

PALMERSTON NORTH CITY COUNCIL
PRIVATE PLAN CHANGE REQUEST FOR WHISKEY CREEK RESIDENTIAL AREA AT
611 RANGITIKEI LINE, PALMERSTON NORTH
MINUTE 6 OF INDEPENDENT HEARING PANEL

Introduction

1. This Minute is being sent to you because you are either the Requestor, a Submitter or a Council Reporting Officer with respect to the above Private Plan Change proposal.
2. We have now received the written reply from counsel for the Requestor (Mr Slyfield)¹. Among other matters, the reply states;

The submissions do not address any of the issues arising in relation to the topic of housing mix (i.e. mixture of density, typology and/or price) as that is a matter on which the planners have not yet been able to conclude their discussions. The requestor has proposed to file a separate reply submission addressing those issues discretely once the planners have provided any refinement that they can.

3. In effect, the written reply from counsel seeks directions from us on potential plan change provisions relating to residential density controls.
4. The purpose of this minute is to record our directions accordingly and to provide a timetable for receiving responses to those directions. Before setting out that information, however, we provide the following brief context around its origins.

Background

5. As parties will be aware, the Panel adjourned the hearing at 6pm on Monday, 11 July, on the basis of a verbal direction to the planning witnesses for both the Requestor (Mr Paul Thomas) and the Council (Mr Marz Asgar and Mr Michael Duindam) to continue conferencing with a view to:
 - a. resolving any outstanding issues with respect to the potential wording of the Plan Change provisions; and
 - b. incorporating that wording into an up-to-date amended version of the Plan Change provisions.

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6. We subsequently issued directions on this matter in Minutes 5 and 6, with the planners providing responses to both.
7. As noted in the most recent response from the Planners – dated Friday 29 July – there are some confined matters of disagreement which remained unresolved prior to the Requestor’s planner, Mr Thomas, taking a period of leave.
8. The planners also acknowledged the presence of unintended ‘mechanical’ issues with the drafting of certain density-related provisions recommended in the response.
9. Our directions in this minute are squarely focused on ‘helping the planners help us’ with regard to these outstanding matters. This relates to our obligations under s32AA of the RMA to scrutinise any changes to the provisions arising since notification of the plan change.
10. The parties should not infer from this exercise that we have made a determination about the appropriateness of the proposal overall.
11. With this context established, we now turn to our directions.

Directions

12. Consistent with previous minutes, we set out our directions via a series of questions here.
13. The planners’ response on these questions and any addendum to the Requestor’s right of reply to address the planners’ response must be circulated by **3pm on Thursday 11 August 2022**.
14. We would be happy to receive the planning response sooner than this deadline if the parties prefer to stage/sequence the distribution of the information. Alternatively, we would equally receive all the information in one bundle, provided the above deadline is met. The timeframe is not negotiable.

Question 1: Mechanics of proposed Rule R7A.5.2.2(d) – Lot Size

15. The planners have noted an unintended consequence of the drafting proposed for this rule. At first glance, we agree there are problems with the mechanics of the rule, and these principally relate to multiple exceptions being expressed in different clauses in an uncoordinated way.

16. Specifically, exceptions to the lot size requirements have been expressed in clauses (i), (iii) and (v). As noted in the planners' response, the exception in (v) also omits a cross reference to clause (iv).
17. In addressing the above, we request drafting assistance from the planners. To facilitate that feedback, we question whether it would be an effective drafting solution to:
- a. relocate the addition proposed to clause (iii) under clause (v) and consequentially amend clause (v) to relate to the calculation of lot sizes under (i) to (iv) such that all substantive exclusions are essentially located in one place; and
 - b. amend the operative "(excluding balance lots)" exclusion under clause (iii) to simply refer the exceptions expressed under (v)?
18. If the answer to the question above is 'yes,' we would benefit from a coloured revision amendment version of the rule for our deliberations. If the answer is 'no,' please provide an effective drafting solution that allows balance lots and super lots to be exempt from minimum lot size requirements – in addition to the other intended exceptions – for our consideration. Please note also that the answers to Question 2 below may affect the planners' response to the above question(s).

Question 2: Minimum residential density, lot size controls, or both?

19. In response to the evidence of the Requestor's Urban Design advisor (Mr Burns), Mr Asgar has recommended that a new standard be added to the land use rules to require a minimum household yield of 25 houses per hectare across the multi-unit housing area defined in the structure plan.
20. Mr Thomas advised that the 25 houses per hectare metric is reasonably compatible with the upper end of the 220m² – 330m² average he and Mr Asgar have proposed for the corresponding subdivision rules.
21. Separate to the above, the planners have also recommended a minimum (150m²) and maximum (400m²) single lot size standard to apply to multi-unit housing under the subdivision rules.

22. The above raises the following questions for the Panel:

- a. the subdivision standards (minimum, maximum and average) appear to be geared toward a fee-simple, single-unit-on-small-lot form of housing – are there other forms, typologies, tenures and/or development models for multi-unit housing that may benefit from lot sizes outside the 150m² minimum and 400m² maximum (mews, terraces, apartments, unit title, etc);
- b. if so, should the provisions be more enabling of those forms of multi-unit housing to the same degree as stand-alone fee-simple models on smaller sections;
- c. relatedly, is there merit in removing the lot size requirements in the multi-unit housing area altogether and replacing them with the 25 household per hectare minimum yield metric proposed for the land use rules; and
- d. would there be benefits toward the implementation of Policies 2.8 and 2.9 in adopting such alternatives?

23. We acknowledge that the answers to the above questions may affect the planners' response to Question 1.

24. Should the planners agree that it is preferable to retain the lot size requirements rather than apply the yield alternative summarised in paragraph 21 above, we ask that the planners nevertheless provide us with a version of the rule that adopts that alternative on a without-prejudice drafting assistance basis. This will assist our deliberations and consideration of reasonably practicable options for implementing the relevant objectives and policies.

[S32AA evaluation](#)

25. As with the previous advice the planners have provided the Panel, we request that any further changes recommended as a result of the above be assessed in s32AA terms. The tabular format adopted by the planners to date has been helpful, and the Panel would be happy for that format to be retained in the pending response.

Next Steps

26. From here, we require responses to the above questions and the Requestor's final right of reply **by 3pm on Thursday 11 August 2022**.

27. As per previous practice, all enquires/responses are to go to the Hearing Administrator, Rosa de Souza, who can be reached at rosa.desouza@pncc.govt.nz

DATED at Wellington this 5th day of August 2022



DJ McMahon

Chair - Independent Hearings Panel

For and on behalf of:

Commissioner: DJ McMahon

Commissioner: A Rutherford (Deputy Mayor Palmerston North City Council)

Commissioner: B Barrett (Palmerston North City Council Environmental Sustainability Committee Chairperson)