>an increased vulnerability of assets (including infrastructure) to damage from coastal hazards;</i> • <i>a greater likelihood that assets (including</i> 		
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	<p>of prohibition on subdivision activities. I have difficulty reconciling Council Officers position that risk from change in land use (to light industrial) can be adequately managed at the consenting phase, but there is no prospect of managing subdivision through the same process.</p> <p>If Council Officer's are relying on Policy 25(1) to support prohibition on subdivision, then this should be supported by evidence quantifying 'social, environmental, and economic harm' associated with subdivision as opposed to land use.</p> <p>In my opinion it is not necessary to implement this policy</p>	<p><i>infrastructure) will be damaged by coastal hazards; and/or</i></p> <ul style="list-style-type: none"> <i>• a greater likelihood that other social, cultural and environmental values will be adversely affected."</i> <p>I conclude that all of these circumstances will be relevant in this case.</p> <p>In his fourth paragraph, Mr Taylor sees no difference between managing land use consenting and subdivision consenting. I consider that subdivision cannot be time-limited. Land use can have limited duration approval, whereas subdivision is permanent. The difference is critical.</p>		
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	through a prohibition on subdivision. This policy is already embedded in the RPS and TRMP (as detailed below) and can be relied upon in assessing resource consent applications on a case by case basis.	It is incorrect to say that the policy is embedded in the TRPS and the TRMP. Both need to be amended to recognise more up to date natural hazards information.		
<p>Policy 27: Strategies for protecting significant existing development from coastal hazard risk</p> <p>1. In areas of significant existing development likely to be affected by coastal hazards, the range of options for reducing coastal hazard risk that should be assessed includes:</p> <p>1. promoting and identifying long-term sustainable risk reduction approaches including the relocation or</p>	<p>This policy is relevant as the subject land does not actually adjoin the coast. It is separated from the coast by a hard engineering structure (Lower Queen Street road formation), and much of the seaward side of this is further separated from the coast by the Nelson Pine Industries (NPI) industrial plant, which is itself protected from the coast by a hard engineering structure. In fact, much of the coastline of this part of</p>	<p>The proposed scheduled area is in the coastal environment as defined by Policy 1 (as its subject to long term SLR). Allowing subdivision or permanent buildings would immediately trigger clause 1, being a requirement to promote and identify sustainable risk reduction strategies.</p> <p>The approach in the proposed plan change is deliberately pragmatic and</p>	<p>This scope of this policy covers existing development and does not cover future development.</p> <p>We agree that the existing development we should be considering is:</p> <p><u>Public:</u></p> <ul style="list-style-type: none"> • The Lower Queen Street road formation • The three waters infrastructure within the road reserve • The Tasman Great Taste Trail <p><u>Private:</u></p> <ul style="list-style-type: none"> • Nelson Pine Industries MDF 	<p>HT considers that the listed existing development is significant, and the policy applies, but is more relevant to the area surrounding the plan change area, rather than the plan change area itself. As such, the policy is not directly relevant to the plan change provisions. However, the policy is contextually relevant as protection of significant existing development on the coastal side of the plan change area will affect management options for the plan change area. This reinforces the fact that a broader strategic approach to hazards needs to occur, and that options for managing risks in the plan change</p>

<p>removal of existing development or structures at risk;</p> <p>2. identifying the consequences of potential strategic options relative to the option of “do-nothing”;</p> <p>3. recognising that hard protection structures may be the only practical means to protect existing infrastructure of national or regional importance, to sustain the potential of built physical resources to meet the reasonably foreseeable needs of future generations;</p> <p>4. recognising and considering the environmental and social costs of permitting hard protection structures</p>	<p>the Waimea Estuary is protected by hard engineering structures. These structures and activities constitute ‘significant existing development’. These limit the management options for Council/ the community, and make maintenance of hard protection measures a more realistic (and potentially more efficient) option moving forward, particularly compared to more natural coastal margins elsewhere.</p> <p>Council may decide to abandon part of LQS in the future. A prohibition on subdivision may well preclude the construction and vesting of alternative, more resilient roading within the plan change area that could better provide for, rather than</p>	<p>strategic to avoid triggering this requirement.</p> <p>Mr Taylor relies on speculation about future protection possibilities. Mr Rice has confirmed that abandonment and removal of Lower Queen Street is a plausible and likely strategy, and that SH60 is an adequate alternative transportation corridor.</p> <p>In relation to uncertain future protection possibilities, a precautionary approach is required (per Policy 3)</p> <p>With reference to Clause 2(1), not allowing permanent development and subdivision is an</p>	<ul style="list-style-type: none"> • A pressure wastewater pipe from NPI running eastwards. <p>This policy is strategic (similar to policy 7) and we are not able to speculate as to the likelihood of decision being taken to protect infrastructure.</p>	<p>area should not be unnecessarily restricted in the interim.</p> <p>JB - While it is true that the subject land does not adjoin the coast and is separated by existing hard structures, the policy's relevance extends beyond the immediate coastal proximity. The proposed scheduled area is within the coastal environment as defined by Policy 1, and allowing subdivision or permanent buildings would trigger the requirement to promote and identify sustainable risk reduction strategies. The approach in the proposed plan change is strategic and pragmatic, aiming to avoid triggering this requirement by not allowing permanent development and subdivision. This aligns with the precautionary approach required by Policy 3. Additionally, Mr. Taylor's reliance on speculation about future protection possibilities is not sufficient. The abandonment and removal of Lower Queen Street is a plausible strategy, and SH60 serves as an adequate alternative transportation corridor. Therefore,</p>
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<p>to protect private property; and</p> <ol style="list-style-type: none"> 5. identifying and planning for transition mechanisms and timeframes for moving to more sustainable approaches. 2. In evaluating options under (1): <ol style="list-style-type: none"> 1. focus on approaches to risk management that reduce the need for hard protection structures and similar engineering interventions; 2. take into account the nature of the coastal hazard risk and how it might change over at least a 100-year timeframe, including the expected effects of climate change; and 	<p>inhibit, managed retreat, should this be necessary.</p> <p>Until more detailed technical assessment has been undertaken to justify very restrictive measures such as a prohibition on subdivision, a comprehensive review of risks and responses for the wider area or region should be undertaken, as detailed further below. In the interim, there are appropriate mechanisms in place to evaluate and manage risk.</p>	<p>appropriate method for reducing the need for hard protection structures and engineering interventions in the future.</p>		<p>not allowing permanent development and subdivision is an appropriate method for reducing the need for hard protection structures and engineering interventions in the future."</p>
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3. evaluate the likely costs and benefits of any proposed coastal hazard risk reduction options.				
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Tasman Regional Policy Statement

We agree that the scope of Plan Change 79 (PC79) as notified is not contrary to the Tasman Regional Policy Statement (TRPS). The TRPS is relatively old and predates more recent higher-order documents such as the NZCPS, NAP, and updated MfE guidance.

National Adaptation Plan 2022 and MfE Guidance

We agree that the Resource Management Act requires Councils to “have regard to” the National Adaptation Plan (NAP) when preparing regional and district plans, including plan changes. We also agree that natural and coastal hazards require comprehensive treatment through the MfE’s 10-step process.

Mr Taylor considers that the directions in the NAP and other higher-level guidance documents are primarily intended to guide central government (legislative reform) but also local government when undertaking full, strategic-scale hazard response plan changes — for example, district-wide responses such as Plan Change 85 in Tasman. In his view, the level of intervention proposed in PC79 is not proportionate or consistent with the intended use of the NAP in this context. A region wide review of coastal hazards may result in adaptation responses that are inconsistent with those being proposed for the Lower Queen Street area through PC79. The region wide responses should be decided based on broader public involvement than that which has occurred through PC79.

Mr Butler’s starting point is that the land in question is generally not suitable for long-term development due to known hazard risks. He considers that the NAP is directive in stating that “local government should act now,” and that this imperative applies directly to PC79. In his view, there is a clear opportunity through this plan change to limit development that would be inappropriate in this location given the foreseeable risks.

Table 3: Chapter 13 (Natural Hazards)			Conferencing outcomes	
Provision	Mr Taylor Assessment	Mr Butler Assessment	Agreement	Disagreement
<p>Objective 13.1.2.1</p> <p>Management of areas subject to natural hazard, particularly flooding, instability, coastal and river erosion, inundation and earthquake hazard, to ensure that development is avoided or mitigated, depending on the degree of risk.</p>	<p>This objective is enabling of various responses to managing hazards, including mitigation.</p>	<p>The objective is for avoidance or mitigation, depending the degree of risk. With reference to the higher-order document (NZCPS) the correct approach here would be avoidance.</p>	<p>We agree that Objective 13.1.2.1 is enabling of various responses to managing hazards, including mitigation. This objective allows for a flexible approach to hazard management, recognizing that different areas and situations may require different strategies to ensure that development is either avoided or mitigated, depending on the degree of risk.</p>	<p>We disagree on how this objective should be implemented and stand by our previous assessments.</p>
<p>Objective 13.1.2.2</p> <p>Land development, including supporting network infrastructure asset services, is resilient against natural hazards.</p>	<p>This objective requires development to be resilient against natural hazards.</p>	<p>Allowing opportunities for permanent development and subdivision in an area that is subject to coastal erosion and inundation hazards is not resilient. It decreases the resilience of the Tasman urban area overall.</p>		<p>We disagree on how this objective should be implemented and stand by our previous assessments.</p>
<p>Policy 13.1.3.1</p> <p>To avoid the effects of natural hazards on land use activities in areas or on sites that have a</p>	<p>This policy seeks that the effects of natural hazards on land susceptible to the hazards be avoided,</p>	<p>The effects can be avoided as Mr Taylor suggests in the short to medium term, but avoiding permanent development or subdivision</p>		<p>We disagree on how this policy should be implemented and stand by our previous assessments.</p>

significant risk of instability, earthquake shaking, fault rupture, flooding, erosion or inundation, or in areas with high groundwater levels.	rather than avoiding use of the land.	of the area is the appropriate avoidance as the hazards worsen over time.		
Policy 13.1.3.2 When determining appropriate subdivision, use or development in the coastal environment to assess the likely need for coastal protection works and, where practicable, avoid those sites for which coastal protection works are likely to be required.	This policy requires an assessment of whether or not subdivision, use or development is appropriate – it may or may not be, depending on the site and proposal.	Any long term use of this land will require coastal protection works and complex and expensive solutions. Avoiding the long term development of this land is the appropriate response.		We disagree on how this policy should be implemented and stand by our previous assessments.
Policy 13.1.3.3 To avoid developments or other activities that are likely to interfere with natural coastal processes including erosion, accretion, inundation, except as	This policy directs avoidance of activities that are likely to interfere with Coastal processes. Where they do, consent may be refused.	Allowing for the natural retreat of the coastline is an important consideration. Permanent development and subdivision into smaller lots, thereby increasing the value will compromise that process.		We disagree on how this policy should be implemented and stand by our previous assessments.

provided for in Policy 13.1.3.10.				
<p>Policy 13.1.3.4</p> <p>To avoid or mitigate adverse effects of the interactions between natural hazards and the subdivision, use and development of land.</p>	<p>This policy enables a range of responses to hazard risks, which can be assessed on a case by case basis.</p>	<p>An ad-hoc “case by case” basis is not an appropriate planning response in this case.</p>		<p>We disagree on how this policy should be implemented and stand by our previous assessments.</p>
<p>Policy 13.1.3.10</p> <p>To maintain or consider the need for protection works to mitigate natural hazard risk where:</p> <ul style="list-style-type: none"> a. there are substantial capital works or infrastructure at risk; or b. it is impracticable to relocate assets; or c. it is an inefficient use of resources to allow natural 	<p>This policy gives circumstances where coastal protection works may be appropriate, to be assessed on a case by case basis.</p>	<p>I do not consider this policy to be directly relevant.</p>		<p>We disagree on the relevance of this and stand by our previous assessments.</p>

<p>processes to take their course; or</p> <p>d. protection works will be effective and economic; or</p> <p>e. protection works will not generate further adverse effects on the environment, or transfer effects to another location.</p>				
<p>Policy 13.1.3.16</p> <p>To avoid new subdivision, use or development that would hinder the ability of natural systems and features (such as beaches, dunes, wetlands or barrier islands) to protect existing subdivision, use or development from natural hazards (such as erosion, inundation, storm surge, or sea level rise).</p>	<p>This policy is directive to avoid subdivision, use or development in particular circumstances. Particular consent proposals may be refused when considering this policy. However, the existing hard-engineered nature of the existing coastline near the plan change area is relevant to this policy.</p>	<p>Mr Taylor cannot rely on the existing hard engineering structures (e.g. Lower Queen Street formation).</p>		<p>We disagree on how this policy should be implemented and stand by our previous assessments.</p> <p>HT notes that, irrespective of whether or not existing hard engineering structures are maintained in the future, the existing environment in this location is not one that features natural systems features (such as beaches, dunes, wetlands or barrier islands), so reliance on such systems is unlikely to be a realistic future response.</p>

				JB disagrees and considers that it is a realistic possibility that the Waimea Inlet may be restored to include some natural margins and inland migration of the naturalised margins could be achieved.
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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?

Agreed Points

- Both experts agree that the existing built form on the seaward side of Lower Queen Street — including buildings, the seawall, and other structures — is relevant context when considering the appropriate activity status for subdivision within the scheduled area.
- Mr Taylor considers that the road formation “may not be” maintained within the 100 year period, whereas Mr Butler considers that the road formation “is very unlikely to be” maintained during that period. This reflects the cost pressures and potential for the Council to cease maintenance over time due to frequent overtopping and storm damage.
- Both accept that existing infrastructure (e.g., water and wastewater services) runs through the area and must be considered, even if future changes (such as the potential relocation of the Bell Island Wastewater Treatment Plant) may alter its long-term importance.
- Both acknowledge the coastal edge has been heavily modified and is not a natural coastline. Retreat of the coastline, if it occurs, is unlikely to follow a natural process due to the presence of these built structures.

Disagreed Points

- Mr Taylor places more weight on the existing built form and infrastructure as supporting a more enabling activity status for subdivision, given their presence and the difficulty of full retreat. Mr Taylor considers that the modified nature of the coastline precludes certain responses such as natural retreat of a dynamic, natural coastal edge. This makes retention of a broad range of other responses necessary. If abandonment of existing legal roads is a possibility, retention of the ability to create, through subdivision and development, a more resilient road network further inland may be necessary.
- Mr Taylor notes that, even if not maintained as a road, that it is unlikely that Council would actively remove the physical structure that forms a barrier to the coast. The abandonment of the road would need to be considered carefully in relation to removing legal and practical access from properties that rely on the road.
- Mr Butler considers that while the built form and infrastructure are relevant, they cannot be relied on in the long term due to uncertainty over maintenance, Council obligations, and climate adaptation. In his view, this reduces the weight they should be given when determining appropriate subdivision activity status.
- Mr Butler considers that over the next 100 years, the naturalisation of the Waimea Inlet margin, allowing for natural retreat of the coastline, is likely.
- Mr Butler does not assume ongoing Council intervention (e.g. maintaining the seawall or road). Mr Taylor sees some continuing role or obligation in relation to these coastal structures under the Local Government Act, where they currently exist within Council Land (note below from Council’s Environmental viewer:



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?

Preliminary Note

On further analysis of the scope of submissions and the legal framework, Mr Butler considers that it is unlikely that there is scope to apply a prohibited activity status to subdivision within Schedule 17.4A through PC79. This follows the legal submissions of Ms Forward. On that basis, Mr Butler is no longer pursuing or recommending this approach.

Agreed Points

- Both experts agree there is no clear evidence demonstrating that a prohibited activity status for subdivision is the most effective way to manage coastal hazard risk.
- Both acknowledge that neither has the expertise to determine whether changes to subdivision provisions are within the scope of the plan change; this is a matter for the hearings panel to decide.
- If subdivision provisions are deemed out of scope, both agree the status quo (controlled activity status) will apply, with cascading provisions as currently drafted. Section 106 of the RMA would continue to apply regardless of activity status.

Disagreed Points

- Mr Butler (JZB) considers a non-complying activity status is most appropriate, due to national direction and the practical need for long-term managed retreat. He believes subdivision should not be anticipated by the plan, though he acknowledges that some site-specific exceptions may still be justified through consent.
- Mr Taylor (HT) considers a restricted discretionary activity status is more appropriate within Schedule 17.4A, on the basis that:
 - Risk levels vary across the area.
 - Subdivision should not be precluded as a planning signal.

- Infrastructure and land use effects are closely related, regardless of formal subdivision.
 - A consent process is a more appropriate tool for managing potential effects than outright restriction.
 - Mr Taylor would prefer RDA status but is open to discretionary status if the hearings panel feels the RDA framework does not provide sufficient control.
5. Is the use of a prohibited activity status consistent with contemporary planning practice in other RMA plans relating to similar circumstances?

Agreed Points

- Both experts agree that the use of prohibited activity status for managing subdivision in coastal hazard areas is unusual and not widely adopted in current RMA planning practice.
- Both acknowledge that only a small number of councils have applied this approach to date.
- JB notes that Western Bay of Plenty District has used prohibited status for certain land use activities in hazard-prone coastal areas, and both acknowledge that Tasman District has used it in Plan Change 22 (Ruby Bay) to prohibit subdivision.
- Both agree that the Ruby Bay context differs from Lower Queen Street:
 - Ruby Bay is zoned Rural 1 (Closed Zone) and functions more like rural residential.
 - In that case, the policy objective is to prevent additional dwellings in an area of active coastal erosion. Both agree that industrial land uses are less sensitive to these risks than residential locations.
 - Mr Butler adds that industrial buildings and sites will nevertheless remain vulnerable to damage from extreme weather events and sea level rise in the long term
 - Ruby Bay is an open coastline, whereas Lower Queen Street is part of an estuarine environment. LQS is therefore less exposed to coastal erosion risk.

Disagreed Points

- There are no material disagreements between the experts on this question.
6. To what extent would a prohibited activity status for subdivision impact on the ability of landowners to develop their land?

Agreed Points

- Both experts agree that a prohibited activity status for subdivision would limit the ability of landowners to develop their land. Mr Taylor describes this limitation as “significant” whereas Mr Butler describes this limitation as “moderate”. Both acknowledge that it would depend upon the individual circumstances and business model of landowners.

- The limitation arises not from physical constraints, but from the financial implications of removing subdivision as an option.
 - Subdivision is a common means of raising capital to support development.
 - While capital could be sourced in other ways, prohibiting subdivision would likely leave landowners with capital tied up in surplus land, thereby constraining development potential.
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?

Agreed Points

- Both experts agree that a range of regulatory and non-regulatory measures are available to Council to manage risk and minimise liability beyond those proposed in the plan.
 - RMA consenting processes can be used to impose conditions that enhance the resilience of future development (e.g. building pad heights, bunding, site-specific design).
 - Section 106 of the RMA provides a mechanism for refusing subdivision where natural hazards present significant risk.
 - If a building consent is applied for, the Council could issue a hazard notice under sections 71–74 of the Building Act, potentially limiting liability.
 - Council decision-making under both the RMA and Building Act needs to be robust and evidence-based, with reference to the Local Government Risk Agency's Local Decision-Making (LDM) framework and the inundation practice note.
 - There is agreement on the value of increasing public access to natural hazard information, including:
 - Encouraging prospective purchasers to obtain a LIM report.
 - Ensuring LIM content meets the requirements of the Local Government Official Information and Meetings Act (LGOIMA), including recent changes regarding natural hazard disclosure.
 - Both support a cautious approach when considering whether private individuals should take on responsibility for infrastructure in high-risk areas, due to long-term expectations and liability risks for Council.
 - Consistency in decision-making around the provision or approval of hard protection structures (e.g. seawalls, stopbanks) is essential to avoid creating unrealistic or inequitable expectations in the community.
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?

Agreed Points

Appropriateness of managing the scheduled area differently:

- Both experts agree it is generally appropriate that the Lower Queen Street Light Industrial zone within Schedule 17.4A is managed differently from similar land outside the scheduled area, given its specific context and identified hazard risk. Disagreement as to how managed differently as detailed below.
- Both agree there is a justifiable distinction between scheduled and non-scheduled areas based on the hazard information available.

Effectiveness and Efficiency:

- Both consider that using a schedule mechanism is an effective and efficient tool at a high level.
- Both agree that Schedule 17.4A treats the area as a single risk unit, which is inherently inefficient, as it fails to differentiate between areas of higher and lower risk.
- Both support the land use rule framework (excluding subdivision) that allows for a range of responses, including:
 - Controlled activity (CA) status for light, relocatable, short-duration activities.
 - Certainty for developers proposing uses aligned with the typology anticipated in the schedule.
- Both agree that a simple and clear policy and rule framework is preferable and more efficient than one with multiple complex triggers or zones.

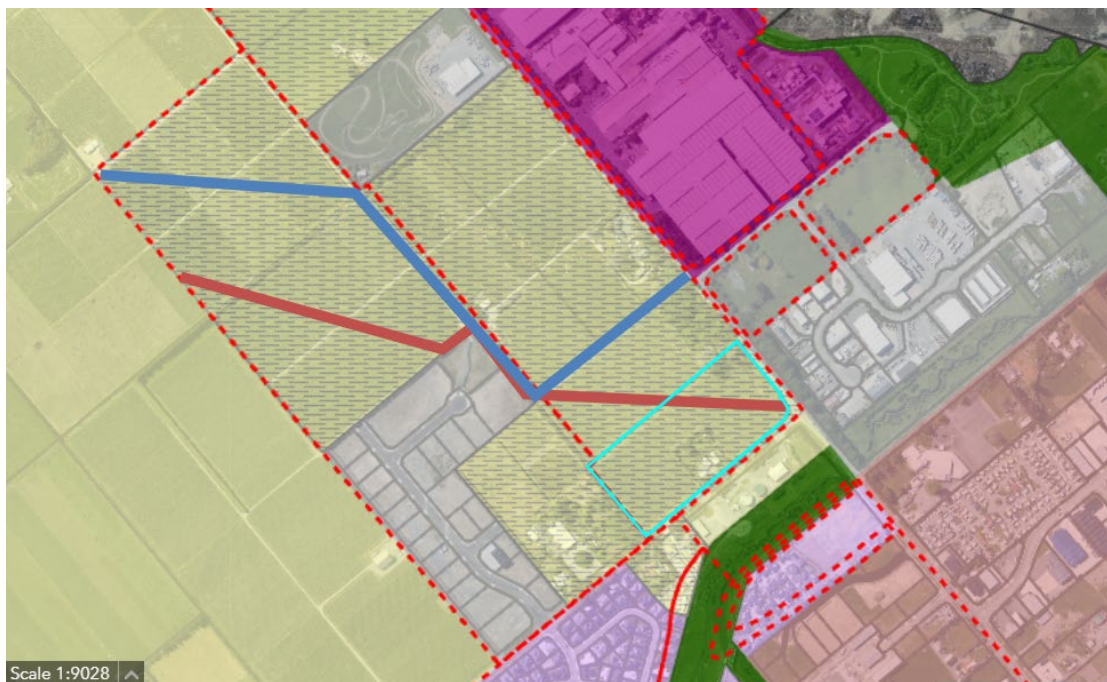
Disagreed Points

- Mr Taylor (HT) considers it inappropriate to prohibit subdivision in the scheduled area while allowing it in other light industrial zones that face similar hazard risks.
- Mr Taylor considers that the notified policy framework which a discretionary activity (DA) would be assessed against, is overly restrictive for permanent or long-duration development typologies, even when hazards can be effectively managed. He considers this reduces the effectiveness and efficiency of the planning framework and could discourage investment, even in appropriate long-term development. Mr Taylor considers that, if a developer can demonstrate that hazard risks can be managed on a site within the schedule area to a level comparable to land outside of the schedule area, the policy framework should support a level of permanency commensurate with this.
- Mr Butler (JZB) agrees the framework discourages substantial, long-term development — but sees this as intentional and appropriate. He considers that:
 - The schedule is designed to enable short-term use without compromising future retreat options.
 - The national policy direction is clear that use and development in high-risk areas should be avoided, and therefore a disempowering framework is justified.

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.

Agreed Points

- Both experts agree that the current angled boundary of the deferred area in Schedule 17.4A makes development more complex and problematic, particularly in terms of implementation and interpretation.
- There is agreement that squaring up the boundary would improve clarity and efficiency, reducing unnecessary complexity for landowners and developers.
- Both support applying a pragmatic methodology to define the boundary, which avoids some of the difficulties inherent in accurately mapping the hazard area. This approach is based on consultations with Dr. Clement, who advised on the parameters we could use. For instance, using a consistent contour level (e.g., 4.5 metres, which sits below the 5.1m contour used for hazard identification) as a proxy for hazard risk while simplifying the line. This is shown by the blue line in the figure below, with the notified schedule boundary shown indicatively in red.
- Both agree that such an approach would not fully eliminate angled boundaries, but would reduce the number of affected sites and improve the boundary's overall functionality and coherence. This would enable more efficient development of land within the plan change area that is less susceptible to coastal hazard risk.



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?

Agreed Points

- Both experts agree that if subdivision were to be enabled within the Schedule 17.4A area, a minimum lot size of 2,000m² would be appropriate.
- This lot size would reflect the nature of light industrial use in the area, allow for flexible site use, and help avoid fragmentation that could limit future responses to coastal

hazards, including managed retreat. This lot size has a basis in the existing provisions of the TRMP.

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?

Mr Butler has adopted changes that he considers appropriate, in his reply version of the provisions. No further improvements have been agreed between the experts.

Mr Butler does not agree with the principle of the exceptions pathway. However if the Panel is of a mind to accept the exceptions pathway approach then Mr Butler has no particular concerns with the drafting as it was proposed by Mr Taylor. In that event, both experts would broadly accept the wording, but would make themselves available to undertake a final review based on the decision any directions of the Panel.

12. Is the use 'short' 'medium' and 'long' term used in the proposed provisions effective and efficient and certain for plan implementation?

We agree that the use of the terms 'short', 'medium', and 'long' term has value as general context in the Plan, but is not appropriate to use these in conjunction with an 'avoid' policy unless defined or clarified by the context.

Mr Butler accepts that the drafting of the following policies is insufficiently certain for the purposes of plan implementation:

- Policy 6.5.3.10A (a)
- Policy 6.5.3.10C
- Policy 6.8.3.23A
- Policy 13.1.3.7A

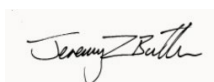
In these instances Mr Butler considers that it would be better to refer to the Schedule 17.4A sea level rise trigger and link that to the avoid function of the provisions (where relevant). However, this greater specificity will make the provisions more directive and less flexible. It may also be, therefore, that additional changes are recommended to reflect this change to enable a discretionary resource consent application pathway once the sea level rise trigger level has been reached.

Mr Taylor prefers to link 'avoid' to effects and seeks the amendments that were proposed in the submissions lodged for the Lower Queen Street landowners.

Signed and Dated on 5 August 2025



Hayden Taylor, Planscapes (Appleby 88)



Jeremy Butler, Tasman District Council