

Before Palmerston North City Council

Under the Resource Management Act 1991

In the matter of a proposed plan change to rezone
land at 611 Rangitikei Line to establish
the Whiskey Creek Residential Area

**SUPPLEMENTARY EVIDENCE OF PAUL NORMAN THOMAS
PLANNING EVIDENCE
8 JULY 2022**

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INTRODUCTION

1. The panel has been provided with a Planning Joint Witness Statement dated 4 July and Supplementary Evidence from Michael Duindam. The purpose of this supplementary evidence is to provide further comment on matters where agreement has not been reached and to provide a tracked changes version of the provisions reflecting my recommendations.
2. There are also a couple of other matters to update the panel on.

KEY POINTS OF DISAGREEMENT

3. The planning conferencing has been helpful in reducing the matters of disagreement between planning experts on the provisions. There are two principal matters that merit further evidence. The first is a narrow point relating to the mechanism for removal of the flood prone overlay. The second is a much broader point and relates to the purpose and function of a structure plan in the context of the existing plan framework of Section 7A. This latter matter is addressed in my evidence in chief but some further comment may best assist the Panel in the light of Mr Duindam's supplementary evidence.

FLOOD PRONE OVERLAY

4. At Paragraph 7 of the JWS is a specific proposed mechanism for giving effect to a change to the flood prone overlay once earthworks are completed that achieve flood hazard avoidance.
5. The concerns of Mr Asgar and Mr Duindam relate to certainty of the final area that flood hazard avoidance is achieved and that consent for new habitable structures can be achieved under the flood prone land provisions. I accept that in many circumstances the uncertainty at plan change stage could mean that the Map proposed does not finally match the flood avoidance area. However, in this circumstance flood modelling that will form the basis of earthworks consents has been presented to this hearing and scrutinised by experts for the Council. A Comprehensive Flood Modelling Report based on that is being prepared and will be submitted with revised earthworks applications within the next few weeks or even days. Those consents can reasonably be expected to include conditions requiring the earthworks to be certified by Council once completed. It is that

certification which triggers the land not being Flood Prone Area as per my proposed Map 22.6.3. The Council can then at it's convenience amend the Plan Maps in accordance with this and remove Map 22.6.3 from Section 22 without the need for a Schedule 1 process.

6. The key point here is that it is very important that at the point of needing to market the sale of residential sections there is no legal impediment to constructing dwellings nor the need to go through a consent process triggered by the flood prone provisions. It is accepted that there will be a time gap between completing the earthworks and achieving section titles. However, marketing can also be expected to commence ahead of titling with conditional section sales. The mechanism proposed seeks to provide legal certainty without being reliant on any other Schedule 1 process which has uncertainty in timing.

POLICIES AND MULTI UNIT HOUSING

7. The much broader issue relates to the policies, the structure plan, its relationship to the Comprehensive Development Plan and the more directive approach sought by the Council, particularly in relation to the multi unit housing.
8. The context of this is important. The requestor has sought to fit its plan change request into the operative plan framework for Greenfield Residential Areas and the Residential Zone provisions.
9. As was stated in the requestors opening legal submissions in relation to the water supply matter, challenging of the provisions offered up in the plan change request through this hearing process not related to third party submissions is legally questionable. In Section 3 of the Plan Change Request I set out, largely for the benefit of submitters, the requirements of the Plan Change process. This includes the Schedule 1, Clause 25 stage in the process where Council may modify the request if it is not happy with the provisions and must be satisfied at that stage in the process that the request is, amongst other matters, in accordance with "sound resource management practice".
10. It is then Councils job to prepare and publicly notify the plan change and to modify the provisions in consultation with the requestor if it considers necessary. What is publicly notified is therefore required to be acceptable

to Council in terms of resource management practice and the mechanics of the provisions. If the requestor has any concerns with the final notified provisions then they have the right to be heard on any matter as well as the right to lodge a submission. If that had been followed the s42A reporting would correctly focus on the issues raised in submissions rather than embarking on a fundamental review of the provisions including the policies which is what is still being argued.

11. The principal debate here is whether the policy that expresses the design principles should be expressed as “ensure that the subdivision has regard to” or “ensure that the subdivision gives effects to”. This relates to what I have previously termed the “must dos” which I proposed should be directed and “the desirables” which should have more flexibility. The wider provision context that the policy relates to is:
 - A performance standard requiring submission of a Comprehensive Development Plan that demonstrates “general accordant” with the structure plan.
 - An assessment criteria of the extent to which the subdivision is in general accordant with the Structure Plan, including how it contributes to the overall design principles for the area.
12. If the subdivision is not in general accordant with the Structure Plan it triggers the Full Discretionary Activity Rule and as a consequence the assessment criteria for restricted discretionary activities do not formally apply. Ironically of course that is exactly when that assessment criteria should apply.
13. Within the policy and in the changes to the provisions now sought by Council is the directive approach to the multi unit housing which I have indicated clear disagreement to in the JWS.
14. Importantly the design principle itself is not in dispute. It is agreed that development in this location should seek to achieve a connection to the reserve, a strong urban edge and contribute to the City gateway. However, Council wishes to go further and direct a specific typology of housing.
15. Mr Duindam in his supplementary evidence explains that officers are seeking to have Council adopt a more directive and prescriptive approach to medium density housing and for that matter a more prescriptive and

directive approach to Structure Plans. However, that is all to come in the future and will need to be fully evaluated against s32.

16. In my opinion to direct a specific multi housing unit design solution goes beyond articulating the structure plan design principles and goes beyond the existing framework of the Plan as set out in my previous evidence.
17. If as Mr Duindam states at para 39 of the JWS that it is Council position that it is "critical and should be directed by the plan provisions", then Council needs to negotiate a contract with the land owner to deliver that quite separately from the Plan provisions. That process can then have regard to the commercial viability of the outcome. Without this there can be no certainty of that outcome.
18. Arguably adoption of an "ensure that design principles are given effect to approach" also fundamentally conflicts with the assessment criteria which requires assessment of the extent of delivery of the design principles. You would therefore end up with a policy that conflicts with an assessment criteria.
19. The policy approach also reflects the push for more detailed, prescriptive and directive structure plans. The Quality Planning web site defines a Structure Plan as "*a framework to guide the development or redevelopment of an area by defining the future development and land use patterns, areas of open space, the layout and nature of infrastructure (including transportation links), and other key features and constraints that influence how the effects of development are to be managed.*"
20. In this case we have a Structure Plan that require a Comprehensive Development Plan which will express the more detailed structure and layout. Arguably the use of the Structure Plan method is less important where there is a single or few landowners in a development area, it becomes increasingly more important where there are a large number of landowners.
21. In essence it is my opinion that Structure Plans to meet the costs and benefits test of s32 should enable the maximum flexibility that the key issues permit and that should be reflected in any policies that relate to the Structure Plan.
22. Hence my preference for a policy that is expressed as "ensure that" for the "must dos" and "ensure that regard is had to" for the additional design

principles. This is set out in the tracked changes to Section 7A attached (Refer pages 4 and 5).

CULTURAL ISSUES

23. In my summary evidence I reported back on further discussion with Rangitane O Manawatu and tabled some additional wording that they had requested within the design principles policy.
24. Rangitane is not a submitter and scope to make these changes therefore relies on the Ngati Turangi submission. With this in mind I have suggested a simplification of the additional wording in the tracked changes attached. (Refer Section 7A pages 4 and 5) This connects the expression of whānau ora values to the requirement for consultation regarding the Management Plan for the Reserve.
25. These changes have been shared with Siobhan Karaitiana for Rangitane O Manawatu.
26. The issue of naming has also been discussed following Hayden Turoa's request for adoption of the name Te Puka to replace Whiskey Creek. The requestor is open to a change in the name, however, none of us has authority to change the name of a stream through this process. Further the stream itself of course does not flow through the site, it is limited to an ephemeral tributary.
27. Siobhan Karaitiana has recommended adoption of the name "Matangi" for the reserve and Matangi Way for Road 1. With this in mind the requestor agrees to change the name of the Residential Area to the Matangi Residential Area.
28. The connection with Matangi is explained by Siobhan as follows:

"it was Matangi that followed the flock of birds from his location on the ranges over to where they landed on Whakaari (Mt Stewart). The land between Palmerston North and across to the Oroua is called the Aorangi Block which takes it's name from the height the birds soared to in a clear blue sky – so high as to seem to pierce the sky. So Matangi named the block of land, so in my way of thinking it would be good to use this name in the new suburb after him. All of Rangitane, Ngati Apa, Ngati Hauiti and also

Ngati Tumokai descend from Matangi and these are the iwi who in ancient times had an interest in this part of Manawatu”.

29. Note this name change is not included in the tracked changes provisions attached.

MULTI UNIT HOUSING LOT STANDARD

30. The respective positions and provisions on this matter are clearly set out in the JWS where alternative wording is provided.
31. I have agreed to the alteration of density to an expression of 25 dwellings per hectare. This is because the meaning is the same or similar. However, I do have some underlying concerns that the wider public can comprehend a lot size of 250 m² to 350 m² more clearly than the more nebulous expression of 25 dwellings per hectare.

FLOOD MODELLING PERFORMANCE STANDARD AND RELATED MATTERS

32. The JWS at paras 51 and 52 comes close to agreement on this matter. Mr Asgar agrees that, if required, the requirements are located with the hydraulic report requirements as shown on the tracked changes attached. As he states this is not a contentious matter but in my opinion it is important that the requirements are located in the right position within the provisions.
33. If required I have largely adopted the wording proposed by Mr Asgar with the exception of limiting modelling to 50 and 300 year ARI events and replacing peer review by review by Horizons. These changes were recommended to me by Phillip Wallace. (Refer Section 7A page 9).
34. We have agreed to the flood level change standard and minimum flood level standard and these are in the tracked changes. Similarly, the change proposed by me at para 54 of the JWS is also in the tracked changes attached. (Refer Section 7A pages 12/13 and Section 10 page 28).

BENMORE AVENUE INTERSECTION

35. Finally, at para 33 of the JWS I refer to the back up intersection design of a cross roads. Having now checked I can confirm that this has been tabled to the hearing and is located at Attachment 2 to the evidence of Mr Chris Rossiter for the Council.

DEFINITION OF THE MATANGI / WHISKEY CREEK RESIDENTIAL AREA

36. Some matters have been raised in the hearing regarding the boundary of the Residential Area and needing to ensure that the provisions apply to the Benmore Avenue Intersection. I agree with those changes. Changes to Map 7.A.3 will be made to reflect this. In addition, the Structure Plan boundary will also be amended to exclude the area zoned rural as this is not part of the Structure Plan. These changes will avoid the need to complicate the definition of the Whiskey Creek Residential Area in the Definitions section of the Plan. An amended Plan will be provided with the Requestor Reply.

Paul Norman Thomas

8 July 2022