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| Event: | New Plymouth District CouncilOākura Rezoning Plan Change |
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| Date: | 22 July 2019 |
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| Before: | New Plymouth District Council independent hearing commissioners:Bill WasleyAntoine Coffin |
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| Applicant: | Oākura Farm Park Limited |
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**THE COMMISSIONER:** We will get underway. Good afternoon and welcome. I declare this hearing open.

 I am Bill Wasley, an independent hearings commissioner. I am based in Tauranga. I have undertaken a number of hearings for the New Plymouth District Council over a number of years. I am a professional planner by background and independent chairing and hearings commissioner work are the two matters that I generally undertake.

 At this point I will deal with one matter. The Council appointed two hearings commissioners for this hearing. My colleague Antoine Coffin was the other commissioner appointed. On Saturday, Antoine had a family bereavement so he is unable to be here today but he can attend from Wednesday morning onwards. Given that situation - and obviously its importance that those who are making decisions and recommendations hear what is placed before them - there were two or three options available. The first option was to postpone the hearing completely but that also raised a number of issues in terms of when that could be rescheduled and given the range of people involved, at this point I have put that option to one side.

 Of the other two options available, one was for Antoine to remain as a commissioner and to read the transcripts from today and tomorrow to bring himself up to speed with the matters being presented - not an ideal situation but it was an option.

 The other option, which I wish pursue, is that instead of being a commissioner, Antoine would become an adviser to me. So from Wednesday onwards, he would be sitting next door to me, he would ask questions, and participate in the hearing but at the end of the day the report and the recommendations that would go to the Council would be mine and mine alone, so he would be no longer part of the decision making and recommendations that go forward to the Council.

 That is the option I am proposing. It certainly would allow the hearing to proceed today and for the rest of the week.

 First of all, Mr Muldowney, I would be interested in your view on that option.

**MR MULDOWNEY:** I can deal with this in relatively short order. Having heard that this was the preferred option for you, Commissioner Wasley, we have canvassed that with the representatives for the applicant and we are happy to proceed on that basis. Of all of the options that are available to you, this appears to be the most sensible and I think it is effective, subject, of course, to making sure that any concerns around delegations and decision making are taken care of in the background but I will leave that to you and the Council staff. With that caveat, we are very happy to proceed.

**THE COMMISSIONER:** Okay. Thank you.

 Mr Twigley, Mr Grieve is representing a number of submitters. He is not here this afternoon, but you are, so I would be interested in your views, given that he is not here.

**MR TWIGLEY:** We support the option.

**THE COMMISSIONER:** Right. Thank you.

 In terms of delegations, that has all been sorted out through the Council process. Also, you have engaged with iwi on this matter. If you can just comment on that for us, please.

**FEMALE SPEAKER:** (several inaudible words - off mic)

**THE COMMISSIONER:** On that basis, we will proceed along those lines.

 Related to this matter, I undertook a site visit this morning. I was accompanied by a New Plymouth District Council staff member who is not involved in the hearing or the reporting. I looked at the subject site from a number of viewpoints and have decided that also that when Antoine is available, we will both undertake a further site visit. Mr Muldowney, we will obviously look at going on site at that time. We can sort out those details tomorrow at some stage.

 I also make the offer to submitters in terms of the further site visit. I will make this tomorrow, when we are starting to hear from submitters in the afternoon. If there are any particular sites or locations that submitters would like us to visit, we are happy to do that.

 As part of any site visit, we will need to determine what parties are present. On any site visit, it is not an opportunity to recap in terms of anything that has been already outlined in the hearing. It is an opportunity to point out the features, and so on, that an applicant or submitter, or indeed the Council, wish to bring to our attention. We will sort out those details tomorrow.

 I have a few other matters while I am about this. We have had pre-circulated evidence that has been read. Four expert witnesses - and I make the distinction between expert witnesses and lay witnesses - I am probably looking at you, Mr Muldowney in the first instance in terms of your witnesses providing a summary - I do not require them to read everything that has been pre-circulated but certainly to provide that summary and to focus on those points that your witness may wish to bring to my attention. That is the same, Mr Twigley, in terms of witnesses for the submitters. For the experts, I will take that as read, but again the ability to summarise and bring matters to my attention.

 In terms of emergencies, apparently there will be a pre-recorded message that will be made. There is an exit over there, to the right of the screen. There is another exit there. I am advised that if there is an earthquake, we stay put. The toilets are out through that exit and then to the right. There is also a cup of tea or coffee there for breaks. If people need a coffee during the hearing, I am quite happy for you to quietly get up, help yourself, and come back to your seat.

 In terms of the microphones, I am advised to keep them quite close when you are speaking. They are also quite sensitive, so if you happen to be whispering and you do not want what you are whispering about heard, perhaps turn the microphone off or remove yourself from proximity of the microphone.

 In terms of the hearings process, which we will get into in a moment, that will start with the applicant in respect of the private plan change. I will hear Mr Muldowney's legal submissions and then the witnesses he is intending to call. That will carry on this afternoon and tomorrow morning. Tomorrow afternoon - and this is the general timing, depending on how many questions you might have - it might take a little longer, depending on the presentations. It might be a little shorter. Then I will hear from all the submitters who wish to be heard. That also includes Mr Grieve, as legal counsel for some submitters. When I have heard from all of the submitters, I will hear from the reporting officers for the Council, who are on my right. Then there will be the applicant's closing submissions. If I can request that those be in writing, Mr Muldowney. However, I am happy if you wish to make any verbal closing submissions on Friday. I will be happy to hear those. We can sort out the timeframe for receipt of those written submissions on Friday afternoon.

 Particularly for submitters, over in the corner there you will see some papers taped to the wall. That is the schedule for the hearing from today through to Friday. The team has worked very hard in terms of getting all of that schedule together and who is appearing on behalf of the applicant and or the submitters. That is there is anyone needs reminding in terms of when they are likely to be heard at the hearing.

 If circumstances change during the course of the week, certainly let Julie know and, if she is not here, Jane is over there, and they will try to juggle things around to suit.

 I am not going through calling for appearances - we have all that information in the schedule - although obviously Mr Muldowney, you will introduce your witnesses when you are making your legal submissions and then I will call for submitters tomorrow afternoon, after the luncheon break.

 Are there any questions of an administrative nature that anyone has? If you do have any during the course of the hearing, Julie or Jane, if you can approach them in the first instance.

 All right. Mr Muldowney.

**MR MULDOWNEY:** Thank you, sir.

 I have written submissions, which I will hand up.

**THE COMMISSIONER:** While that is happening, I am more than happy - I like to keep the hearing as informal as possible - you are welcome to sit when presenting, but I know some prefer to stand - that is generally the lawyers - so that is fine.

**MR MULDOWNEY:** That was my next question. If it is not an imposition, I would prefer to stand for my opening submissions but I don't intend to stand every time I address you, sir, but for the opening anyway I will stand. Then in terms of the presentation of the witness evidence, they will produce their evidence sitting, if that is convenient to you.

**THE COMMISSIONER:** That is fine.

 We also have some maps behind us here. If people need to refer to those during the course of their presentation, that is also fine. We obviously also have PowerPoint presentation.

 Thank you.

**MR MULDOWNEY:** Thank you, sir.

 Kia ora koutou. My name is Lachlan Muldowney. I am the lawyer for the applicant in this plan change hearing. Immediately to my right I have Colin Comber who is the consultant planner, who has been responsible for a large part of the preparation of the plan change. Then, to my far right, is Simon McKie, who is the son of Mike McKie, who is the principal representative of the applicant. Mike, unfortunately, has been hospitalised overnight with some relatively minor surgery, I am told, which has been completed this morning, and he is hoping to join the hearing tomorrow or certainly at some stage later this week. He, of course, gives his apologies.

 Just as a procedural matter, sir, Mr McKie senior was, of course, to present a written statement and that was to be the first witness called for the applicant today. Simon has stepped in on his father's behalf and will simply read that statement. That probably means that this particular witness is not much help to you in terms of any supplementary questions but if there are questions arising from the presentation of that evidence, I am sure Mr McKie senior can assist with that when he joins later on in the week.

**THE COMMISSIONER:** Okay. That is fine, thank you.

**MR MULDOWNEY:** The written opening submissions I have handed up that I intend to read from, we have, I think, enough copies for everyone that represents the Council group. I am not sure whether or not there are enough to distribute to submitters. I am not sure if there are photocopying facilities. No? I am hearing that there are not. I do have one further copy available if any submitters - Mr Twigley, I am not sure if it would be of benefit to you if I gave you a copy.

**MR TWIGLEY:** Yes. Thank you.

**MR MULDOWNEY:** These submissions are presented on behalf of Oākura Farm Park Limited, the applicant in respect of this private plan change. The applicant seeks to change the zoning of approximately 58 ha of currently rural land on the southern eastern edge of the Oākura township to a mix of residential and rural lifestyle zoning.

 The plan change was lodged with the New Plymouth District Council on 15 March 2018 and accepted for public notification under clause 25(2)(b) of the RMA. The plan change was publicly notified on 29 June 2018, receiving 436 submissions and 38 further submissions, with 14 submitters supporting the proposal, and the balance in opposition.

 A series of five separate pre-hearing meetings took place on 28 and 29 January 2019 between the applicant and various submitter groupings addressing interests relating to education facilities, equestrian enablement, community impacts, transportation effects and cultural effects.

 On 31 May 2018, Council's consultant planners Anna Stevens and Hamish Wesney of Boffa Miskell produced a section 42A report which recommended that the plan change be approved in part, subject to a series of amendments. In broad terms, the section 42A authors support enabling the change in land use promoted under the plan change, but recommend constraints on the scale of change, largely to reflect perceived limits to infrastructure capacity. The supplementary section 42A report received on 20 July 2019 confirms the recommendations to approve the plan change, subject to restricting the residential lot yield to 167 lots.

 Expert witness caucusing in relation to landscape effects and transportation effects were convened on 10 July and 16 July respectively, with joint witness statements being filed in respect of each caucusing event.

 Many submitters, a good proportion of whom are local Oākura residents, remain opposed to the plan change, citing the change in character and amenity of Oākura, the impacts on landscape values, and transportation effects arising from the increase in residents in and around Oākura, as reasons why the plan change should be rejected.

 The applicant will demonstrate through the evidence it presents that there are no material infrastructure constraints that require any substantial reduction in yield from that proposed, and will also demonstrate that the proposal is in line with Council's growth strategy for Oākura, and contrary to some submitters' concerns, the plan change will deliver significant community and environmental benefits for the existing and future residents of Oākura. 1

 The site is comprised of approximately 58 ha located between Wairau Road and State Highway 45, to the immediate south of the Oākura township. The site is located at the foothills of the Kaitake Ranges and falls gently towards the coast.

 The Wairau Stream passes through the site along the southern portion, while one of its tributaries passes through the site to the northern side of the site running more or less parallel with Wairau Road.

 There is a tract of QEII National Trust covenanted bush, in the applicant's ownership, runs along the gully of the Wairau Stream just outside the eastern edge of the site.

 The site is subject to a number of infrastructure easements held by First Gas Ltd, Shell Taranaki Ltd, Liquigas and Powerco in relation to the transmission of gas, petroleum, and electricity through and beyond the site.

 Lot 29 DP 497629 is the principal parcel of land within the site, comprising approximately 62.5 ha, which is inclusive of the QEII covenanted land of approximately.

 Lot 29 is the balance farm lot which was created in 2010 as a result of the adjacent 30-lot subdivision called "The Paddocks". You will hear more of that. This lot is the subject of a consent notice which reflects a condition of that subdivision consent restricting further subdivision of the balance lot while it remains zoned Rural Environment Area. Alongside the plan change application, the applicant has lodged an application to amend the consent notice to reflect the outcomes sought in the plan change application.

 Access to the site can be achieved via Wairau Road across neighbouring land included in this application, the purchase of which is subject to a heads of agreement, which is conditional on the plan change being approved. Access can also be achieved along SH 45 subject to NZTA approval. The commissioners will hear direct evidence on behalf of the applicant in relation to these matters.

To the current zoning, the site is currently zoned Rural Environment Area, which is as the description suggests, a rural zone. A portion of approximately 12 ha of the site is currently recognised in the Operative District Plan as suitable for future residential development, it being subject to a Future Urban Development Overlay, described as the "South FUD" or "FUD South" for Oākura as depicted on District Plan maps A61 and Rural E2. The site is also subject to a Ponding Area Hazard, and Wairau Stream is identified as a Priority Water Body.

 The site itself sits within the Oākura Structure Plan which was prepared in August 2006 and which was incorporated within the Operative District Plan via Plan Change 15, made operative in 2013. The Future Urban Development Overlay across part of the site, the FUD South, was established via this planning process. The Oākura Structure Plan addressed population growth and identified the following issue:

"PGl: residential growth should be located away from the sea to protect the natural character of the coast."

In response to this issue, the Oākura Structure Plan identified a series of actions or implementation measures, including to:

"Encourage future residential development on the land between the existing residential areas in Oākura, the State Highway and the Kaitaki golf course. Future residential development may also occur on the landward side of the State Highway 45."

Two Future Urban Development Overlays give effect to this intended outcome, one the FUD West which sits between SH 45 and the coast and is adjacent to existing urban development, and the FUD South, which sits within the site at the junction of Wairau Road and SH 45 and is also adjacent to existing urban development. The overlays determine that the land subject to the overlay has been identified within the Operative District Plan as a future urban growth area, that is:

"land identified for conversion to residential and industrial/commercial activity."

The plan change seeks to give effect to the FUD South Overlay area within the site, while also extending that area out towards the foothills of the Kaitaki Ranges and thereby increasing the overall potential residential yield from approximately 117 lots under the FUD South area to a projected 316 lot.

 Just to be clear, Commissioner, the original plan, as publicly notified, talked about a potential yield of 399 lots. That has since been refined and Mr Doy can give you direct evidence of this through more ground trothing and the expected yield, based on the entire proposed site which is to be subject to the plan change is now 316 lots.

 The proposed changes to the operative District plan include:

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 changing the zoning from Rural Environment Area to Residential Environment Area where the residential lots will range in size from 300 m2 to 700 m2;

 changing the zoning from Rural Environment Area to a proposed Rural Lifestyle Area where there are 12 to 14 lifestyle sections that will act as a buffer between the residential sections and rural land. These sections are intended for equestrian lifestyle living;

 there are changes from the zoning from Rural Environment Area to Open Space B and C Environment Areas for local parks and natural spaces;

 changes the zoning from Rural to Business C Areas for a small business area for a local cafe or farm produce store;

 the introduction of a proposed structure plan to direct the overall form and layout of subdivision and development;

 and also changes in the areas for future urban development provisions and to insert additional policies and methods or implementation methods for the Wairau Structure Plan to enable the application site land to be comprehensively planned for urban development and to provide for a safe and efficient road transportation network to meet the long-term needs of the urban area;

 there are changes the Residential and Rural Environment Area provisions to provide controls for the height, bulk, location and reflectivity of the buildings and structures in the structure plan area;

 changes the Business Environment provisions to similarly add some additional controls on height and reflectivity;

 and finally, to install a roundabout and pedestrian underpass at the intersection of Wairau Rd and SH 45.

 As a result of prehearing meetings in January of this year, the proposal has been amended to include:

 a bridle path and signage with added service access and easement;

 a potentially new or alternative access via SH 45 which has been investigated with an alternative sequencing of development detailed to reflect this additional access point;

 a possible super-staging with alternative sequencing of development and proposed overlay rules relating to staging triggered by 75% of lots sold and stages three and four not proceeding until the proposed roundabout and pedestrian underpass have been installed;

all of which are effectively planning responses to matters that have been raised as we moved through the plan change process

 Stepping back in looking at growth context, in recent decades the Oākura township has evolved from a beachside settlement with traditional bach holiday accommodation to today where the preferred typology is more executive-style residences for both permanent accommodation and holiday use. The natural setting at the coastal edge with its nationally recognized surf breaks, enjoying the Egmont National Park as a backdrop and being a short 15-minute commute to New Plymouth has long underpinned a demand for housing in the locality.

 This demand shows no sign of abating, particularly with the recently announced and consented "Green School" at Koru Road, some 6 km from Oākura, and the ongoing development of the Oākura to Pukeiti Shared Pathway, known as "The Kaitake Trail". The pathway is proposed as a high quality walkway and cycle track from Pukeiti down a Council paper road to the coast at Oākura, and is expected to draw annual visitor numbers potentially in excess of 15,000 people.

 Additional local tourism activity is being driven by the Pukeiti Garden. This is a garden of international significance located between two sections of the Egmont National Park, on a saddle between the main cone of Mount Taranaki and lower Kaitake Range. The Pukeiti Visitor Centre and Cafe has recently undergone a multimillion-dollar refurbishment. This along with increased promotion has result in a substantial increase in annual visitor numbers from around 30,000 to something in the order of 80,000.

 Oākura has been identified as a Future Growth Area in the New Plymouth District since at least 2006• The 2018-2028 Council Long Term Plan presents a table of areas in the district that have been identified for future growth, and the year that they are likely to be zoned for residential development. The Oākura South FUD area is scheduled to have 158 lots zoned for residential land use in 2019-20. Already we are behind schedule. Notably, the Oākura West FUD area is scheduled to be zoned for the release of 390 lots between 2028-2032.

 Council has recognized the requirement to invest in strategic infrastructure capacity to enable this anticipated growth in Oākura. The currently available infrastructure for reticulated potable water treatment and supply has sufficient capacity to service an additional population of something in the order of 2,900 to 3,400 people. The Commissioner will hear evidence regarding the available potable water resource and aquifer capacity, which appear to be the only potentially relevant constraint in terms of the potable water supply.

 In other words, in terms of the hard infrastructure, there are no constraints. The real constraint, if there is one, in respect of the potable water supply, is in relation to the aquifer capacity and what would be considered a sustainable take from the aquifer. You will hear more on this later, Commissioner.

 Consistent with the intended population growth at Oākura, the wastewater reticulation capacity has been the subject of a significant investment in the last 20 years, with the establishment of the trunk main between Oākura and the waste water treatment plant at New Plymouth. There are no reticulation capacity issues with wastewater. The full scope of the Plan Change, together with the development of FUD West would require a sewer pump upgrade to meet the fully developed sewage demands of the expanded township. The capacity of the current wastewater system is 1,730 equivalent population; with pump upgrades the ultimate capacity it is estimated to be 5,530 equivalent population.

 With this surplus capacity, the Oākura township is arguably over-capitalised with these community assets. In the context of the efficient use of resources and given the current population of 1,380, the current water supply capacity is under-utilised by almost 50% and the wastewater infrastructure by some 20%

 Transport infrastructure at Oākura is also addressed in the Long Term Plan. Council has made financial provision for the upgrade of the Wairau Road/SH 45 intersection in 2021. In response to identified growth demands, the LTP states:

"As the population of the district continues to grow, demand on the transportation network will also continue to grow. We are already aware of limitations to the extent of the network. These limitations are likely to be exacerbated over time."

 In the interim, to meet our obligations under the NPS-UDC we have identified a requirement for investment in the growth areas listed below. Then there is a table and listed within that table is the Oākura growth area Wairau Road intersection roundabout, with the year built being 2021 at the cost of $1.2 million. Accordingly, it is clear from Council's recent strategic infrastructure investment, and its long-term infrastructure planning, that Council has identified Oākura as an area where growth is intended, and has been planned for.

 The National Policy Statement on Urban Development Capacity directs local authorities to provide sufficient development capacity in their resource management plans to meet demand arising from housing and business growth. At the time of lodging the plan change, New Plymouth was a Medium Growth Area under the NPS-UDC. It has subsequently been reclassified as a High Growth Area for the purposes of the NPS-UDC.

 As detailed in the section 42A report, Council is currently finalising its first Housing and Business Development Capacity Assessment under the UDC. Due to its direct relevance to the plan change Council has released the Oākura components in draft form ahead of the more recent release of the draft district-wide assessment. The draft assessment of housing demand and supply for Oākura is set out in tables 1 and 2 below. I have taken those two tables from the draft assessment report. Dealing with table 1, you can see there in the first line is the 2018, or existing position and then it moves through into the short-term position, the medium-term position and then the long-term position, with gradual increases as we move through. What it demonstrates is that the Council's estimate of housing demand in Oākura over that long term is 247 lots and for reasons which will be explained later and in evidence, the applicant considers that to be a very conservative estimate of demand for housing in Oākura over the long term. However, even if you go back to the assessment of the short term, there is a demand, they say, for 50 additional lots between now and 2021, and between 2021 and 2028, a further 63.

 Table 2 shows the expected yield from land within Oākura that effectively represents capacity. The first line is the undeveloped residential land in Oākura, which is effectively a combination of the infill opportunities and any further residential land available. You can see there, there is, in the far column, a feasible future yield of 157 lots in terms of the undeveloped residential land at Oākura. Then for Oākura South, which is part of the plan change area, you can see there is a feasible future yield identified of 117 lots. Then at Oākura West, there is a feasible future yield of 55 lots with a total feasible future yield of 629.

 Based on that draft analysis, the section 42A authors have concluded that based on this assessment, the total anticipated demand for new housing in Oākura in the next 30 years is 210 dwellings and the assessed supply is 630 lots. Therefore, it is assessed there is currently sufficient supply to meet projected demand for housing.

 Unsurprisingly, this supply and demand assessment is not accepted by the applicant. It has produced evidence from its surveyor Mr Doy, who has undertaken a detailed analysis of the supply assumptions contained in the report. He has ground truthed the subdivision grading system by applying slope analysis to the subject sites. This has led to a more reliable assessment of the feasibility of development and likely yield as set out in the table below. Based on Mr Doy's assessment, you can see the Undeveloped Residential Land at Oākura comes back from 158 to 134. The Oākura West FUD comes back from 355 to 283 and Oākura South, in fact increases to 125 from 117. Based on this analysis, the actual yield that will be realised for the Undeveloped Residential Land at Oākura, Oākura West FUD and Oākura South FUD will be 88 lots less than that which was stated in the draft assessment.

 In addition to the factors identified by Mr Doy, the applicant will present evidence from its expert civil and structural engineer, Mr Fraser, who has undertaken a review of the overall costs associated with developing the Oākura West FUD area. Mr Fraser gives evidence confirming that several large culverted stream crossings, combined with steep contour adjacent to the unnamed tributary, will mean major earthworks are required for access to the development cell. These same infrastructure hurdles affect development of the residentially zoned land adjacent to the West FUD.

 In short, what we are saying here is that the West FUD has some fairly significant infrastructure constraints in relation to earthworks, which are going to mean effectively cracking into that cell is going to be no easy task and is going to require a significant amount of capital, which it can reasonably be assumed will potentially suppress the developer's appetite for taking on the West FUD.

 It is also noteworthy that in Council's LTP, the Oākura South FUD area is scheduled to have 158 lots zoned for residential land use in 2019-20, while the Oākura West FUD area is scheduled to be zoned for the release of 390 lots between 2028-2032. Accordingly, while the overall supply of residential land in Oākura may have the potential to meet the NPS-UDC requirements, the supply associated with the Oākura West FUD will not meet short to medium term demand. For Council to meet its short medium term obligations under the NPS UDC, enabling residential development within an extended Oākura South FUD is the most appropriate way to achieve this national policy requirement.

 Turning to the Regional Policy Statement, the Taranaki Regional Policy Statement, the RPS, became operative in 2010. Section 15 deals with the built environment. The lead objective, FUD objective 1 is to promote sustainable urban development in the Taranaki region. That objective is given effect to through a series of related policies. I will not read those, sir. You can just take those as read.

**THE COMMISSIONER:** Thank you.

**MR MULDOWNEY:** You will see, on a quick scan through those policies, they are all the kinds of policies that you would expect to see in a well-constructed policy document looking to give effect to that objective of sustainable urban development. Nothing really surprising in the list from A to I.

 This set of objectives and policies within the RPS is given effect to through a range of methods, including method 5 which is to include in district plans or resource consents, provisions or conditions that address sustainable urban development issues including among other things, objectives, policies, rules and methods, building controls, esplanade reserves and so on, and designations for public works. Again, pretty orthodox stuff.

 As will be demonstrated by the various experts presenting evidence on behalf of the applicant, the plan change gives effect to this set of RPS objectives and policies by implementing FUD method 5 in incorporating those appropriate objectives, policies, rules and methods into the Operative District Plan.

 The section 42A report identifies a number of additional regional policy provisions which are considered relevant, including objectives and policies relating to fresh water, objectives and policies relating to natural features and landscape, historic heritage and amenity value, and objectives and policies relating to resource management issues of significance to iwi authorities. The section 42A report indicates that these provisions have not been adequately addressed in the plan change application. The applicant's planner, Mr Comber will address these further RPS matters in his evidence, and demonstrate how these RPS provisions are being given effect to.

Taiao, Taiora is the Taranaki iwi Environmental Management Plan It was launched in July 2018, some months after the request for the plan change had been completed and lodged with the Council.

 The assessment of Taiao, Taiora against the plan change demonstrates a high level of alignment between the relevant provisions of the Iwi Management Plan and the planning and urban design approach proposed for the site. The Letter of Response from Te Kāhui o Taranaki acknowledges the mitigations proposed. However, within the Iwi Management Plan, at section 11.8 Taranaki Mounga, policy 11.8.3.7 states:

"Taranaki iwi will not support any residential subdivision and development within 5 km of the National Park boundaries.

That Taranaki Mounga is a taonga of Taranaki iwi is respectfully acknowledged by the applicant, as is the iwi position to not support the proposed rezoning of the site. It is important to consider this policy within its local context, however, noting that all of the Oākura township is within approximately 2.5 km of the National Park boundary, including the existing FUD West area and FUD South area.

 As Mr Comber, the applicant's expert planning witness observes, from a policy development and plan-writing perspective it is noted that the subject policy does not acknowledge the existence of a township which has been in existence for over l00 years. Not only do existing use rights naturally apply to all lawfully established uses, but the current Operative District Plan provisions, developed after an extensive consultative process with all the iwi and hapū of the district in the early 1990s, provide for residential subdivision and development within the suggested 5 km setback. So we do have this disconnect between the aspirations that are identified in the Iwi Management Plan and the position around this 5 km setback and what we have in terms of our built environment and our planned-for environment under the operative provisions.

 Moreover, the policy to not support any residential subdivision development within 5 km of the National Park boundaries does not equate to outright opposition to such activity. In Mr Comber's opinion the plan writers have been very careful in their choice of words, with Taiao, Taiora not establishing a policy of opposing development, but rather, not offering support.

 Against that policy context, the applicant has ensured development will occur in a manner sensitive to Taranaki iwi cultural values. Mr Comber will point to a number of factors that demonstrate that the applicant is able to satisfy any cultural concerns in a very positive way.

 The first factor identified relates to the issue discussion in the management plan and issue 5 in particular, which is concerned with new developments from human activity on and around the mounga impacting on the natural environment and the important cultural value the iwi associates with Taranaki Mounga. In its response to the assessment of the Plan Change against Taiao, Taiora, Te Kāhui o Taranaki have approved of the mitigations proposed within the Plan Change. This suggests to the applicant that from the iwi perspective they are satisfied there will be no adverse impacts on the relevant natural environment arising from the proposed development but of course you will hear separately on that matter.

 Further, Mr Comber will note that in their response Te Kāhui have not identified any concerns with regard to potential or actual adverse cultural impacts. From this he takes their position of not supporting to be one of being in principle, in deference to the policy and this is acknowledged and understood by the applicant. As the section 42A report correctly notes, at the pre-hearing meeting on 29 January 2019 the Taranaki iwi representatives reviewed the applicant's proposed mitigation measures set out in the Taiao, Taiora Assessment Report, and approved those measures.

 Mr Comber also observes that the Ngāti Tairi Hapū has not expressed at any point through the consultation phase, any in principle concerns about the Wairau Estate development and its location. The hapū's submission regarding stormwater design has been discussed with kaumātua Keith Manukonga subsequent to the prehearing meeting in January. An undertaking has been given by the applicant to review and refine the design of the stormwater detention areas to optimise environmental outcomes. The applicant notes and agrees to the recommendation for an overall stormwater plan for the Structure Plan Area at the outset of subdivision. Accordingly, the applicant agrees with the conclusion reached in the section 42A report that the plan change and proposal takes into account the relevant matters required under Taiao, Taiora.

To the Operative District Plan, which is of course the subject of the change, provisions relating to the site are not the most appropriate way to achieve the purpose of the RMA, nor are the provisions the most appropriate way to achieve some of the higher order and well settled objectives in the Operative District Plan.

 Of particular relevance is the ODP approach to growth management. The main planning·technique used to preserve and protect land resources for future urban development is the use of a Future Urban Development Overlay relating to future urban growth areas identified in strategic planning documents like the Oākura Structure Plan. They then move to identify those FUD areas on the planning maps, and then use policies and rules to protect the mapped areas.

 Method 1.2(c) establishes rules specifying that the future rezoning and subsequent development of the FUD areas is not compromised by inappropriate development adjacent to the FUD area overlay, while method 1A.3(b) similarly protects land within the FUD. This reflects objective lA which is:

"To ensure that activities within and adjacent to the Future Urban Development Overlays do not adversely affect the ability to rezone and subsequently develop areas identified as Future Urban Growth Areas."

This objective is supported by a series of policies which protect the land resource within the FUD area from inappropriate subdivision and use.

 Next, the ODP addresses the activation of the FUD areas for development. It identifies, at issue 23, the need to comprehensively plan for future urban development. This issue is addressed through objective 23 which provides:

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

This objective is then supported by policy 23.1, and I have set that out. Again, I will take that as read, sir, except to comment that again those are exactly the kinds of enabling policies you would expect to see in support of an objective like objective 23. While this objective and policy framework for FUD areas appears effective, it is not particularly well integrated with the rule framework. For example, subdivision of land within a FUD area is a non-complying activity. In other words, the operative provisions preserve and protect the resource, but do not enable its transformation to residential land use. In addition, the mapping of the Oākura FUD South area is problematic, and gives rise to challenges in giving effect to the related objectives and policies for the FUD area.

 The triangular shape of the 12 ha FUD area within the site appears to have been done for plan drafting convenience and does not take account of the topographical features or legal boundaries of the affected property.

 I am not sure if that map behind you, sir - is that the FUD overlay or is that the entire site that is crosshatched? It is the entire site, is it? Is that the FUD on the left? What is that triangle? Is that just a different area.

**THE COMMISSIONER:** It is an aerial photograph.

**MR MULDOWNEY:** Okay. Do you have an image of the FUD?

**THE COMMISSIONER:** I do have one that is contained in a letter, dated 19 December 2018, from the District Council to Boffa Miskell, and that has the West FUD, the South FUD and other undeveloped residential land.

**MR MULDOWNEY:** You can see it is effectively a triangular wedge. If you look behind you, sir, at the plan change area, it is a triangular wedge which is right up in the top corner of the plan change area and we will help you with some maps that can better orient you towards where exactly the FUD sits on the site, but it is a triangular shape, it does not bear any resemblance to any of the topography of the area, nor cadastral boundaries, nor any of the natural features of the site. It is just simply a line on a map, which, we say, does not lend itself to easy development for residential purposes.

 Returning to my submissions on this point, at paragraph 60, the technical assessment undertaken on behalf of Council by Beca in 2008 studied the 12 ha FUD South area and concluded:

"In fact the proposed extended boundary is an artificial construct and perhaps 50 ha of the 82 ha property which includes area J [area J is the paddocks sub-division, so Beca is talking about the extended area] the proposed extended boundary is an artificial construct and perhaps 50 ha of the 82 ha property which includes area J and extends inland from the State Highway is suitable for residential development. This covers land up to the 60 m contour above which water supply would require an additional reservoir. Any development proposal should have provision for extending the roading network beyond the presently proposed boundary."

That was Beca's take on some of the constraints that were presented if one was to try to wedge development into the existing FUD.

 As required by objective 23 of the ODP, land identified for future urban use is to be comprehensively planned to facilitate an integrated approach to land development, while addressing site-specific issues to provide for accessible, connected, efficient, liveable communities and coherent urban spaces.

 As detailed in the plan change request, the shape of the FUD Area does not readily lend itself to achieving Objective 23. This shape constraint was recognised by Beca in 2008, as was the suitability of the applicant's property, a large land holding in single ownership, for a more expansive residential development than contemplated in the original Oākura Structure Plan 2006.

 Development of the existing FUD area was evaluated as part of the 32 assessment, as option 2. That is set out at section 4.3.5.2 of the plan change request. That evaluation concluded that changing the use of the FUD area only would be an inefficient use of resources for the following reasons. Again, sir, we will take that part as read, but I do want to emphasise that there is contained within that paragraph that analysis which effectively can be broken into two broad groups. One, some of the problems and inefficiencies that the development of the existing FUD area would present internally in terms of a coherent layout of a residential typology. Also, the external factors in terms of what it would mean for the balance of lot 29 in terms of an efficient farming unit. So again, I will take them as read, but you will see there the analysis as to why option 2 was not favoured in the overall section 32 analysis.

 In addition to these matters identified in the plan change request, Mr Comber notes that the constraints of the 12 ha FUD area lead him to conclude that achievement of objective 23 would be better enabled if a wider and more comprehensive approach was adopted in respect of the site, and particularly while the land was undivided and in one ownership. He observes that there are a number of examples within Oākura itself where sub-optimal urban development has occurred through successive nibbling by subdivision, particularly where land is in smaller greenfield lots and in multiple ownership. This has resulted in residential areas that fall short of the primary aim of objective 23. This is particularly in evidence from the numerous cul de sacs through the Oākura urban area.

 I would encourage you, Commissioner, when you are undertake the site visit, to visit the wider urban context of Oākura and in particular some of the street layout and typology that you will experience. There are a number of subdivisions towards the coast that are of a cul de sac nature and they do not lend themselves to the kind of connectivity that the objective is seeking to achieve and indeed at the head of some of those cul de sacs, there were in fact opportunities to provide transportation connections into the FUD West area, potentially, that have now been effectively dismissed because of the road layout. In terms of the site visit that you undertake, I would encourage you to understand that wider context.

 Accordingly, the district plan provisions, in my submission, are not the most appropriate to achieve the higher order objectives 1, 1A and 23 and do not enable sustainable management of the resource in terms of section 5 of the RMA. The provisions work well to protect and preserve the resource for future use and development, but once the time comes for the development to occur, the provisions are not enabling, and not the most appropriate in section 32 RMA terms. On this basis, changes to the plan are required.

 So turning to the issues that have emerged through the planning process and through the submissions, the plan change has attracted substantial opposition, principally from local residents of Oākura who seek to retain the existing character and amenity of Oākura which they presently enjoy. They see the proposal as a threat to that enjoyment and those aspects of living at Oākura which they value. That motivation is understood. Change can be challenging. The applicant is confident however that the change can be sensitively managed over time, and that the plan change will ultimately deliver community benefits which do not threaten those character and amenity values of Oākura that make it special.

 The section 42A report describes the key issues arising from the submissions as being firstly the appropriateness of rezoning the land and the scale and density of development; traffic, parking and access; landscape values and visual impacts; noise; open space and reserves; service infrastructure and stormwater; Oākura school capacity and community infrastructure; ecological impacts; historic heritage; and then social impacts, and each is addressed.

 Firstly to the appropriateness of rezoning the land and the scale and density of development, the general theme running through the submissions in opposition is that the scale and density of the proposed development is unnecessary and inappropriate for Oākura and will give rise to significant adverse effects on its character, amenity and existing infrastructure.

 New Plymouth is a high-growth council in terms of the NPS-UDC. It has an obligation under policy PA1 to ensure that at any one time there is sufficient housing and business land development capacity in the short, medium and long-term. For short and medium-term purposes, this means development capacity must be feasible, zoned and either serviced or with funding in place to be serviced.

 Council's capacity analysis in respect of Oākura suggests that there is sufficient capacity to meet the coming demand for housing in the area. This capacity analysis over estimates the supply side, and must recognize that the supply identified within the FUD areas at Oākura are not currently zoned, nor serviced. The FUD West cell has feasibility constraints and in Council's LTP is not scheduled for residential zoning to begin until 2028.

 These supply constraints, in combination with the identified demand for residential housing opportunities at Oākura, means Council's short to medium-term capacity obligations under the NPS-UDC are certainly not being met in respect of this identified growth node within the district.

 The plan change takes the identified growth cell of the FUD South area and moves it to a state where it presents residential land use capacity which is feasible, zoned and serviced. The scale density of the proposal responds positively to these capacity demands by providing a range of section sizes and residential land use typologies. The plan change also addresses the timing of the release of sections through a staging mechanism which integrates lot supply with the extension of infrastructure services. Staging occurs over 15 stages, with each stage ranging from 15 to 30 lots, with the rural lifestyle lots spread over two stages of between six and eight lots. This staging mechanism allows supply to match demand while providing an underlying blueprint for the future urban form. In this way, the changes at Oākura are well understood by all, take effect gradually, and are integrated with the provision of public infrastructure and amenities.

 Turning to traffic, parking and access, as originally formulated the plan change proposed a roundabout for the intersection of State Highway 45 and Wairau Road with an accompanying pedestrian underpass under State Highway 45 which serves pedestrian and equestrian connectivity requirements between the site and its surroundings, and the coast line.

 Internal collector roads and local roads would address internal traffic movements, with access into the site being achieved via Wairau Road and a connection through an existing lot, known as the Thurman property.

 The original traffic assessment was based on the yield of 399 lots with traffic generated at a rate of 8.5 trips per lot per day. The applicant accepts that the number of lots used in this assessment is in excess of the likely yield and accordingly the traffic volumes identified in the original TIA can be considered at the high end of that likely to be generated.

 The TIA has demonstrated that the intersection of Wairau Road and State Highway 45 level of service would drop to a level D if the proposal was considered in isolation, while further potential increase in traffic from other sites, including the FUD West, would take the level of service to an F, meaning unacceptable delays.

 To mitigate these effects a roundabout is proposed to be constructed at this intersection which improves the ultimate level of service to B, and which provides for pedestrian and equestrian needs. As I said earlier, this infrastructure outcome is consistent with Council's LTP, which signals $1.2 million in funding for a roundabout at this location in 2021.

 Submitter concerns were largely focused on network safety and efficiency effects arising from the increased traffic volumes on and around Wairau Road. Of particular concern were effects on Donnelly Street and the safe pickup and drop-off of children at school. Wider effects on the network, including parking and efficiency in relation to the village and beach area are also identified as being of concern.

 A pre-hearing meeting was held on 29 January 2019 between the applicant, Council, the Transport Agency and the Road Carriers Association. The focus of that meeting was to address the impacts on the State Highway network. During that meeting the applicant advised that preliminary work has been undertaken in respect of an alternative access from State Highway 45, further south from the intersection of Wairau Road, which would provide a secondary access point to the site, and one which could be readily upgraded to a further roundabout to service both the plan change area and the Oākura West FUD area once it was activated. All parties indicated support for pursuing further investigation of this option.

 Sir, are you aware of the location of that additional access point on the State Highway?

**THE COMMISSIONER:** Yes, I am.

**MR MULDOWNEY:** Yes, so effectively it is down towards further south along the site and, as I say, it has the potential to effectively develop into an intersection point, which could also then branch off towards the coast to enable access to the West FUD if one was to move from what is currently proposed, which is simply teeing up an intersection, into a further roundabout. So it has the potential to future-proof an important access point on to the West FUD eventually also.

 The applicant has undertaken further investigations and will present evidence from its traffic engineer confirming that the proposed additional access on to state Highway 45 can meet the Austroads technical requirements, subject to further detailed topographical survey work being undertaken which may indicate a requirement for some adjustment to the highway vertical elevation over a short distance in order to achieve requisite sightlines.

 This additional access connection is supported by Council, with the section 42A author confirming, and again I will take that as read, effectively it is confirmation from the 42A report that, with mitigation in place, effects arising from the plan change can be appropriately addressed.

 At paragraph 82 of my submissions, so caucusing of traffic experts was then directed. That caucusing occurred on 16 July. In attendance were experts on behalf of the applicant, Council and NZTA. Unusually, also in attendance was one personal submitter, Mr Gladstone. Mr Gladstone has submitted in opposition to the plan change, he is submitter 64. He clearly has transportation expertise, and has produced evidence of that nature. However, the applicant reserves its position as to the appropriateness of his involvement in caucusing, and the impacts that may have had on the quality of the outcome of that caucusing exercise. It is clear from the joint witness statement that while there was some level of agreement between the experts, there now remains much in dispute.

 I am not sure if you have had an opportunity to review the expert joint statement, sir?

**THE COMMISSIONER:** Not in detail.

**MR MULDOWNEY:** I do not think you will find it particularly edifying reading in the sense that, if the purpose of caucusing was really to narrow issues and try and achieve areas of agreement, it goes some way towards that, but I think it potentially raises more questions than those that it answers, but you will have the benefit of course of hearing from all of those traffic experts. As I say, I am just not sure quite what impact having a submitter in opposition had on the caucusing exercise.

 It appears from the joint witness statement that there is now dispute or uncertainty surrounding the efficacy of the originally proposed roundabout treatment, and the alternative or additional access directly to State Highway 45, which appears to have lost traction with NZTA. These will be matters which the Commissioner will be required to resolve ultimately, with the assistance of those experts at this hearing.

 On review of the joint witness statement, it appears that much of the detail in dispute are matters which would be addressed or resolved through a detailed design process which would be addressed at resource consent stage. For the purposes of the plan change, the applicant's position remains that its originally proposed transport solution in respect of the Wairau Road/State Highway 45 intersection is achievable, and consistent with Council's long-term plan strategy, while the additional connection onto State Highway 45 is also achievable, it creates resilience in the network, and future-proofs a further connection enabling access to the West FUD area once it is activated. But, as I say, you will hear from the Transport Agency as to why this additional connection point is not favoured; I imagine probably arguments you have heard many times in the past.

 The applicant supports the conclusions set out in the section 42A report which confirm that traffic, parking and access effects can be effectively managed through the implementation of various methods.

 Turning to one of the other significant issues that have been raised in submissions, that of landscape values and visual impacts. The defining aspects of the site are its gently sloping northern orientation, the presence of waterways, its State Highway frontage, and close proximity to urban Oākura as well as the Kaitake Ranges, which are identified as part of the Outstanding Landscape in the Operative District Plan.

 Landscape character effects from the development are reduced by the connection to Oākura Township, the Future Urban Development overlay that anticipates landscape change, the protection and enhancement of waterways, and the use of an "equestrian zone" that provides a "soft" urban/rural interface. The construction of the proposed noise attenuation bund along State Highway 45 creates a potential loss of character by reducing views of the Outstanding Landscape, but provides a landscape benefit by reducing views of the urban development, and importantly serves its primary function of managing noise effects and avoiding reverse sensitivity.

 It is important to note that the proposal is not located within an Outstanding Landscape. The applicant's landscape expert, Mr Bain, will give evidence confirming that the characteristics and qualities that contribute to the Kaitake Ranges as an Outstanding Landscape are not adversely impacted by the development. He considers that the scale of the ranges is such that they will not be subsumed by the development.

 Mr Bain acknowledges that the landscape and visual effects of the proposal are self evidently significant as rural land changes to urban. However, with the proposed layout's focus on varying land use intensity based on context, the character effects are contextually appropriate, and visual effects are able to be mitigated.

 As I say, those landscape effects are largely self-evident. Open paddocks will become residential development, a pattern typical of urban fringe New Zealand. Mr Bain considers that while the overall landscape change is significant, the effect of this change is contextually appropriate, given the site's proximity to Oākura. The important biophysical aspects of the site, in particular the stream network, are acknowledged and integrated into the structure plan, which also recognises the importance of the rural/urban interface provided by the "equestrian zone" that creates a gradual transition from urban to rural.

 Just on that, so I think the emerging position seems to have come through in the most recent section 42 update is that 42A report authors support the urban edge being attached, if you like, to the Wairau Stream, which runs down the site towards the State Highway, so, if you like, that is slightly north of the proposed plan change boundary, so in effect it feels as if the debate around where the urban edge might sit has now sort of boiled down to should the urban edge be identified as being the Wairau Stream, so you would basically transition from urban, there will then be the stream, and then you would move into rural, or whether the stream should still form part of the plan change area where effectively development to the south of the stream is that transitional strip of the equestrian lifestyle blocks. So that feels to me as if that's where the debate around the urban edge is starting to sort of crystallise, it's something that you as the Commissioner will need to grapple with. But again you will hear from the experts on this point.

 Contrary to submitter concerns, Mr Bain observes that of particular importance in reducing landscape character effects is the proposal's extension beyond the FUD boundary. The FUD's southern boundary is an arbitrary - in terms of landscape - straight line connecting land north of the State Highway to the existing urban area on Wairau Road. This line does not follow any landscape rationale, it cuts across streams and takes no account of topography or how a future urban/rural interface may occur. The Structure Plan seeks to work with topography - the indicative road pattern has been developed to potentially minimise earthworks - and the site's boundaries consider their context. The proposed State Highway boundary treatment is a 2‑metre noise attenuation bund to avoid a reverse sensitivity setback of 80 metres that would otherwise be required by Transport Agency under their guidelines.

 Mr Bain considers that the effects on the Kaitake Ranges, within an Outstanding Landscape, are limited to perceptual aspects, as the site itself is not located within an Outstanding Landscape as defined in the plan. Any potential effects of the proposal on the characteristics and qualities that contribute to the Kaitake Ranges and its value as an outstanding landscape will be subsumed by the scale of the ranges, as well as the other buildings in the area, such as the houses in the already-established Paddocks subdivision.

 Council's section 42A report indicates that in Council's view, the landscape impacts are significant, although the conclusion was informed by an incorrect characterisation, since corrected, of the noise attenuation bund being up to 4 metres high, when it is fact set at a 2 metres high. Notwithstanding that assumption, the section 42A report acknowledges that, to some degree, these impacts are anticipated by the Operative District Plan by identifying part of the plan change area as FUD, however the extent of the proposed development is much larger than the FUD area and will change the local character in the immediate area, these landscape and visual impacts also need to be considered in the overall evaluation of the plan change, including benefits of the provision of additional housing and open space.

 Subsequently, on 10 July 2019 the landscape experts for the applicant, Council, and a submitter group, caucused as directed and produced a joint expert witness caucusing statement. It is evident that there remains disagreement in respect of the extent of any adverse effects on landscape character, and the appropriateness of the scale and extent of the development. All experts agree that the site is not located within an area of outstanding landscape, however the experts for Council and the submitter group consider its proximity to be highly relevant. The experts do not agree about the extent of adverse effects on the views of the Kaitake ranges.

 Ultimately, the extent of any adverse effects on landscape character and amenity will be a matter for you to determine, and to the extent that adverse effects are identified, those will be weighed as part of the assessment of the benefits and costs that are anticipated from the implementation of the proposed provisions, as of course is required under section 32.

 To noise, under the current rural zoning, the site is not subject to any Operative District Plan noise standards, subject only to the controls established under section 16 of the RMA. The plan change gives rise to two distinct noise related issues. The first raised by submitters is the potential for additional noise to be generated as a consequence of the residential land use and associated traffic movements. The second issue relates to the Transport Agency's guidelines for managing the effects on noise sensitive land use on the State Highway network.

 In terms of the additional noise generated as a consequence of the residential land use activities, any concerns - in my submission - are unfounded. The rezoning of the site to residential and business zones will carry with it the Operative District Plan noise limits, which must be complied with. Additional traffic will not generate noise which is out of character with the area and construction noise will be controlled in accordance with Operative District Plan and NZS standards applying to those activities.

 Reverse sensitivity issues arising from the location of noise sensitive land use near the State Highway will be mitigated and avoided through the establishment of a 2-metre high noise attenuation bund running along the boundary of the site adjacent to State Highway 45.

 Next was the issue of open space and reserves. The open space and reserves features of the plan change are a core element of the amenity and community enablement which will be delivered through the development of the site.

 The development contains open space and reserves in the form of a proposed neighbourhood park, which will provide important amenity within the neighbourhood. The site also contains a network of gully areas with associated tracks. These gully reserves form part of the wider network of open space corridors at Oākura.

 A number of submitters have raised concerns regarding the potential for conflict between horse riders and cyclists and pedestrians. That was a matter that was addressed at a pre-hearing meeting held on 29 January 2019 between the applicant, the Taranaki Equestrian Network and Council's Open Space and Reserves team. The purpose of that meeting with to resolve any issues relating to the integration of the open space network with the equestrian access and bridle tracks, which are an important feature of the proposal.

 These matters have been satisfactorily resolved, including how to manage the shared use of the Wairau Tributary and Wairau Stream esplanade reserves in terms of the potential conflict between horse riders and cyclists.

 Council's Open Space and Reserves team have recommended taking an esplanade reserve along the Wairau Stream at a width which is sufficient to form a shared pathway which will accommodate both equestrians and pedestrians without giving rise to any conflict. The bridle trail has been depicted in the plan change concept plans and the section 42A report confirms that these amenity aspects of the plan change will provide quality open space for future residents of the plan change area as well as for other Oākura residents.

 Turning to service infrastructure and stormwater, the plan change proposes that the water supply and wastewater would be connected to the existing reticulated networks and systems at Oākura, with stormwater being managed on site within individual lots. Stormwater generated from roadways will be managed via rain gardens and subsurface stormwater soakage, while overflow will be treated through secondary mechanisms in the gully systems which will ensure hydraulic neutrality.

 Submitters raised concerns regarding the risks associated with increased stormwater flows, including increased risk of flooding, and downstream impacts particularly at the discharge point at Oākura Beach. Concerns have been identified in respect of the potable water supply, particularly in terms of constraints on the available capacity of the aquifer which supplies the area.

 Wastewater generated from the plan change area will be discharged to the public reticulation system. The existing water mains on Pahakahaka Drive and Wairau Road have sufficient capacity to support the residential development, while an upgrade to the existing pump stations at Shearer reserve and Corbett Park will be required to service the entire development. Once these upgrades are completed the pump stations would then have sufficient capacity to support not only the plan change area, but also any future development of the West FUD area.

 The issue of stormwater was addressed at a community pre-hearing meeting on 28 January 2019, where downstream effects, particularly at the discharge point, were addressed in some detail.

 The applicant has emphasised that its engineering experts confirm hydraulic neutrality will be achieved, and that attenuated flows will not be of a greater velocity than predevelopment. In respect of any perceived risk of increased erosion, the applicant's experts confirm that the existing stream environment is stable, and with the risk of erosion primarily being a factor of velocity rather than flow time, these risks remain low.

 Accordingly, the applicant remains confident that through the combination of proposed plan change provisions and suitable resource consent conditions which will be imposed that at the time of subdivision and land use, all adverse stormwater effects can be appropriately mitigated.

 Turning to potable water, the plan change area will be serviced with reticulated potable water in the form of a loop feed extending from the existing 150ml diameter reticulation on Wairau Road, and the existing 200ml diameter reticulation on Pahakahaka Drive.

 Supply is derived from a local aquifer, with two bore pumps which have a combined maximum capacity of 3,840 cubic metres per day and a treatment plant with a capacity of up to 3,500 cubic metres per day. Two reservoirs provide a total of 2,500 cubic metres of storage. As a result of bore testing, Council has set a sustainable daily extraction rate of 2,506 cubic metres per day. The current daily average use is 743 cubic metres per day with a peak of 1,497 cubic metres per day.

 According to Council's calculations, 1,279 lots generates a peak day demand equal to the proven aquifer yield of 2,506 cubic metres per day. So, in other words, sir, we've got an aquifer, which the Council has decided can sustainably deal with a daily yield of 2,506 cubic metres a day, and so that is the self-imposed limit that the Council has applied in terms of what can be taken from the aquifer on a daily basis, and then working back from that, applying a series of assumptions around peaking, the Council has come up with a figure that effectively that daily take could sustain 1,279 lots. So that's the relationship between the 1,279 and the 2,506 that I refer to at paragraph 113.

 Existing residential lots together with the greenfield zoned residential land - currently unserviced - at Oākura total 945, leaving a notional yield capacity for an additional 334 lots. So, in other words, what the Council is doing here is saying we've got a potential availability to service 1,279 lots and we know that with the existing zoned residential land that allocates effectively the first 945. Bearing in mind that of that 945 not all of it is developed, 660 or 670 lots are developed lots with the balance being residual residentially-zoned land either in-fill or greenfield that haven't yet been developed, but which the Council would say should have the water allocated to it. So by the time you take into account the existing developed lots of around 660 and the balance of the capacity already zoned, that takes you to 945 lots, leaving a balance of 334 lots of capacity to allocate, or so the logic goes.

 Council proposes that a fair distribution of this capacity is for it to be split evenly between the West FUD and the South FUD; so in other words each future development area is allocated 167 lots. This approach underpins Council's overall conclusions in respect of scale and density within the plan change area. Based on this approach Council recommends that the plan change area be limited to a yield of 167 lots.

 Now, in my submission, this is an entirely arbitrary basis for allocating potable water capacity. Furthermore, as a single proxy for determining the appropriate size, scale, and yield of a development area, this reasoning is fundamentally flawed, and is contrary to the requirements of section 32 of the RMA.

 Now, to be fair to the 42A authors, I don't think they're saying that this is the only defining feature, which leads to a yield, they would say there are other factors, which in combination mean that 167 is an appropriate yield, but the point I'm making in my submission here is that, of itself, it is not, in my submission, the right way to think about how to direct and manage growth.

 Put simply, it is an inefficient and an unsustainable management of the natural and physical resources of the district to potentially sterilise a resource, which would otherwise be used for community benefit, on the basis that a developer may possibly at some stage in the future decide to develop land for residential purposes. The idea of picking winners and allocating network capacity is contrary to the concept of sustainable management. It is no different to identifying sufficient capacity in the transport network to enable a particular development to proceed without a network upgrade, but denying access to the network because that capacity has been allocated to some other future user who may want to exercise that right in the future.

 I submit this is flawed logic and it should be rejected by the hearing commissioners. Based on Council's own assessment of capacity, the aquifer yield can support an additional 334 lots at Oākura. If those first 334 lots are delivered via this plan change area, subject to the appropriate assessment of the costs and benefits under section 32 of the RMA, that is a perfectly acceptable outcome in resource management terms.

 Council's approach to this issue is, in my submission, also unduly conservative. The additional 334 lots is calculated by applying a peaking factor of 2.33, which is significantly higher than the actual historic peaking factor of 2.10. If the

2.10 peaking factor is applied, the revised capacity is capable of servicing 1,418 lots. So already we see in some of the assumptions that are built in to the calculation, which leads to 167 as this hard edge in terms of development capacity, there are assumptions that can shift, which dramatically impact on the outcome, and the first assumption is whether in fact the 2,500 cubic metres of water can sustain what the Council suggested was 1,279 lots or, based on applying the historic peaking factor for this area, that would immediately jump to 1,418 lots. So immediately we've got more capacity to allocate just by applying an amended peaking factor, which is closer to the historic average.

 As Mr Comber sets out in his evidence, based on Mr Doy's revised yield assessment figures for the existing vacant residentially zoned land, downgraded from 158 lots to the more realistic 134 lots, the available aquifer capacity is 497 lots. So again, thinking about some of the variables that go into this calculation, if you take a slightly more conservative approach to what you think is the genuine yield capacity in existing residentially zoned land, and Mr Doy gives you an evidential basis for doing so, you end up reducing the amount of lots that are likely to be generated in that particular part of the equation and then that leads to an output where the total aquifer capacity is closer to 497 lots.

 Now those are a whole lot of numbers floating around and they're hard to come to grips with. We do have some tables, which I will produce at the right time, through the right witness, which as the Commissioner you can sort of pore over and understand. But I think the key thing to understand about this point is that there are a lot of variables at play in terms of trying to determine just how much capacity is available for allocation and what the applicant has done is adjust two of the variables in a reasonable and evidentially based manner and it has come up with a capacity to allocate of 497 lots as opposed to the 334.

 Now, what I then say is that, if I stay with the Council's approach of then allocating that 50/50 out to the two FUD areas, just staying with that as a concept for the allocation of the resource, using Council's approach and the 50/50 split between the two FUDs, each future development area would be allocated 248 lots. Even this approach has a degree of conservatism, because it fails to recognise the discount to be applied to in-fill capacity due to feasibility and land owner preferences. Also, it fails to recognise the significant limitations associated with development of the residential land adjacent to the West FUD, which relies on the West FUD being developed. Accordingly, even this notional allocation of aquifer capacity is basically allocating capacity on land which will never be developed in the short to medium term. And I question the sustainable management of the resource in that respect.

 While the applicant does not agree with this methodology for the allocation of resources, it is prepared to consider a rules-based mechanism within the plan change, which would identify this potential capacity issue. The Applicant proposes setting an overall yield limit of 316 lots for the plan change area, as requested. These lots would be subdivided as a controlled activity, with residential land use a permitted activity, as is proposed.

 However, beyond the first 248 lots, subdivision and residential land use would be a restricted discretionary activity, with discretion restricted to an assessment of the aquifer capacity and potable water availability. The applicant also proposes the introduction of water harvesting techniques, grey-water reuse, trickle feed reticulation and storage, and water consumption improvements as additional measures which can be introduced at the consenting stage.

 Now, on that topic, as you can probably discern from the submissions, sir, that has taken on a degree of significance as we've had the expert evidence exchanged and I suspect will need some picking through as we progress the hearing.

 Just coming back to your housekeeping comment on how evidence is presented, so for a lot of the witnesses for the applicant they are just summary statements, but one or two of them, including on this issue, are a little more extensive because they're picking up this issue and responding to the matters in the 42A report.

**THE COMMISSIONER:** That is fine.

**MR MULDOWNEY:** Yes, so you will hear a little more on that topic.

 Turning to the next issue, which is the Oākura School capacity and community infrastructure, many of the local submitters have raised concerns regarding the likely increased demand on Oākura Primary School, which in turn would create capacity issues within the school, and will also give rise to traffic congestion and related safety issues in and around the school during drop-off and pickup times.

 A prehearing meeting was held on 28 January 2019 with the applicant, the Ministry of Education, the School Board of Trustees and the Oākura Play Centre. Contrary to the concerns raised by the trustees, the Ministry of Education considers that the school has sufficient capacity to accommodate growth associated with the development, including the capacity to extend classroom numbers if necessary. The Ministry considers the school has the potential to accommodate over 1,000 students, I think it has a current role of less than 400, and notes that there are only two other schools in Taranaki similar in size to Oākura Primary School, both of which are secondary schools.

 In respect of the safety and traffic safety and efficiency concerns, the applicant's traffic experts confirm that there is significant capacity remaining in the State Highway 45 and Donnelly Street intersection, and this capacity would remain even if volumes increased sevenfold. Equally, there is ample parking around the school and surrounding roads to cater for drop-off and pickup traffic, and while there are some delays as vehicles exit Donnelly Street, these are short lived. Even with a roll increase, these delays will not be extensive.

 The traffic expert for the applicant has confirmed that these network effects can be appropriately mitigated through localised improvements. So you may hear from the experts on some of the potential improvements around Donnelly Street, which might ease some of the submitter concerns.

 Moving to ecological impacts, as the section 42A report notes, the proposal has the potential to maintain and enhance the ecological values of the site and wider area. The proposal incorporates elements which seek to protect and retain existing indigenous vegetation and fauna, such as the water bodies and gully areas. In addition, the proposed planting in the gullies has the potential to enhance ecological values. Mitigation measures are proposed to minimise effects on ecological values, such as pest control and silt control.

 Submitter concerns focused on matters such as potential light pollution from street lighting, construction noise and dust, effects on wildlife, and the pollution of waterways. These matters have been comprehensively addressed by the applicant's ecological expert, who has assessed the potentially ecological effects and recommended a series of measures, including stormwater attenuation; enabling fish migration; construction controls relating to silt control, and re-vegetation measures and boundary fencing and domesticated pet controls.

 Overall, the section 42A author conclude that the measures proposed by the applicant to manage ecological effects would effectively achieve Objective 16 in the Operative District Plan to sustainably manage, and enhance, where practical, indigenous vegetation and habitats.

 To historic heritage, the applicant has completed a comprehensive archaeological survey and assessment of the site. There are no archaeological sites currently recorded at the property on either Archsite, the Operative District Plan, or the HNZPT list.

 For the past 100 years the site has been predominantly used for agricultural purposes, including a small dairy factory which has left no remnants. The applicant's archaeological expert confirms that there are no unambiguous historic records pertaining to unrecorded kainga, pa, or Maori cultivations within the site, nor are there any redoubts or block houses constructed on the property during the 19th Century British and Colonial military occupation.

 However, the applicant's expert considers there are reasonable grounds to expect archaeological evidence may be encountered when earthworks are undertaken on the site and recommends that an archaeological authority be obtained from the HNZPT ahead of earthworks being undertaken.

 The applicant has also undertaken consultation with both Ngāti Tairi hapū and Taranaki iwi, with a prehearing meeting held with iwi and hapū on 29 January. The parties have agreed to engage an archaeologist to oversee earthworks on the site who would ensure suitable discovery protocols are in place. With these mitigation measures in place, the Council's section 42A report concludes that historic heritage matters have been properly addressed.

 The final list of issues identified in the 42A report are social impacts. The plan change represents a change for Oākura. Once fully developed, the total plan change area will contribute to an approximately 20 per cent increase in the total population at Oākura. Naturally this will give rise to a range of social impacts.

 For many, this change will be very welcome. It will create an opportunity for new residents to enjoy the obvious lifestyle benefits of living at Oākura. It will provide a range of housing choices, and will introduce additional activity and vibrancy to the local community. Local organisations such as the surf lifesaving club and volunteer groups will have increased patronage and support. Local businesses will experience an increase in trading.

 For some local residents, who want to see Oākura remain as it is, or that its growth be slowly and steadily managed, the plan change will be seen as coming at a cost to them. Some submitters identified concerns around the loss of the village character of Oākura, and the negative impact on recreational values, such as increased parking congestion at Oākura Beach.

 These are all legitimate concerns which have been heard by the applicant. The plan change is intended to sensitively address these issues, by carefully managing the rate of growth, and ensuring that through a comprehensive and long-term structure planning process, all stakeholders can understand what the long-term future holds.

 Overall, the applicant is confident that the changes that will be introduced to Oākura will produce social benefits for both the existing and future communities of Oākura to enjoy.

 Finally we turn to the legal framework. That framework, which anchors the evaluation, is of course set out in the RMA and those matters have been addressed at section 7 of the section 42A report and are not repeated. The Council have adopted the approach recommended in the Long Bay decision as amended by the High Country v Mackenzie decision and those are all set out at Appendix 6 of the 42A report and I certainly don't intend to plough through those.

 I gave set out of course section 32, which is really the cornerstone of the evaluation methodology and certainly don't need to remind you of the underlying requirements around achieving the single purpose of the RMA set out in section 5.

 So, with that said, I want to move to one other legal issue, which is how you would address the consent notice, which is a factor. So, in addition to these mandatory statutory requirements under the Resource Management Act, the applicant has also lodged with Council an application to vary a consent notice, which relates to Lot 29, which is the 62 hectare lot making up the majority of the plan change site.

 A number of submitters have raised concerns regarding the proposed amendment to this consent notice, and claim that it must remain in place unchanged. Because the consent notice constrains subdivision of this lot while it remains in the Rural Environment Area Zone, the submitters suggest that its consideration must be prioritised, and that it should count as a significant factor weighing against the plan change, rather than requiring that it be addressed as a consequential amendment should the plan change be approved. My submission is that this suggested approach is legally flawed; it has no basis in RMA terms, and must not be followed. To follow this approach will lead the commissioners into an error of law.

 By way of background, the consent notice relates to what is the "balance lot" of the Paddocks subdivision, which is lot 29. The Paddocks subdivision consent was subject to a number of conditions, a number of which were required to be complied with on an ongoing basis. Most of those conditions related to lots within the subdivision itself, however one consent condition related to Lot 29, which was the balance farm lot. A consent notice issued on 26 May 2014 pursuant to section 221 of the RMA which recorded as item 6:

"Lot 29 shall not be further subdivided while the land remains in the Rural Environment Area."

This was an appropriate consent condition to impose in order to preserve both the rural character of this land, and to protect the land resource from further fragmentation, given that it had been the subject of a 30-lot subdivision.

 Critically however, the consent condition contains an important qualification, which is that the restriction on subdivision only applies while the land remains in the rural zone. Accordingly, if the zoning changes, the restriction falls away. It is not absolute. Rather, it expressly considers and addresses the potential for change. Parties relying on the consent notice, such as residents of the Paddocks, would understand this limitation. Its existence cannot, and should not usurp the primacy of section 32 in the evaluation of this plan change.

 Accordingly, the existence of the consent notice is not a relevant factor in the evaluation of the plan change. However, the impact of further subdivision of Lot 29 on the amenity of the residents within the Paddocks subdivision, and surrounding residents is relevant, and is properly accounted for in the section 32 evaluation.

 On this basis, the correct approach for the commissioners is to address the primary task of evaluating the plan change in accordance with orthodox RMA principles, including the mandatory evaluation factors set out in section 32. If at the conclusion of that evaluation, the commissioners are minded to approve the plan change, then this will result in a change to the zoning of lot 29. It will become, for the most part, residential and rural lifestyle zoning, with a small remnant of rural zone.

 With this change in zoning established, the commissioners must then address the question of whether the consent notice should be varied in accordance with section 221(3)(a) of the RMA which provides:

"At any time after the deposit of the survey plan:

(a) the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice."

Pursuant to section 221(3A) of the RMA, sections 88 to 121 and 127 to 130 of the RMA apply, with all necessary modifications, in relation to an application.

 As the High Court held in Green v Auckland Council, when considering an application for a variation of a consent notice under section 221 it is necessary to carry out an examination of the purpose of the consent notice and then undertake an enquiry into whether some change of circumstances has rendered the consent notice of no further value.

 In the current context, if the plan change is approved, and Lot 29 is no longer within the Rural Environment Area Zone, this will be a highly relevant change in circumstance which is explicitly referenced in the consent notice, and will have rendered the consent notice of no further value. Indeed, the consent notice will at that stage only serve to frustrate the intended land use outcome delivered under the plan change. For that reason, the consent notice must be varied in order to give effect to the commissioner's determination on the plan change.

 So that concludes the substantive submissions. The applicant intends to call nine witnesses. Originally of course Mr Mike McKie was to give evidence today but he's been in hospital and he is going to be represented by his son Simon who will read his statement. We then have Mr Bevers, who will give ecological evidence; Mr Brice, evidence on archaeology; Mr Doy on the overall structure planning and survey and yield outcomes; Mr Fraser has found himself double-booked but his colleague Mr Jansen, who was one of the original report writers, will present evidence in relation to Three Waters infrastructure and site feasibility; Mr Skerritt on transportation effects, Mr King on acoustic effects; Mr  Bain, landscape and visual effects; and then finally Mr Comber who will synthesise all of that expert evidence and produce the overall planning evidence.

 In terms of the order I think the only thing that is changing from that order set out in paragraph 150 is that Mr King will give evidence today and tomorrow I think in terms of the hearing schedule it's expected that you'll hear from Mr Skerritt and Mr Bain and Mr Comber.

 So, sir, that concludes the opening submissions. I'm very happy to answer any questions that you have of me at this point or as and when they arise during the course of the hearing I can just address them as we go along, so I am in your hands.

**THE COMMISSIONER:** Thank you. I do have some questions, so what I intend to do, we will take an afternoon adjournment and then I will come back some questions, focused more on the legal matters and if they are straying into technical matters we can then leave that part of the response to your witnesses. So we will adjourn now and reconvene at 3.10 pm and we will then hear from the applicant. Thank you.

(A short adjournment)

**THE COMMISSIONER:** Just before questions, Mr Muldowney, you discussed the FUDs and all of that, it would be helpful, are you able to supply one map that shows the area subject to the plan change, the area subject to all the FUDs, and also being very clear that map also showing the Paddock subdivision and the extent of that. I do not need it right now but to have all the --

**MR MULDOWNEY:** So the plan change area with the FUD depicted and also the Paddocks depicted?

**THE COMMISSIONER:** Yes. Also, because I have a plan showing it but it is a wee bit faint, the proposed new intersection to the south on to the State Highway from that area.

**MR MULDOWNEY:** Yes. Behind me, as part of the answer, can you just scroll forward, Colin, to show the second State Highway connection please? So in terms of your request, so we will update this for you, but the only thing this is really missing, you can see there is the additional State Highway connection and this grey area is the Paddocks. So what we will do is we will update that to also include the FUD overlay.

**THE COMMISSIONER:** Thank you. That would be helpful. Now, turning to your legal submissions, in paragraph 15 on page 4, you highlight that:

"The Structure Plan identified a series of actions or implementation measures, including to:

Encourage future residential development [in those various locations]."

So, with that Structure Plan, was that a specific action or is there some policy and objective framework around that? I am just trying to tease out the status, particularly of the statement "encourage future residential development on the land", et cetera.

**MR MULDOWNEY:** Yes, well again this may be a matter for Mr Comber, but what I can say is that the process here was there was the 2006 Oākura Structure Plan was developed and that was obviously a non-statutory document but it was a document that nevertheless was produced in accordance with local government requirements and, through consultation with the community, broad consultation with the community, it represented the blueprint, if you like, in terms of the strategic growth management strategy for the Oākura area.

 Then of course, like any good idea, it needs to be given effect to and there was the plan change 15 in 2013 then basically picked up those strategic land use planning ideas and then moved it into the Operative District Plan where it was given effect to.

 So, to answer your question, there are a suite of objectives and policies and I think rules and methods, which were picked up through plan change 15, they reflect the Oākura Structure Plan and they have now been embedded into the Operative District Plan provisions. As I say, the key methods within the District Plan for giving effect to this strategic planning outcome was the introduction of the FUD areas, which were mapped and then had a rural framework established around them.

**THE COMMISSIONER:** Okay. It would be helpful if you could get that plan change as it was finally adopted for me also please.

**MR MULDOWNEY:** Yes, what I can tell you, from my review of the Operative District Plan, is that there are supporting objectives and policies and issues statements all through the document, which, if you like, backfill this outcome.

**THE COMMISSIONER:** Thank you. That would be helpful. Now, in part of paragraph 22 and at the top of page 8 you talk about potable water resource and the aquifer capacity, so there will be some evidence around that.

**MR MULDOWNEY:** There will be.

**THE COMMISSIONER:** Just in terms of the aquifer capacity, can you advise me now, presumably that is consented through the Regional Council?

**MR MULDOWNEY:** Yes, it is.

**THE COMMISSIONER:** Okay. Does that have limitations? Because you have talked about the District Council and how they have assessed capacity and the sustainability of the aquifer, is that directly derived from the Regional Council consent or is that a separate assessment?

**MR MULDOWNEY:** I don't know the answer to that. As I say, this issue has started to take on a life of its own in the last week or so. It seems to me that there may be a little more work to do on this. My understanding was that the sustainable yield that was identified by the District Council in exercising its water take was as much related to reservoir capacity, so surface reservoir capacity, and also the capacity in terms of the bores, in terms of what they can extract, and I don't know whether it was then underpinned by a hard daily extraction rate limit in the water take consent itself, so I will chase that issue down for you and give you an answer to that.

**THE COMMISSIONER:** Thank you.

**MR MULDOWNEY:** Mr Jansen, I am told, will be able to give you some evidence on that topic.

**THE COMMISSIONER:** Okay, that is fine. You discuss in a few places, related to water, potable water, the allocation of that resource and the number of lots in terms of the existing settlement and then in terms of the proposal that is part of the plan change. You talked about lots as opposed to dwellings, and Mr Comber or someone else may clarify this subsequently in evidence, I just want to have an understanding then, if you are talking about lots, does that indicate a restriction of one house per lot or is there the opportunity for more than one house per lot, and understanding what applies in the existing settlement vis-à-vis the area to be covered by the plan change. Again, do not need it now, but it is just a matter --

**MR MULDOWNEY:** As I say, I think that is probably a matter for a witness. I suspect it relates to households, given that we are talking about an average household take, but again I would rather you hear it directly from an expert.

**THE COMMISSIONER:** Yes, because also with the business and residential capacity assessment, from memory I think that talks about households as opposed to physical lots, so I just want to make sure I am comparing things equally.

 As part of the response to that later on in terms of evidence, I would just be interested in any comments around whether it is intended that covenants would apply in terms of the proposed lots in the private plan change area.

**MR MULDOWNEY:** There will be an intention that restrictive covenants will apply to residential lots within the plan change area, so far as they relate to things like building materials and the quality of the amenity that is to be expected. Whether or not those covenants might extend to some other --

**THE COMMISSIONER:** I was mainly interested in terms of the number of dwellings on a lot.

**MR MULDOWNEY:** Yes, so if you are talking now about whether or not it would extend to a control over the number of dwellings or some sort of prohibition against accessory buildings or ancillary units, et cetera, I do not know that that has been proposed in the plan change, but again it is something that we can pick up and give you an answer on. It's obviously material if we're going to start talking about allocation of aquifer yield, which is based on household units; it's going to be really important to match that with lots or household units. So, to the extent that there are covenants necessary to control, for example, the proliferation of ancillary units and things, we will come back to you on that.

**THE COMMISSIONER:** Thank you. Now turning to page 9 where you discuss the National Policy Statement in respect of urban development capacity, and noting that the district has been reclassified as a high-growth area, so there are two or three questions around this.

 First of all, there has been the release of the draft Housing and Business Development Capacity Assessment. I would just be interested in your view in terms of the status, if there is one at all, of that assessment, given it is draft, and does anything change when it moves from a draft to an approved assessment?

 The second part of that question, if you are aware of the decision of Judge John Jackson in Queenstown related to the status of capacity assessments.

**MR MULDOWNEY:** Yes. I will answer the last bit first while I remember it. Yes, I am, you are referring to the Bunnings case?

**THE COMMISSIONER:** Yes.

**MR MULDOWNEY:** Yes, I am, and the status that he gave it. Can I come back to you on that point? I have a passing understanding of the judgment, I think it came out a month ago or thereabouts, but I do know there is some helpful obiter statements around how to treat these capacity studies. So, if you can give me an opportunity to come back to you on that overnight, I will track down the judgment and --

**THE COMMISSIONER:** Well, if you, even in your closing submissions --

**MR MULDOWNEY:** Yes, I will address you on that.

**THE COMMISSIONER:** That is fine; I do not need it right now.

**MR MULDOWNEY:** Yes. To the first part of your question, I think there is a material difference between a draft capacity assessment and a final capacity assessment. I mean the final capacity assessment then is reported back to the Ministry and then it needs to effectively be given effect to through the other resource management plans and so on, so it will start to drive strategic land use planning. But until such time as it moves from draft to final I would be submitting that it is obviously the subject of public debate and consultation.

**THE COMMISSIONER:** Okay, just before we leave the capacity assessment, in paragraph 28 you indicate:

"The Council has released the Oākura components in draft form."

So has the wider overall district assessment been released?

**MR MULDOWNEY:** I understand it has now. I think at the time that we received the draft excerpt relating to Oākura the broader document wasn't ready for release, but I understand it has recently become available. I haven't seen it and I suppose it's interesting and it's relevant in the sense that it relates to this broader question of, if the Council is not meeting its UDC capacity requirements in Oākura, that's not necessarily fatal if it's meeting them everywhere else in the district. I imagine that's the point you were making.

**THE COMMISSIONER:** Yes, that is correct.

**MR MULDOWNEY:** Yes, so let me chase down that draft report for you and again it is something I can come back and address you on.

**THE COMMISSIONER:** As you can gather from the questioning, I quite like to see the substantive documents in terms of the overall view. Okay, that matter is covered.

 So just so I am clear, on page 10 where you have in table 2 it talks about the undeveloped residential land in Oākura, it talks about the south in terms of the FUD and the west. So I take it from that that includes all of the areas in the township, in terms of the future, identified future development. I am just trying to be clear in terms of the overall extent of what is intended.

**MR MULDOWNEY:** So, subject to anything that the planner might correct me on, table 2 is addressing exactly that. So the first layer is the undeveloped residential land in Oākura and that is a representation of all of the zoned residential land, some of which is going to have capacity in terms of in-fill opportunity, and some of which is going to have capacity as greenfield development. So that is the available reserve as yet undeveloped, greenfield, in-fill, in combination leading to a potential future yield of 157. So we are just going to check that point on in-fill, but I am pretty sure what it is dealing with is all of that available capacity. So that is dealing with existing zoned residential land.

 Then you move down into the future urban development area in the south and then you move to the West FUD, and so the table I think is attempting to paint a picture that says, well, if you take account of the existing capacity in the existing residential zoned land plus what we think is going to be the future residentially zoned land, at least earmarked in the FUDs, we think we've got capacity for 629 lots, which easily meets any localised demand, which is identified in table 1 as being 247.

**THE COMMISSIONER:** So, in table 1, so in terms of the long term, so those short, medium and long term are the timeframes from the NPS or are they the timeframes from the Council's long-term plan?

**MR MULDOWNEY:** Those are going to be NPS timeframes, 2018 to 21 feels like the short-term timeframe as established in the NPS. Yes, so I think we are talking about NPS timeframes.

**THE COMMISSIONER:** It is not right in front of me at the moment, but you did reference the long-term plan.

**MR MULDOWNEY:** Yes.

**THE COMMISSIONER:** Where I am heading in this questioning is so the Council has looked at infrastructure provision in the long term, in the long-term plan during the ten years, but I presume, given there is a requirement for an infrastructure strategy, that view goes out 30-odd years or thereabouts.

**MR MULDOWNEY:** It should do, yes.

**THE COMMISSIONER:** Again it might be part of Mr Comber's evidence; does the District Plan address matters out that long? So does the District Plan support - and I appreciate this is a private plan change to rezone land - but in terms of the overall growth of Oākura and other settlements, does the District Plan actually have that type of horizon, notwithstanding the timeframe is ten years? I am just seeing where the connection is.

**MR MULDOWNEY:** I think part of the problem here is there is a potential disconnect between some of the Council's strategic planning in terms of its ten-year plan, its long-term plan, and what the Operative District Plan provisions are saying, and it is about getting that alignment right. So, for example, the ten-year plan identifies land supply in the FUD South as coming on and providing something like 150 or 160 odd lots in 2021 or thereabouts.

 I have it in my submissions, so at paragraph 34 of my submissions I've identified the LTP treatment of the FUD South where it's scheduled to have 158 lots zoned for residential land use in 2019/2020. We are here and it is not zoned. So, not only have we not met in planning terms, we haven't matched our planning instrument with our long-term strategic investment instrument. So the long-term strategic investment instrument is saying that we should have 158 lots coming on stream at Oākura at the FUD South by 2021 and we don't have planning provisions that enable that.

 As I said earlier, the current planning provisions do a very good job of protecting the resource, there's no question that they achieve what they were intended to achieve under the Oākura Structure Plan of identifying the growth areas and securing them for future residential use. But they don't enable that use. So you've got a disconnect between the LTP and what it expects in terms of growth versus what is being delivered under the District Plan.

 Also I think relevant is that under the LTP that FUD South area is scheduled to yield 158 lots. Well the yield analysis of the existing South FUD area I think produces a yield of about 120 or 117 lots. So even if we had activated the South FUD area within the 2019/2020 timeframe that was in the strategic plan, we still wouldn't have achieved 158 lots, we would have been down somewhere around the 117. So there are these kind of disconnects that tend to sort of flow through the instruments that need to get some better alignment.

**THE COMMISSIONER:** I just want to understand all of that context and what was intended, what has happened to date, and then ...

**MR MULDOWNEY:** Yes. So the other part of that picture of course is that what the LTP is saying about the FUD West, so the FUD West is going to be producing potentially 390 lots between 2028 and 2032 under the long-term plan, yet no one has talked about changing that zoning to residential to enable it. I understand the proposed District Plan in draft form has not activated that area by lifting the FUD zoning and turning it into residential zoning, so someone is going to have to come along at some stage and do what is happening with the South FUD in terms of the West FUD.

 So it feels as if there are disconnects that run through some of the planning instruments for the Council.

**THE COMMISSIONER:** Yes, and I certainly want to be clear on what the actions of the Council have been to date, going back in time, both through the LTP and DP, because that actually helps provide me with some understanding of the overall context.

**MR MULDOWNEY:** If I was attempting to summarise what I think has been the sequence, it was back in 2006 the Council turned their mind to what is the ultimate strategic planning outcome for Oākura and it was recognised that it was going to be a growth node and that it was going to be a place where population would increase over time.

 There was already a pretty significant public infrastructure investment that it had made in Oākura and that needed to be leveraged, and by that I am talking about the wastewater trunk main that extended from Oākura to New Plymouth where the head-works are. So that road that you have travelled between the two growth nodes is supported by a wastewater trunk main that was introduced some 20 years ago, which has significant capacity for reticulated wastewater well beyond the existing population in Oākura as it currently stands. So that there is no question that, even as long as 20, 25 years ago, when that kind of strategic planning was undertaken, Oākura was destined for growth.

 That has been picked up and it has been embedded in the Oākura Structure Plan in 2006 where it has been recognised that this is a growth node and it will ultimately support more population.

 But there were strong community views about how that population should be supported in the long term and one of those was that you would potentially retreat away from the coast, so we were not talking about --

(break in audio)

**MR MULDOWNEY:** ... the coastal edge development, we would be back inland from the coast, which is that quote I gave you in my submissions, which effectively meant that the FUD West and FUD South areas were the identified areas where if you were going to allocate growth that is where it should go. So the council has been thinking about this issue. That strategy was then embedded in the District Plan, so that was a 2006 strategic planning instrument, which was then embedded in the District Plan in 2013, with I think it was plan change 15, I think I said, and then those overall strategies have been reflected in some of the other strategic documents that the council is required under the Local Government Act to promulgate, most importantly its LTP, which is refreshed every three years. The LTP as it currently stands is recognising that Oākura is a growth node. It is recognising 158 lots of residential land is to come on-stream by 2019/20 and a further 390 to come on-stream in FUD West from 2028 onwards. Matched to that intention around growth it has allocated funding to the upgrade of the Wairau Road/State Highway 45 intersection where it is signalled a roundabout be introduced and has allocated $1.2 million in public funding for that upgrade, which is scheduled, I think, for the 2021 year.

 If you think about that in terms of LTP decision-making, that is within the next three years; that is the LTP cycle before it is again addressed in late 2021. So it feels very much as if council is, dare I say it, putting its money where its mouth is here.

**THE COMMISSIONER:** So just before we leave the NPS, the other high growth areas that were so classified when the NPS originally came out, there was the requirement for the development of a future development strategy, subsequent to the capacity assessment work. Are there any provisions in terms of that occurring for New Plymouth district or are there some other provisions that apply?

**MR MULDOWNEY:** I do not know the answer to that, but I can come back to you on that point. I mean, the NPS, just to make that comment about the shift from medium growth to high growth, the NPS does not really in my view create a significant amount of additional obligations on a council moving from medium to high. Those fundamental policies at the NPS level around identifying your short-term, medium and long-term growth and doing the capacity work that is associated with that, is common to both the medium growth areas and the high growth areas. The high growth do have a set of additional requirements that need to be addressed, but in terms of those fundamental requirements around identifying short to medium growth they are the same whether you are sitting within medium or high.

**THE COMMISSIONER:** Yes, thank you. So just for clarification, and I am on page 23, paragraph 75, where you talk about original traffic assessment and traffic generated at 8.5 trips per lot per day, so the District Plan talks about vehicle equivalent movements. I just wanted to make sure I am looking at matters in the right way, so would you care to comment on that?

**MR MULDOWNEY:** I do not want to venture into what assumptions are sitting behind the 8.5 trips and whether there is any account, for example, taken of heavy vehicle movements or any shifts in terms of the nature of vehicles, so I will raise that with my expert who is giving evidence tomorrow and I will ensure that is addressed for you tomorrow morning.

**THE COMMISSIONER:** No, just in previous hearings I have had people discussing trips and then others talking about vehicle equivalent movements, so I just want to have the same base, that is all.

 On paragraph 72 on page 22 you talk about the plan change addresses the timing for the release of sections through staging mechanism. I was just interested if there is a feel for the likely annual uptake and ...

**MR MULDOWNEY:** Again, probably not a matter for me, sir. Can I again defer that one? I mean, it is as much probably a matter for Mr McKie, but it may be that Mr Comber, the planning consultant, can assist with that one. I would not want to venture at what the likely demand might be on an annual basis.

**THE COMMISSIONER:** Okay. I am now getting close to the end of your submissions. Page 32, and paragraph 113, where you discuss the council's calculations and the distribution of capacity across the West FUD and the South FUD. Just so I am clear, that distribution by the council in your view is on the basis without the detailed analysis that has been undertaken by the applicant in terms of the residential yield?

**MR MULDOWNEY:** Yes, that is the point, is that the applicant would say it has stress-tested the assumptions around yield in terms of its achievability and what it does is it produces what it feels are more realistic yield numbers, which when you feed them into this methodology, if it found favour with you as a way of allocating resource, what it means is that there would be additional capacity beyond that which has been modelled by the council. What I have done is pulled together some of the evidence which touches on this issue into a series of tables, and I wanted to get that in front of you at some point. I am just thinking perhaps the most appropriate time might be after you have heard some evidence on this, but the tables that are drawn from various parts of the evidence that feed into this calculation need to be consolidated, put into one coherent document, so that you can then understand that. We have got a draft here now, but I think it would be best if you heard the evidence from the expert first, and then maybe we could return to that, and it will be hopefully a useful tool for you in understanding where matters currently sit.

**THE COMMISSIONER:** You use the words "stress testing" so in your view the draft capacity assessment does not include any stress test?

**MR MULDOWNEY:** I think it may, but it certainly does not reflect the outcomes of the testing that the applicant has done. If I hand this up to you it might just help to anchor this conversation, but we may need to return to this point once you have heard some evidence. These are just excerpts from --

**THE COMMISSIONER:** Thank you. I will get Jane to get copies.

**MR MULDOWNEY:** I have a few here. These are tables that have effectively been pulled from the evidence that you have either received or will receive. That first table comes from the evidence of Mr Fraser, and this is evidence that is already before you, so that identifies that sustainable aquifer yield at 2,503m3 a day and then there are some figures there around what the daily average demand is, the peak daily demand that has been recorded, the reservoir capacity and the water treatment capacity.

 So the next table, again from Mr Fraser's evidence, are the peaking factors, which have varied under his analysis. Firstly, there is the peaking factor that was applied by the council of 2.33 and what that does is by applying that peaking factor what it says is the maximum number of residential lots that can be supported by the 2,503m3 take. That is where that 1,279 comes from and you can see if you adjust the peaking factors you get different numbers of lots that can be sustained, so the other two peaking factors that have been identified are the actual historical average, 2.10, which is the one that the applicant has worked with, and then there is another one, which is a New Zealand standard, which even produces more potential lots that can be serviced by the daily take. With those two factors in mind you move down, there has been some work done at table 3.0 by Mr Doy, which is the yield analysis on table 3.0 and you can see there, and for reasons that he will explain in his evidence that he gives you, the refined numbers are identified at 134 for undeveloped residential land and then refined numbers for the Oākura West and the Oākura South FUD.

 Then as you move into the overall calculations if you take the water supply using a revised peaking factor of 2.10 you get the total amount of lots at 1,418 and then you just apply the various adjustments back and the first thing that you get from the 42A report would be the excess of potential demand over proven supply, which has been identified at 102 lots. Probably more important is the final table, which is table 5.0, which shows the water supply capacity being at 1,418. You then allocate 660 to the existing township lots being served, you allocate 127 out for infill and 134 out for existing vacant land, and that gives you a total amount of aquifer capacity of 920 lots, which is first cabs off the rank, so to speak, leaving you with 497 as available remaining supply, then split 50-50 gives you 248 lots for each of the FUD West and the FUD South. On that basis that is really the applicant's effort at saying we do not necessarily accept this is what the RMA had in mind when it started thinking about the allocation of resources but if it is a model or a methodology that finds favour with the Commissioner applying some of these adjusted and what we consider to be more realistic inputs produces a total capacity of 497 and allocated 50-50 gives you 248. So the short point is the council is at 167 and the applicant would say, "Well, we think the number, if there is to be a number applied, should be 248" and that is really the maths behind it.

 So really what the submission was saying, sir, was that if we were to take this as the approach, and bear in mind some submitters say even the 50-50 is unfair and it should be pro-rated based on the size and scale of each FUD, so some submitters in opposition would say the better and fairer approach would be to allocate more to the West FUD than to the South FUD because it is a bigger area, notwithstanding the fact that the West FUD in my submission is less likely to be developed in the short-term, which I say would just simply exacerbate the stranding of this asset. So I still maintain that even allocating 248 lots of this asset to the West FUD, which is to be developed right out on to the ten-year horizon, does not represent sustainable management of the resource, but if you are going to go down that track and allocate it 50-50 we say the number is 248. What we are saying to you is the plan change is promoting a total yield of 316 lots, and in terms of the rule framework around that it is saying controlled activity status for the subdivision, permitted activity status for the land use, so why do we not have that status in place up to the first 248 lots and then why do we not shift this to a discretionary activity beyond 248, where we look at the aquifer supply? We say that is a sustainable way to approach the allocation of the resource, bearing in mind that much will change over the next ten years, we are sure.

**THE COMMISSIONER:** In terms of the sustainable management and the Resource Management Act per se, in your view is there an element of first in, first served around water here?

**MR MULDOWNEY:** There is. I think we have to be careful about how far you take that. At its extreme I would say it is not the single approach to be adopted here. It works at a consenting level, so if you are talking about two competing resource consents then typically first in, first served is the way that that resource might be allocated, and there have been Environment Court decisions on this. There is the Fletling(?) decision and a couple of others that were, in fact, dealing with water allocation in relation to the Waikato. The point here is that I think for a resource consent very definitely first in, best dressed is the answer. I think at a plan-making stage you have to be a bit careful about applying that absolutely across the allocation of the resource, because what it potentially leads you to is a situation where you may enable land use in a certain way, but you then do not have the infrastructure to match the allocation of land and then there is the disconnect.

**THE COMMISSIONER:** There is a disconnect then.

**MR MULDOWNEY:** Yes, so you have got to try and keep it, as best you can, in sync. So I am not advocating an absolute first in, best dressed approach. I think there has to be some recognition of capacity for other areas of Oākura that have been signalled for growth. I think if you abandon that as a notion completely you end up with land use planning and infrastructure planning falling out of sync. There will always be edges to how in sync you can be. It is not a perfect science here, but I do not think you want to find yourself completely out of sync so, for example, enabling an area with just no prospect ever of having potable water to supply it. I think that is a bad planning outcome and it is not sustainable management.

 What I am suggesting to you is that the approach that seems to be emerging here of trying to balance the allocation of this resource between enabled land use areas is a laudable concept and I think it does represent a sustainable management path, but I think you need to be very careful about how you deliver that, because allocating the resource to an area that is a long way off being developed and may in fact never be enabled in the way people thought at first might be has the potential to sterilise the resource for a long period of time and that sterilisation of the resource is a bad outcome.

**THE COMMISSIONER:** Thank you for that. On the theme of water, you discuss on page 33 the approach of the council in terms of being unduly conservative, and that is in particular the peaking factor, for example, used but also the way the council has proposed the distribution of capacity. Are there any particular assumptions or variables that the council has declared to the applicant that gives rise to the peaking factor of 2.33 and the way the council have distributed capacity across the FUDs?

**MR MULDOWNEY:** We are now getting above my pay grade. This is really the territory of the engineers, so I would prefer to have the witness address you on that matter.

**THE COMMISSIONER:** That is fine. Some of those matters may not be, in looking at the evidence, fully covered by some of the expert evidence.

**MR MULDOWNEY:** Yes. The two witnesses that can help you with this, one is Kim Jansen. Kim is going to replace Andrew, who is his colleague, who was double-booked, so Kim will be able to help you with the engineering side of things and perhaps also some of that consenting history in terms of the take that you were asking me of earlier. Then the other one is Alan Doy, who is the surveyor who can assist you with yield and some of the ground-truthing of the yield, so between those two witnesses you should be able to form an answer.

**THE COMMISSIONER:** And Mr Wesney, I would be interested in the council's view on those matters also.

**MR MULDOWNEY:** Yes.

**THE COMMISSIONER:** I think I am just about there. I am turning to where you talk about school capacity and community infrastructure starting on paragraph 120. In terms of my consideration of the plan change matters, and I suppose this is what I am taking from your statements but I just wanted to double-check with you, my consideration is around any effects of the proposal that may give rise to traffic congestion and safety issues in respect of the school and surrounding area, as opposed to what the capacity of the school is. I would be interested in terms of that in my consideration in terms of all of the matters for the plan change and my evaluation of it.

**MR MULDOWNEY:** I think it is perhaps slightly broader. I think the Commissioner is clearly required to look at the transportation effects and how they might affect the amenity and the safety and so on of the environment in and around the school. I think to the extent that there is an impact on the school in terms of the roll, so if we now move from outside of the school fence to inside of the school fence, the question is what if anything should you have to say or think about what is occurring within the school? My submission to you would be this: that to the extent that there are social and community impacts that relate to the school and impact the school they can be relevant to your section 32 evaluation in terms of social and cultural impacts, but what I have discerned from the evidence is that the school, for example, has the capacity to grow, so if this was a situation where the school had no capacity and this was going to then force residents elsewhere to school their children, then that might have a transportation impact or some sort of flow-on effect that you might be interested in, but that is not what I am understanding the Ministry of Education to be saying. They are saying it has got the potential for increases in its school roll and, yes, that will change the nature of the school. I know for a fact that many submitters have talked about the sense of open space and the fields that are available to these children and that if there is the introduction of more classrooms as there has been not so long ago that might lead to a reduction in some field area, which will have an impact on enjoyment and amenity and so on. I think that there is some element of that which is relevant to your assessment of community impacts, but I think you do need to pick your way very carefully around what is an RMA consideration and what are really matters for the Ministry. I think that is going to be one of the issues that need to be worked through, as to what is in scope and what is not in scope.

**THE COMMISSIONER:** Thank you. I have got nothing further for you at this point. I may well come back, particularly during either the witnesses or at the conclusion of your witnesses, Mr Muldowney.

**MR MULDOWNEY:** Yes, thank you, sir. So I have got a note of a few things to come back to you on overnight or during the course of the hearing, so I will at a convenient time pick those up with you again, but that concludes the opening.

**THE COMMISSIONER:** Yes, that is fine. Now, we are close to 4.10 pm. In terms of the rest of the afternoon, in terms of the timing requested, we are probably looking at about two hours there without questions, so I am just wondering, are there any of your witnesses that are unable to be here in the morning? That is where I was heading.

**MR MULDOWNEY:** Yes, so the only real material constraints are Mr King, who is giving acoustic evidence, and Mr Bevers, who is giving ecological evidence. Now, maybe somewhat optimistically I have looked at the evidence that those two witnesses are giving and thought that they were relatively uncontroversial and that they may be on and off within the 20-minute timeframe that has been allocated, but I am in your hands. It would be good to get those witnesses dealt to today and also I am sure Simon, who has been sitting here patiently, it would be good to get his evidence heard, bearing in mind that there would probably be limited questions that you could put to this witness anyway, because he is a stand-in. So it seems to me that there are those three that we can comfortably cut out today and then we may just have to call it quits at that point, depending on how close we are to 5.00 pm.

**THE COMMISSIONER:** Well, we will see where we get to with those three witnesses and then I will make a call at that point.

**MR MULDOWNEY:** Thank you, sir. That concludes the opening so I will call my first witness, who is Simon McKie, who is going to give evidence on behalf of the developer.

**THE COMMISSIONER:** If you can just put your statement here.

**MR MULDOWNEY:** Now, Simon -- Colin, can you help with this? Is Simon reading the original brief that was presented in the evidence or has it been updated?

**MR COMBER:** Yes, it is a summary.

**MR MULDOWNEY:** So this is a summary of Mr McKie's evidence, so Commissioner, if you are turning to Mr McKie's evidence --

**THE COMMISSIONER:** I have, to the pre-circulated, yes.

**MR MULDOWNEY:** So what we are now going to be reading is a summary in accordance with your directions, something that is a little more truncated. We have got written versions of this truncated version, so I will hand those up so that we are all following the same document.

**THE COMMISSIONER:** That is fine, thank you.

**MR MULDOWNEY:** So that we are all following the same document. So you can stand or sit, whatever you feel comfortable with.

**MR MCKIE:** I'm not a lawyer, mate, but I'd prefer to stand as well, actually. Thank you.

**THE COMMISSIONER:** Okay, thank you, Mr McKie.

**MR MCKIE:** Good afternoon. My name is Simon McKie, I'm the son of Mike and Ingrid McKie, the lead applicants of the proposed Private Plan Change of the Wairua Estate in Oākura. Just a couple of notable supports. My older sister, Julia McKie, my older brother, William McKie, and my younger sister, Gina McKie, also here in support are John and Shirley Cameron.

 Mike wanted nothing more than to be here today, unfortunately due to medical reasons that was not possible, so as you have heard I will be reading Mike's evidence on his behalf.

 "My name is Michael McKie. I, together with my wife, Ingrid, are the directors and shareholders of the applicant company, Oākura Farm Park Limited. Our four adult children have beneficial interests in Oākura Farm Park Limited through family trust arrangements. Oākura Farm Park Limited is the applicant in this matter.

I was an associate of the Real Estate Institute of New Zealand for over 30 years, from 1988 to 2018, and practised as a real estate licensee on my own account with offices in Opunake and Oākura.

I was raised on a dairy farm in coastal Taranaki and have 40 years' farming experience, much of this as an owner with sharemilker arrangements in place.

In recent years I have undertaken a number of property developments in North and Coastal Taranaki.

The reasons for the application.

The Oākura Farm property enjoys a unique location on the urban edge of Oākura. Its conversion to a mix of urban and rural lifestyle development seems logical and sensible. Being located on the coast with the National Park as a backdrop have long been attractive reasons for people to live at Oākura, particularly those who enjoy outdoor recreation.

The site has good aspect and the contour of the land lends itself to development without the need for major earthworks. It will provide an attractive setting for people to live in.

The New Plymouth District Council rates on the property mean that the farm has to deal to an ongoing annual and costly overhead that does not reflect its agriculture use. Environment and health and safety compliance and associated costs, and community expectations, make continued dairy farming of OFPL increasingly less attractive.

I believe our recent development, The Paddocks subdivision, which lies next to the proposed Wairau Estate, which the Commissioners have no doubt viewed, is an excellent example of transitioning the land from dairy farming to housing, which in my view is now the highest and best use for the property.

The Land.

Working with the Taranaki Regional Council we have planted 12,000 native specimens along the margins of the Wairau Stream on the southern side of the property. I envisage a gradual transition of the Oākura Farm Park land from rural to residential and rural lifestyle. I believe the uptake of sections will be gradual and over many years. As the residential stage is developed, stock numbers of the dairy farm will be adjusted to suit the remaining pastures.

Our relationships.

The McKie Family recognises the importance of good relationships. We have listened to and have a very good understanding of the Oākura community’s concerns, through community feedback and the pre-hearing meetings. Through this, the concept for Wairau Estate has evolved and been refined. The Taranaki Regional Council and the New Plymouth District Council, the iwi, the QEII and our independent advisors have contributed to the project's refinement.

We also place importance on our relationship with Ngāti Tairi hapū and its representatives, and Kaumatua Keith Manukonga in particular. I'm aware that the Oākura Farm Park Land is part of the hapū traditional lands and have an appreciation of the cultural importance that Mount Taranaki and the Kaitake Range has for the hapū and the Taranaki iwi. I believe protecting the previously unrecorded pa which is now secured in the QEII Covenant as part of The Paddocks development, together with the significant number of native trees we have planted on the property, aligns well with the hapū and iwi aspirations and expectations.

As with The Paddocks the hapū will be further recognised by street naming within Wairau Estate. I am also pleased with the design for the stone carving that has been developed on behalf of the hapū, which is to be located on Upper Wairau Road and we look forward to contributing to it becoming a reality. The street naming together with the stove carvings will provide permanent and readily visible markers of the hapū and its traditional lands in the locality.

The Environment.

The linkage between the National Park and the sea has always been one of the most exciting aspects of the Oākura land. The 9 hectares of QEII protected reserves, together with the preservation and enhancement of the natural features which will be set aside for Wairau Estate is a real environmental asset so close to the Oākura village. This is also important linkage for Project Mounga, creating wildlife corridors between the mountain and the sea.

I am keen for Wairau Estate to be a water conservation area through promoting rainwater harvesting and onsite water storage. In addition, we are offering land to be set aside for the council next to the Oākura water treatment and reservoir for the additional water tanks required by the NPDC. This will help future-proof community water storage.

The Future.

The Taranaki Regional Council, with the New Plymouth District Council, are undertaking a joint project, a combined walkway and cycleway from Pukeiti to Oākura through the National Park. This will only add to the vibrancy of Oākura. Local hiking, mountain biking, fishing, surfing, and the natural environment are, as we all know, simply outstanding.

There is a demand for housing at Oākura. Our conversations have led us to understand that many parents are unable to have their adult children and grandchildren live nearby in Oākura due to house pricing and limited supply. Along with the consideration of families, we see the aging population as an extremely important social responsibility, hence the requirement for smaller sections. With limited options available, the elderly population seeking a balance of independence and security while living in an attractive setting, means the demand for sections will continue to grow. Personal conversations with local retirees indicate a desire to downsize into a new but smaller house and section so they can continue to live at Oākura.

Our two daughters along with their families reside in Oākura, including three of our grandchildren. Naturally, we only want the very best for them and the future of the community they live in."

Thank you.

**THE COMMISSIONER:** Okay. Thank you, Mr McKie. Now, I do have some questions but I will pose them and they may be able to be picked up, if Mr McKie cannot answer them, by some of your witnesses, Mr Muldowney.

 So on the pre-circulated evidence, and this is on page 7 and paragraph 30, where there is a discussion about Wairau Estate to be a water conservation area. Down the bottom, at the end of that paragraph, it talks about land being offered adjoining the water treatment reservoir shown on the attached plan. I do not have an attached plan in the original statement, Mr Muldowney. So if that can be circulated at some point.

 Now, in both statements there is discussion in terms of the demand for housing at Oākura and in the statement that has just been spoken to by Mr McKie there is reference to an aging population and then also reference to creation of smaller sections. Is there any intent - and it might be something Mr Comber picks up tomorrow - in terms of any different dwelling topologies to be part of the overall development? I would just be interested, if there is an intent, what they would be.

**MR MULDOWNEY:** That is, I think, a matter best left for either Mr Comber or hopefully Mr McKie Senior if he is able to join us later in the week.

**THE COMMISSIONER:** No, I was not going to --

**MR MULDOWNEY:** What we do know, of course, is that the lot sizes range from 300 through to 200 or 700 so clearly there will be different topologies but beyond that I will again defer to it to other witnesses.

**THE COMMISSIONER:** I suppose it goes back to my earlier question, Mr Muldowney, around covenants, because sometimes there might be an intent here - and I am not saying this is in terms of this application - and then there are other legal mechanisms that might make that intent different to achieve, where they might be in conflict with one another.

 Now, Mr McKie made a statement - and this paragraph 1.8 on page 3 of the summary statement tabled this afternoon - working with the regional council there has been the planting of 12,000 native specimens along the margins of the Wairau Stream. Is that planting and location subject to some agreement with the regional council? So I just pose that and, if it is, what that is?

**MR MULDOWNEY:** I can't answer that.

**THE COMMISSIONER:** Or you can, yes.

**MR MULDOWNEY:** Nor can the witness.

**MR MCKIE:** No, no, without making assumptions, yes.

**THE COMMISSIONER:** Yes. No.

**MR MULDOWNEY:** Okay, that is fine. Mr Comber, do you think you can add to that or should we wait until you have checked and can respond fully?

**MR COMBER:** Only to comment that the area that's been planted along the Wairau Stream is not the same as the QEII area.

**THE COMMISSIONER:** Yes, no, I understand that. Yes.

**MR COMBER:** So other than that, I don't know.

**MR MULDOWNEY:** Right, well that is three shots fired and three misses.

**THE COMMISSIONER:** Yes.

**MR MULDOWNEY:** So we will come back on all of those three overnight if we can, Commissioner.

**THE COMMISSIONER:** Okay, thank you. That is all I have, so thank you, Mr McKie.

**MR MCKIE:** Thank you, I appreciate it.

**MR MULDOWNEY:** Thank you, Simon. I now call Cees Bevers.

**THE COMMISSIONER:** Thank you. Yes, I will take -- so this is a summary statement?

**MR MULDOWNEY:** This is a summary statement.

**THE COMMISSIONER:** Okay, thank you.

**MR BEVERS:** Good afternoon.

**THE COMMISSIONER:** Thank you, Mr Bevers.

**MR BEVERS:** My name is Cees Bevers, Cornelius is my full name. For an obvious reason I will sit down and deliver this.

So you now have the summary version of my evidence from which I will be going off this afternoon, which has got some other responses and a little bit of supplementary evidence based on the report that came out late last week, the supplementary planning report. So I prepared a report for the subdivision of land at Wairau Road, which is the "Ecological Values and Impact Assessment: Wairau Stream, Wairau Estate subdivision, Oākura" dated 26 July 2017.

Now, I have read and reviewed the NPDC Officers' Planning Report prepared for the Commissioner, dated 31 May this year, as well as the supplementary planning report dated 19 July.

So, in summary, both the central and southern tributaries of the Wairau Stream are of moderate ecological value. There are no threatened species known to be present on site. The potential ecological impacts of the proposed activities can be mitigated by adopting recommendations made in my Ecological Values and Impact Assessment Report. The potential ecological effects of the development of the Oākura Farm Park Limited balance area, the Wairau Estate, carried out in accordance with all mitigation measures and recommendations being adopted will be no more than minor.

So to support that I will now go into a little bit of the analysis that I went through. These are the main key points from my fuller evidence.

Beginning with the flora. The central tributary of the Wairau Stream contains remnant native vegetation and a variety of exotic weed species, which is restricted to the narrow gullies within which it is located, and is surrounded by farmland pasture. The native vegetation is generally of scattered trees and young plants, and wetland plants. Dominant species include mamaku tree fern, mahoe, kamahi, karo, a rimu, karma, kawakawa, the reed raupō, flax, cutty grass, pūkio, which is a sedge, kiokio fern, and the common rush wiwi.

Exotic plants found in, or adjacent to the central tributary of the stream include gorse, crack willow, cherry tree, Scotch thistle, convolvulus, woolly nightshade, Tasmanian blackwood, ragwort, an Eucalyptus species, bamboo, wandering willie, sweetgum, ginger, sycamore, Chilean rhubarb, and inkweed.

Significant areas of habitat in the central tributary include several reasonably large raupō beds, in both arms of the stream, and lower down the stream towards the highway there. The southern tributary, and this is the area that was discussed by Mr McKie as having 12,000 native plants planted there, is a narrow incised channel, and is a fast flowing stream with a rocky bed. This stream is fenced off from farm stock and has had its riparian edges planted out with native vegetation, with some species having also naturally colonised the area. The species found there include akeake, flax, mountain flax, toetoe, pampas, which is a weed which is self-established in a few places, cabbage tree, broadleaf, taupata, koromiko, kohuhu, lemonwood, five-finger, pohutukawa, mamaku and ribbonwood. Other exotic plants include gorse, montbretia, Chilean rhubarb and brush wattle.

Just moving on to the fauna. Native bird species found onsite are pukeko, harrier hawk, fantail, grey warbler, and kingfisher. It is highly likely that spotless crake occasionally use the larger raupō beds within the central tributary of the Wairau Stream, as they are known to be present in the northern tributary only 200 metres away. Just supplementary to that, spotless crake are a cryptic species, they are hard to find but they are known to move around at night from remnant to remnant across farmland.

Exotic species of bird noted include chaffinch, starling, song thrush, greenfinch, goldfinch and blackbird.

The native banded kokopu fish was detected during a spotlight survey through the central tributary. Long-finned eel were detected in the southern tributary in that survey. No kōura, or freshwater crayfish, were detected but these are likely to be present in low numbers as they have been detected in the northern tributary of the stream on the property in previous work undertaken for The Paddock subdivision in 2010.

No lizards were noted during the site visits, although no specific survey work for them was undertaken. It is likely that the goldstripe gecko are present within the gullies of the central and southern tributaries of the Wairau Stream, as they have been recorded on-site in the past near the northern tributary and within Oākura township.

I will now move on to the main conclusion of my report. The central and southern tributaries of the stream have existing riparian vegetation and a significant number of raupō beds of good ecological value, which will be enhanced by the proposed planting of native plants within the stream gullies. This is generally areas that are of rank grass, have had gorse controlled or have been grazed.

None of the species seen in the balance area of the property proposed for Wairau Estate development are considered threatened under the New Zealand threat classification system, which is administered by the Department of Conservation.

The raupō beds within the tributaries of the Wairau Stream are important habitat for spotless crake. The revegetation plantings provide good opportunities to create important habitat for goldstripe gecko, as well as a significant food source for native birds such as tui and kereru.

Control of stormwater run-off from the roading network can easily be achieved in the gully system of the central tributary of the Wairau Stream by the formation of five stormwater retention ponds, with an estimated overcapacity of approximately seven times if - and a correction there - 4 metre high bunds are used. I have got 3 metre there mistakenly.

The water retention time of the ponding water behind these bunds is estimated to be of only short a duration of three to five hours for a 1 per cent annual expectation probability storm event, 1 per cent AEP, which is unlikely to negatively affect the raupō and flax beds in the gullies there. I would just like to note that not all of the proposed retention areas currently contain raupō or flax.

Silt run-off from excavation works can negatively impact streams and wetlands, if left uncontrolled, but silt control measures are easily implemented to mitigate this risk. I would just like to point out the track record of Oākura Farm Park Limited with The Paddocks in regards to silt control.

Clearance of pasture grass, with any associated earthworks in the subdivision, is of minor ecological impact. The revegetation plantings and re-grassing will aid in the control of silt laden run-off from earthworks. That is part of the control measures I've detailed in my report.

Domestic cats can have a significant impact on populations of birds, invertebrates, lizards and rodents. Roaming and hunting behaviour in cats is not easily controllable. Domestic cats are already established in the area, obviously being so close to Oākura township. There are also more than likely to be feral cats present.

Domestic dogs disturb and kill wildlife. The roaming and hunting behaviour of dogs is relatively easily controlled compared to cats.

The potential ecological effects of the development of the Oākura Farm Park Limited balance area, Wairau Estate, carried out in accordance with all mitigation measures and recommendations being adopted, will be, in my opinion, no more than minor.

I propose in the interests of time, Commissioner, to not go through all of my recommendations because they are word for word from my main evidence and take those as read in the interests of time, to assist with the other witness.

Then I would like to move on to paragraph 47 and discuss the evidence of others and associated opinions, if that is all right with you?

**THE COMMISSIONER:** Thank you, that is fine.

**MR BEVERS:** So, I have read the evidence of Mr Fraser from Red Jacket Limited, the engineer, and note that he states that the proposed wetland-like stormwater retention ponds system will be hydraulically neutral. In support of that, these stormwater ponds will have throttled pipe discharge to ensure pre-development flows are not exceeded and therefore will have an effect on the environment that is no more than minor, in my opinion.

Further to my initial report from 2017, further consideration of the recommendation to prohibit cats from the subdivision, which is one of my recommendations that I haven't gone through blow by blow but I do know that this may be difficult to implement and enforce under the current district plan. Anecdotal evidence from the original subdivision at The Paddocks in 2010 suggests that prohibiting cats by way of caveats registered against all titles is not entirely effective. A bylaw may be able to be passed to prohibit cats in the subdivision, allowing New Plymouth District Council Animal Control Officers to enforce such a bylaw.

I will now move on the first NPDC Officers' Planning Report from 31 May this year. I note that this report states that:

"The proposal has the potential to maintain and enhance the ecological values of the site and wider area."

In support of my report really.

Further, no objections or contradictions to my report are raised in the Officers' Planning Report and it is noted that the report states that potential ecological impacts are addressed by the mitigation measures detailed in my report.

The Officers' Planning Report concludes that adopting the mitigation measures from my report will achieve the objective of the plan to sustainably manage and enhance, where practical, indigenous vegetation habitats. Furthermore, the Officers' Planning Report recommends that:

"The ecological protection and enhancements methods proposed are referenced in the plan provisions to ensure they are appropriately implemented at the time of subdivision and development."

Now to move on to the further supplementary NPDC planning report on the expert evidence dated 19 July.

 This report notes that the landscape architect for submitters against the proposal, Mr Kensington, believes that there will be an adverse landscape effect created by the main northern access road into the subdivision off Wairau Road, through the lower leg of the Key Native Ecosystem, or KNE, which is a regional council designation, adjacent to the northern tributary of the Wairau Stream as well as the adjacent esplanade strip and walkway there. This area of the KNE consists of a raupō reed bed.

From previous work in this area for The Paddocks subdivision carried out in 2010 I know that spotless crake use this area. The proposed formed width of the access road is 18 metres on top of a potentially 4 metre high culvert crossing and the earthworks will likely slope to a base 34 metres wide within the stream. This is from information from Mr Doy in the last few days. I estimate that approximately 275 square metresof raupō bed will be removed by building the access road, based on the crossing location and the road width.

 The area of affected raupō bed is relatively small compared with the overall extent of raupō over both the northern and central tributaries of the Wairau Stream on the property and unlikely to prove significant loss of spotless crake habitat, given that the spotless crake are likely to use all of the scattered raupō beds from time to time, in my opinion.

 The removal of the raupō there could potentially be off-set by the creation of further raupō habitat within the stormwater retention ponds being created by creating areas of deeper water by raising the height of those culverts, but allowing fish passage by the use of mussel sprat ropes, which are already in use in The Paddocks subdivision.

 Potentially the greatest opportunity for this exists in the upper reaches of the central tributary in the proposed retention ponds numbers 3, 4 and 5, which are currently grazed and where little native vegetation is currently found. Using a conservative estimate for the potential area for new raupō beds in these three retention ponds of one-fifth, or 20 per cent, of the potential are of those retention areas, a total area of additional raupō habitat of approximately 800 square metres there, all up over numbers 3, 4 and 5. I detail those in a table there for you, Commissioner, in table 1.

 Raupō rhizomes could be transplanted in winter when the green stems have died down for the season and used to establish other raupō beds in the stormwater retention ponds where some areas of standing water - sorry, I have omitted the word "water" there - are able to be created.

 It is likely that spotless crake will use the new raupō beds once established within the stormwater retention areas as they are known to disperse between small scattered wetlands at night. With this scenario there would be a nett gain of nearly 530 square metres of raupō bed.

 So, in conclusion, on the area of those retention ponds is from the set of drawings by McKinlay Surveyors from May 2017 and the cut and fill report associated with that, Commissioner, which is the series of drawings that are in Mr Doy's evidence.

**THE COMMISSIONER:** Yes, thank you.

**MR BEVERS:** So, to conclude, the potential ecological effects of the development of Wairau Estate, carried out in accordance with all mitigation measures and recommendations being adopted, will be no more than minor.

The ecological protection and enhancement methods proposed will provide positive ecological effects in terms of increasing the area of habitat, increasing biodiversity, and increasing native animal population sizes.

Thank you.

**THE COMMISSIONER:** Okay, thank you. I do have some questions.

**MR BEVERS:** Sure.

**THE COMMISSIONER:** On page 3 of your summary statement and around paragraph 26 where you talk about silt run-off.

**MR BEVERS:** Yes.

**THE COMMISSIONER:** You then provided The Paddocks subdivision as an example of silt control. Can you just tease that out for me in terms of what are the characteristics around silt control for that particular development?

**MR BEVERS:** Yes, so silt control covered by -- and earthworks and water is the jurisdiction of the regional council and they have a set of guidelines that must be used within Taranaki and associate with the amount of area of earthworks and times of year, and also things like silt fences within run-off drains and that sort of thing. So I wasn't involved with the day-to-day work at The Paddocks in terms of the silt control. It's probably a better question directed at Mr McKie in terms of those but, you know, there was no case brought from regional council against the works that were carried out there and it is evident when you are there, post all the work, that it was done to a good high standard. Mr Comber might have examples of that in his evidence as well of some of the rain garden work that was done over there, et cetera.

 Yes, so I think it might be a question best directed at Mr McKie, do you think, Lachlan?

**MR MULDOWNEY:** Yes. Or maybe Mr Doy.

**THE COMMISSIONER:** Okay, no, that is fine. We can consider that tomorrow.

 Now, you did note Mr Bevers that the cats are already established in the area, including feral cats, and then you noted in paragraph 48 that it may be difficult to implement and enforce such with the current District Plan and anecdotal evidence in terms of The Paddocks indicates that prohibiting cats by way of caveats was not entirely effective. Can you just outline for me your reasoning for that conclusion?

**MR BEVERS:** That was based on discussions with Mr Comber and feedback from Mr McKie and so, again, it is probably best left -- if you can cover that. Mr Comber is able to address that issue for you.

**THE COMMISSIONER:** Okay. Yes, because you also note in terms of a bylaw may be able to prohibit cats, so that is taking matters a bit beyond the matters that I am able to consider in terms of the RMA process.

**MR BEVERS:** Sure.

**THE COMMISSIONER:** But we will leave that for tomorrow for Mr Comber, and anyone else, appropriately to comment on.

**MR BEVERS:** I think I would just like to add there, though, Commissioner, that the fewer cats that are introduced into the area the better and it is just a way of finding an effective mechanism which might need a bit of trial and error, I guess.

**THE COMMISSIONER:** Yes, and it might be something, Mr Muldowney, in terms of some commentary from you, not now but during the course of the hearing or in your closing submissions. For resource consent applications and then subsequent decisions, I and other Commissioners have imposed conditions in terms of prohibiting cats. I have not come across in a plan change process so I would just be interested in your comments around that matter.

 I do have a further question about cats, which I have here. So you have highlighted, Mr Bevers, that there could be some issues in terms of how cats could be effectively prohibited but if such prohibition cannot be adequately applied or enforced what is the ecological effect of that from your perspective?

**MR BEVERS:** Yes, so cats are predators of birds as well as lizards and they are likely to suppress -- you know, that extra load of all those potential cats that could come in with the households into the subdivision, they would be taking out any lizards that might be establishing or trying to establish as a result of the increase in habitat size specifically put out for them or even if there was say translocations done or something like that, as well as the birds. Although I do note that there seem to be spotless crake hanging on right at the back of those houses along Wairau Road on the northern tributary there. I saw several cats walking through there whilst I was surveying back in 2010 within metres of where the other birds were but I think it is an access issue. They don't like getting their feet wet, I guess, but also other birds that are present will be preyed upon.

 The fewer cats the better really and the development is proposing to exclude cats. But to achieve it effectively is a challenge, hence the recommendation to look at a bylaw, I guess.

**THE COMMISSIONER:** In terms of other work that you have undertaken, have there been other types of mechanisms or some type of management approach that has been applied in terms of minimising the impact of cats?

**MR BEVERS:** No, I don't have any further experience with this matter apart from The Paddocks and here.

**THE COMMISSIONER:** Okay.

 Just turning to your - and I appreciate you took it as read - summary of the recommendations, on page 3 and I am at point 34, where you discuss in terms of:

"The raupō beds remain in full sunlight and are not shaded by any other vegetation, even when mature."

How is that achieved?

**MR BEVERS:** So these recommendations will inform the landscape planting plan, which hasn't been developed yet but a similar one was done for The Paddocks. It is not the appropriate time now ‑- you know, there is no detailed development going on at the moment. But there are plant choices that can be made using native species that will meet that objective. So we will just inform the species list and the planting areas. Not the entire tributaries are covered in raupō so there are patches of them, so subsequent adjacent plantings will reflect that. You can just choose species of a smaller statue, like flaxes is a good example, whereas, you know, you wouldn't want to be planting species that grow into tall trees right next to raupō beds because the gullies are narrow so it would easy to shade them out inadvertently, even using natives.

**THE COMMISSIONER:** The response to my next question might be from others. In terms of the ownership of those stormwater areas --

**MR BEVERS:** The retention?

**THE COMMISSIONER:** The retention areas, and obviously raupō beds within those, where does the ownership lie? Is that retained by some type of arrangement other than vesting in the council?

**MR MULDOWNEY:** I think it would depend on the detailed design and what is in and what is out. I would envisage it would be a combination of land which is vested in the council as open space and reserve with vesting the ongoing --

**THE COMMISSIONER:** Obligations?

**MR MULDOWNEY:** -- obligations. There may be some remnant parts which have not vested but typically you would try to achieve an outcome in a subdivision like this where there is private land which is subdivided and owned in private ownership and the balance would just be part of the public domain. The idea of there being some sort of remnant land that sits in between those two options is not ideal.

**THE COMMISSIONER:** All right, thank you.

 Mr Bevers, just on the theme of raupō beds where you then discuss potentially the comments contained in the supplementary 42A report in paragraph 52, and then you talk about the raupō beds could be established in the stormwater retention ponds in response to the removal of raupō because of roading works, are there any particular impacts on the stormwater retention areas if the raupō beds are established in those. Are there any other ecological impacts and perhaps any impacts from stormwater retention can be dealt with by another witness?

**MR BEVERS:** Do you mean that they become less effective potentially?

**THE COMMISSIONER:** Yes.

**MR BEVERS:** I have discussed this proposal with both Mr Doy as the surveyor who did the original design drawing and Mr Jansen from an engineering perspective. They haven't alluded to any detriment of including the raupō beds within those retention ponds because they are well -- you know, there is plenty of scope there for capacity, so they will be constructed to whatever capacity they have. Currently they are seven times over capacity so the final height of those bunds to create the retention area will be determined by the actual requirement in the consent.

 I think there will be some reduction in capacity with the biomass of the raupō which could be accounted for in that design phase and to make sure that there's capacity and note that they were both in favour, as a solution, as an ecological offset, of including the raupō in the retention ponds.

**THE COMMISSIONER:** Thank you, Mr Bevers.

**MR BEVERS:** You're welcome. Thank you.

**THE COMMISSIONER:** Mr Muldowney?

**MR MULDOWNEY:** Thank you, sir. Thank you, Mr Bevers. Shaun King. Did you have a supplementary?

**MR KING:** I do have a supplementary, yes.

**THE COMMISSIONER:** Mr King will be the last witness given the hour, Mr Muldowney.

**MR MULDOWNEY:** Certainly, sir. I am handing you in a supplementary.

**THE COMMISSIONER:** Okay, thank you. Right, Mr King.

**MR KING:** Today I am presenting on behalf of my colleague, Damian Ellerton, who undertook the original assessment. As part of my involvement in this I identified an error in figure 1 of our assessment report, which involved incorrect scaling of the drawings, so how far the residential lots were set back from the State Highway 45. Our original report also never included the State Highway 45 access. We also understand that as part of that access the speed on State Highway 45 may change, which also influences the noise generating aspects of the work.

 This error, in combination with the State Highway 45 access has impacted our recommended acoustic bund/barrier extents and so attached to my summary is an updated bund/barrier extents, which has reduced the extent of those quite a bit and reduced the return bunding, which was an issue for landscape.

 Those are the only things I wish to -- if we just turn to the back of the -- so this one is for if 100 kilometres an hour is retained.

**THE COMMISSIONER:** Do you want to go up and address the overhead?

**MR KING:** Yes, sure.

**THE COMMISSIONER:** Just take me through that.

**MR KING:** Originally we had a return bunding around -- just through there which is now no longer required. If State Highway 45 is remain at 100 kilometres an hour, the barrier, 2 metre high, would need to extend to that extent. That little return here is just to protect these blocks on the edge. If the accessway wasn't provided the return wouldn't be required, just going straight. No barrier has been provided for these large lots because it is possible to build a dwelling set back more than 80 metres from the road.

 I will just flick to the next one. With the speed reduction there is a reduction in noise so the barrier would no longer need to go behind the Powerco substation site to protect those. Then with a reduction in lots numbers to 248 what we have now is the worst case here (several inaudible words) because all other properties could place the house outside of the 80 metre setback.

 Overall, regardless of lot scenario or State *Highway* 45 access the reverse sensitivity effects on State Highway 45 can easily be managed with either a combination of bunds, barriers, building setback or modification to building façades. A bund is my preferred option as it provides better outdoor amenity for the residential lots. It doesn't require ongoing maintenance and minimises house construction cost by requiring upgraded acoustic facades.

 Going on to noise generated by the residential development, that is going to be adequately controlled by the District Plan noise limits. It would be quite low at night particularly. I note that no noise limits currently apply for rural land and the inclusion of these limits as part of the plan change should be seen as a positive.

 Noise generated along Wairau Road from increased vehicle movements is predicted to increase by up to 3 decibels in ten years. I note that 3 decibels is considered a just noticeable difference in noise level.

 I consider construction noise would be appropriately controlled by the District Plan and since it's such a large site compliance with those plan provisions should be readily achievable. The proposed District Plan amendment RES99b is generally acceptable but I make the following comments. I note that the rule only applies to sections of State Highway 45 with a speed limit of 70 kilometres per hour and above. However, at say 60 kilometres per hour there is the potential that some dwelling still may be exposed to higher levels of noise if a barrier or bund isn't constructed. My recommendation is that that 70 kilometre per hour exclusion be scrapped and it just apply to all sections of State Highway 45.

 I also don't consider that the ventilation rule as part of that has gone far enough and it should address what is required from the ventilation system. I note that section 8 of the New Zealand Transport Agency's guide, which was prepared by Beca, does go into that detail and I propose that that be adopted.

 That's it, thank you.

**THE COMMISSIONER:** Okay, thank you. Mr King, in terms of the bund, so that is proposed to be 2 metres high, and just planted in grass? There is no other -- there is no fencing proposed?

**MR KING:** No, no fencing on top. So the 2 metres of the bund provides that. It can be planted in whatever. Trees don't normally provide any acoustic screening.

**THE COMMISSIONER:** No. Is there any greater noise attenuation or mitigation achieved by the bund as opposed to if there was a close boarded fence that did not have gaps and that type of thing? Is there any --

**MR KING:** No, they provide exactly the same benefit. I just note that closed boarded fences typically require ongoing maintenance to remain effective.

**THE COMMISSIONER:** Yes, okay. So a bund would be within the individual properties?

**MR KING:** No, so the proposal is that --

**THE COMMISSIONER:** It would be a separate --

**MR KING:** -- it's within the -- what's the -- the open space zone.

**THE COMMISSIONER:** Okay, which would then presumably vest with the council or some entity at some point?

**MR KING:** I would expect so, over the longer term.

**THE COMMISSIONER:** I just want to be clear what you said Mr King is that the bund would be put in place if the plan change was approved regardless of any speed limit on the highway?

**MR KING:** Yes.

**THE COMMISSIONER:** Because that was going to be a question in terms of connecting speed limit, which is quite independent of a RMA process, so that answers my question on that.

 Just coming back to the rural land, and you note there is no noise limits in the District Plan prior to that?

**MR KING:** In the District Plan, yes.

**THE COMMISSIONER:** At all? Apart from any nuisance provisions that --

**MR KING:** Yes, that arise out of section 16.

**THE COMMISSIONER:** Okay. My final question, just coming back to the ventilation requirements, and you note the NZTA provisions, so do I take it there are no particular ventilation requirements in terms of the New Plymouth District Plan to deal with that matter?

**MR KING:** Not that I'm aware of. The propose rule just says that any dwellings that have to have windows closed to maintain the acoustic performance require a ventilation system. It doesn't go into detail about what that is. The building code covers that but my understand from other services engineers, like the Beca section of the NZTA guide, is that H1 of the building code is not enough.

**THE COMMISSIONER:** What was the reference in the building code?

**MR KING:** H1.

**THE COMMISSIONER:** H1. Just going back to your paragraph 10, you note noise generated in Wairau Road from increased vehicle movements from the development is predicted to increase by up to 3 decibels in ten years. Is that comment related because of the staged nature of the proposal?

**MR KING:** Yes.

**THE COMMISSIONER:** It is my understanding, however, that in terms of controls of -- sorry, I will take a step back. There are no RMA controls - and just putting aside your comment for a moment - in terms of the noise on public roads?

**MR KING:** No, there's not.

**THE COMMISSIONER:** So if there were developments or activities in other places that use parts of Wairau Road, that would not be controlled is that what --

**MR KING:** Yes. So that is solely from vehicles on this side based on the existing traffic flows.

**THE COMMISSIONER:** The reasoning in terms of your paragraph 6 that no bunds or barrier would be required because noise sensitive buildings could be set back greater than 80 metres, and the reasoning for that, is that because with 167 lots there is more room to achieve that?

**MR KING:** There is more room, yes.

**THE COMMISSIONER:** Okay. I have nothing further. Thank you, Mr King.

**MR KING:** Thank you.

**THE COMMISSIONER:** Mr Muldowney.

**MR MULDOWNEY:** Thank you, sir. So that is the conclusion of the evidence today. Just to give you a sense of where we are at. We had intended to get through Mr Bruce on archaeology, Mr Doy on land survey and Mr Jansen on civil engineering and haven't done. We have got three witnesses that we need to catch up some time on, so to speak. My assessment is that Mr Bruce's evidence on archaeology is relatively uncontroversial, but certainly based on the discussions we have had today Mr Doy and Mr Jansen have some important things to say particularly around that activity question. There will be some time needed for those two witnesses. Then, of course, we have the usual programme, we had three further witnesses to take us through to the morning tea adjournment tomorrow. I suspect we are going to go past the morning tea adjournment tomorrow and will be probably until about lunchtime.

**THE COMMISSIONER:** That is fine. That is how it is, because it will also depend on the questions I have with those witnesses and their responses.

 Thank you. We are going to reconvene at 9.00 am in the morning. On the schedule it is intended we kick off hearing submitters at 12.30, I think it is appropriate just to highlight that start time might be a wee bit delayed, that will just depend on the time taken for me to hear from the witnesses from this afternoon that I have not heard from and also the three witnesses tomorrow. I just signal that there could be a later start.

 Thank you, we will reconvene at 9.00 am in the morning. Hearing adjourned.

(Adjourned until Tuesday, 23 July 2019 at 9.00 am)