

BEFORE THE PANEL CONVENER

FTAA-2608-1290

UNDER

Fast-track Approvals Act 2024

IN THE MATTER

of the Tahimana Project

**SECOND MEMORANDUM OF COUNSEL FOR TAHIMANA LIMITED -
RESPONSE TO PANEL CONVENER QUESTIONS ON 14 OCTOBER 2026**

Dated 15 October 2026

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SALLY GEPP KC
BARRISTER

TO THE PANEL CONVENER

1. This memorandum outlines the Applicant's response to the Panel Convener's questions as set out in an email from the Application Lead dated 14 October 2026. Counsel will speak to these matters during the Conference.

Level of residential development enabled by the Tasman Resource Management Plan (TRMP) for this site

Summary

2. The Convener has asked the Applicant to summarise the differences between what is proposed in this application and the level of residential development enabled by the TRMP. The Applicant considers that the proposed level of development is enabled by the TRMP (in other words, that there are no differences).
3. The site is zoned Rural 3. The Rural 3 zone was introduced to provide for subdivision and development within coastal Tasman that is consistent with the Coastal Design Guide, while avoiding development on the more productive Rural 1 and 2 zones. That intention is implemented by Policy 7.3.3.1:

To identify an area (Rural 3 Zone) within the Coastal Tasman Area within which **rural residential and residential development is enabled** while **avoiding, remedying and mitigating** adverse effects on the environment.

(emphasis added)

4. The anticipated density of development is described by Policy 7.3.3.7:

To enable residential and rural residential development to take place from December 2003 over at least a 20-year period in the Rural 3 Zone and the Waimea Inlet Rural Residential Zone that generally reflects a ratio of 25 percent developed area to 75 percent open space or unbuilt area across the total area of both zones.

5. The proposed subdivision achieves those key policies in that it incorporates a mix of rural residential and residential-scale development while avoiding, remedying and mitigating adverse effects on the environment, and is consistent with a ratio of 25 percent developed area to 75 percent open space or unbuilt area (both across the site itself, and across the zone as a whole).
6. The Council has identified as an issue "whether the proposed scale and intensity of the residential clusters is consistent with the Rural 3 Zone's intended character and development outcomes, or whether it represents a form of suburban residential development that exceeds what was anticipated by the Rural 3 planning framework". The Applicant understands the Council to be raising an evaluative issue relating to how the project will

change the site's rural landscape and character values and the consistency of those changes with policies seeking to avoid, remedy or mitigate adverse effects on the rural environment, rather than non-compliance with any specific outcomes or specified development standards in the TRMP. There are no minimum lot sizes for a restricted discretionary or discretionary subdivision in the Rural 3 zone and the proposal complies with the building coverage standards (Rule 17.7.3.1).

Additional information regarding Rural 3 subdivision and dwellings

7. In terms of subdivision activity status:

- a. Subdivision with a minimum 50 ha allotment size is a controlled activity (Rule 16.3.7.1).
- b. Subdivision that does not comply with Rule 16.3.7.1 is a restricted discretionary activity where: a) every allotment within which any building is intended to be located has a building location area shown; and b) the subject land has not been subject of a Subdivision Consent granted after 20 December 2003 (Rule 16.3.7.3).
- c. Subdivision that does not comply with the restricted discretionary activity conditions is a Discretionary Activity if: a) either the Subdivision is a relocation or adjustment of allotment boundaries; or b) the subject land is a record of title that is at least 50 hectares in area (Rule 16.3.7.4).

8. The Applicant contends that Rule 16.3.7.3 applies (restricted discretionary activity), but if that is not accepted then Rule 16.3.7.4 applies (discretionary activity).¹

9. In terms of dwelling activity status within the Rural 3 Zone:

- a. The erection of dwellings is, as a minimum, a controlled activity in the Rural 3 Zone.
- b. Controlled activity conditions can be complied with, other than Rule 17.7.3.2(e) which requires that any wastewater discharge complies with the permitted activity rules in Chapter 36.1. This condition is not possible to meet for any wastewater discharge within the Rural 3 zone because the entire zone sits within the Wastewater Management Area where no new discharge is a permitted activity. If the condition is considered *vires* and applicable, the activity status of new dwellings is innominate/discretionary.

¹ The question of which rule applies is addressed on p 56 of the Substantive Application AEE.

10. There are broad and extensive assessment criteria for Rural 3 zone subdivisions, including consideration of consistency with the Coastal Tasman Area Subdivision and Development Design Guide. The Design Guide provides both a design process, a range of guidelines in relation to key features, and lastly guidelines for specific “landscape units”. The applicant has followed the design process in designing the Tahimana subdivision. All assessment criteria and Design Guide considerations are assessed in the AEE² (and supporting technical reports where relevant).
11. The key policy framework for development in the Rural 3 zone is the Coastal Tasman Area policies in Chapter 7.3. Policies 7.3.3.1 and 7.3.3.7 are discussed above. There are several other key policies in Chapter 7.3. There are other applicable policies, including in Chapters 5, 7.2 and 7.4.

Landscape Plans

12. The panel convener has asked whether it is intended that there are two Landscape Plans, with reference to conditions 19 and 23 [of the Land Use Consent]. Conditions 19 and 23 address the requirements for site-specific Landscape Plans for different Lot types. Condition 19 applies to Lifestyle Lots, Serviced Lifestyle Lots and Rural Conservation Lots, where-as condition 23 applies to the Residential Lots. The requirement for those Landscape Plans is also secured through a consent notice condition in the Subdivision Consent.³
13. However, it is correct that two Landscape Plans are required, as in addition to the site-specific Landscape Plans outlined above, the Subdivision conditions require that a Landscape Plan is prepared before Tahimana applies for s 224 approval for Stage 1 of the subdivision. That Landscape Plan must be in general accordance with the landscaping shown on the Landscape Master Plan and the Vegetation Strategy in the Rough Milne Mitchell Landscape Design Document and must meet the requirements of condition 67 of the Subdivision Consent.⁴ Condition 69 and 70 address responsibility for implementation of the Landscape Plan. This Landscape Plan addresses site-wide landscape mitigation and planting requirements.

Dust, Erosion and Sediment Control Plan

14. The conditions require a Construction and Environmental Management Plan (**CEMP**) which incorporates a Dust, Erosion and Sediment Control Plan (**DESCP**). A draft has not been provided as preparation of the DESCP requires detailed design / construction drawings, and input from the civil contractor that will undertake the site earthworks including a construction timetable and specification of construction vehicles. The proposed Land

² Pages 74 – 88 of the AEE

³ Condition 77p and q Subdivision Consent

⁴ Conditions 66 and 67 Subdivision Consent

Disturbance Consent conditions appropriately specify the requirements for the DESCP:

15 The Consent Holder must, at least 15 working days prior to the intended commencement date of activities authorised by this consent, submit a Construction and Environmental Management Plan (CEMP) to the Council's Team Leader - Compliance & Investigation for certification. The CEMP must set out the practices and procedures to be adopted to ensure that compliance with the conditions of this consent is achieved. As a minimum the CEMP shall include the following:

(g) a Dust, Erosion and Sediment Control Plan (DESCP) which shall include, as a minimum:

(i) details of all principles, procedures and practices that will be implemented for erosion, sediment and dust control to minimise the potential for sediment discharge from the site;

(ii) the design criteria and dimensions of typical erosion and sediment control structures;

(iii) a detailed site plan showing the location and timing of all erosion and sediment control structures to be implemented;

(iv) construction timetable for the erosion and sediment control works and any bulk earthworks involved;

(v) timetable and nature of progressive site rehabilitation and revegetation proposed;

(vi) maintenance, monitoring and reporting procedures;

(vii) rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures; and

(viii) for stages where it is relevant, the plan shall specially assess and minimise any potential discharges associated with disturbance of stream beds, including any temporary stream diversions.

15. Land Disturbance Condition 20 provides:

20 All erosion, sediment, and dust control measures set out in the DESCP shall be installed prior to the commencement of any disturbance or discharge to land and shall be maintained until all disturbed areas are stabilised and/or revegetated. The removal of erosion and sediment control measures shall only occur when the site is fully stabilised and with the approval of Council's Team Leader - Compliance & Investigation.

16. The proposed Wetland Utility Structure Conditions specify additional methods that are required, or which may be adopted as part of the best practical means to prevent movement of disturbed soil or vegetation into a watercourse, for works required to construct the wetland utility structures

(boardwalks/crossings) because of the proximity of these works to wetlands (conditions 12 – 15 and 19 - 23).

Counsel and expert availability between 11 January and 15 February 2026

17. The Applicant is seeking confirmation of availability during this period from its experts and will update the Panel Convener at the conference.

A handwritten signature in black ink, appearing to read 'Sally Gepp'.

Sally Gepp KC
Counsel for Tahimana Limited