

BEFORE THE HEARINGS PANEL

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of Proposed Plan Change G:
Aokautere Urban Growth to
the Palmerston North City
Council District Plan

STATEMENT OF EVIDENCE OF NGAWAI FARMS LIMITED (STU WATERS) – SO. 61

1. QUALIFICATIONS AND EXPERIENCE

- 1.1. My name is Pepa Moefili. I am a Senior Planner at Resonant Consulting Limited in Palmerston North. Our company offers consultancy services with respect to Civil and Structural Engineering, Surveying, Project Management and Resource Management Planning.
- 1.2. I hold a tertiary qualification of Bachelor of Resource and Environmental Planning from Massey University (Turitea Campus – Palmerston North) which I obtained in 2015. I am an Intermediate Member of the New Zealand Planning Institute.
- 1.3. Since graduating from Massey University, I have worked in the greater Manawatu area in the field of Planning in both local government and the private sector. I have approximately five (5) years' experience in subdivisional developments in this region.

- 1.4. In this matter, I have been engaged by Mr Stu Waters of Ngawai Farms Limited, to prepare a submission and supporting evidence on their behalf, relating to Proposed Plan Change G to the Palmerston North City District Plan.
- 1.5. I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. Except where I state I am relying upon the specified evidence of another person, my evidence in this statement is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions which I express.

2. SCOPE OF EVIDENCE

2.1. In this evidence I will discuss:

- 2.1.1. A summary of the matters raised in the submission (SO. 61) on behalf of Mr Waters of Ngawai Farms Limited.
- 2.1.2. How these matters have been reported to by Council officers and the appropriate consultants, if relevant.
- 2.1.3. Further response to the s42a reporting completed by Council officers and the consultants.
- 2.1.4. The requests from Mr Waters of Ngawai Farms Limited with regards to the Panel's decision.

3. MATTERS RAISED IN MR WATERS' SUBMISSION, PALMERSTON NORTH CITY COUNCIL AND CONSULTANT RESPONSES, AND FURTHER RESPONSES ARE PROVIDED BELOW:

- 3.1. Issue 1 – That Council rezoned specific areas of Mr Waters' property from Rural to Conservation and Amenity, depicted as Reserves (G14 – G18) and Forest Areas (F1 – F3) in the proposed Structure Plan, without detailing the acquisition, financial compensation, maintenance, and accessibility protocols for these areas.
- 3.2. Council and Consultants s42A Responses:

- 3.2.1. The s42A Report prepared by Mr Phillips, did not address this matter.
- 3.2.2. The s42A Report prepared by Dr Forbes, identifies the Reserve (G14 – G18) and Forest (F1 – F3) areas to be of significant value which represent a rare habitat with respect to the One Plan Schedule F. Therefore, it is recommended that these areas be retired from stock grazing, protected, and restored and require specific treatment under the Aokautere Structure Plan (paragraphs 25 and 27, pg. 11 – 13).
- 3.2.3. The s42A report prepared by Ms Copplestone, responds to this issue by having the view that *‘this zoning should be advanced alongside other practical and collaborative approaches to achieve physical and legal protection of the land’*. Covenants provisions and accessing funding support for stock exclusion and pest management are approaches in dealing with the protection and management of these areas. It is also stated that Mr Waters would likely benefit from existing use rights. Protection and enhancement opportunities will therefore be voluntary while the existing land use (farming) continues (Section 1.1.3.5, paragraphs 40 – 42, pg. 246 – 247).
- 3.2.4. Council rejects the decision request to retain Mr Waters' property in its original Rural Zone and Rural-Residential overlay (Planning s42a Report, Appendix 2, pg. 194).

3.3. Water's Further Response:

- 3.3.1. The areas to be rezoned as Conservation and Amenity (depicted as Reserves G14 – G18) are to be vested in Council when the land is further developed. However, it remains unclear whether there is any financial compensation when this land is vested with Council or if compensation includes the use of these areas for reasons such as public walkways and open spaces. The process of Council providing financial compensation for these reasons have been applied in previously approved development proposals.

- 3.3.2. After reviewing the s42A Report undertaken by Mr Phillips, Council's Activity Manager, the matter regarding financial compensation has not been addressed.
- 3.3.3. Further clarification is also sought to understand what scale of development on Mr Waters' property is required for these Conservation and Amenity areas (Reserves G14 – G18) to be vested with Council. Objective 6 Policy 6.6 in Section 7A of the Operative District Plan details the timeline of vesting these areas to be *"at the earliest stage in the subdivision, prior to the commencement of any physical works"*. However, it is considered inappropriate to vest these in Council if a development is considered 'simple', for example a boundary adjustment, as opposed to a rural-residential development on a proportionally larger scale.
- 3.3.4. If vesting the Conservation and Amenity areas (Reserves G14 – G18) with Council is to be *'at the earliest stage in the subdivision'* as previously stated, regardless of scale, access to these areas remain unclear.
- 3.3.5. After discussions with Council during the pre-hearing process, it is my understanding that the land depicted as Forest Blocks (F1 – F4) in the proposed Structure Plan (Map 7A.4) is to remain in the ownership of the landowner, with Council not requiring it to be vested. Although addressed in the Ms Copplestone's s42a reporting to a degree, further detail is sought regarding what kind of funding mechanisms (if any) are available for Mr Waters, who provides the funding, and how to attain the funding to protect and manage these areas.
- 3.3.6. In 2015, Mr Waters property was zoned Rural with the Rural-Residential Overlay. In comparison to what is currently present and further proposed in this current plan change, resulting in the removal of the Rural-Residential overlay, rezoning land from Rural to Conservation and Amenity, further

limits his ability to develop his property. It would not be economically viable for Mr Waters to develop his property whilst providing the roading linkages as depicted in the proposed Structure Plan (Map 7A.4A) considering the plan change's restrictions on the development potential of his land. Council mapping, attached as in Appendix (a), further depicts the loss of developable land due to the loss of the Rural-Residential Overlay and the rezoning of land from Rural to Conservation and Amenity.

3.4. Issue 2 – That Council have removed the Rural-Residential Overlay over the Rural areas of Mr Waters' property.

3.5. Council and Consultants s42A Responses:

3.5.1. The s42a Report prepared by Mr Lloyd, recommends that he does not consider that it would be appropriate to zone this land rural-residential and that it would be wrong to defer a noise impact assessment to the subdivision stage, due to the existing noise generated by the Rifle Rod & Gun Club. (paragraph 58, pg. 15).

3.5.2. The s42a Report prepared by Mr Bird, recommends that an assessment of the slope instability hazard early in the subdivision process is preferable to an applicant or developer carrying out at the assessment at the point of land use development and/or building that (paragraph 59, pg. 15). A further recommendation is for any applications for the subdivision of developable land to be accompanied by a geotechnical report (paragraph 61, pg. 15).

3.5.3. The s42a Report prepared by Ms Copplestone, analyses Mr Waters' initial submission and the submission made by the Rifle Rod and Gun Club Manawatu Inc 'Gun Club' (SO-76). (Section 1.1.2.1, paragraphs 2 – 13, pg. 270 – 274). In response to the concerns outlined in both submissions, she states the following:

- Removing the Rural-Residential Overlay from land within the 55 dB_{LAFmax} contour will at least in part, meet the relief sought by the Gun Club (Section 1.1.2.1.1, paragraphs 19, pg. 275).
- I do not consider that it is appropriate to leave the potential for noise effects from the Gun Club for assessment at the time of subdivision. This would be inconsistent with the zoning/setback approach taken in the District Plan to avoid potential reverse sensitivity effects arising from inherently noisy activities (Section 1.1.2.1.1, paragraphs 20, pg. 275).
- I consider it is appropriate to adopt a consistent approach to the potential reverse sensitivity issue presented by the Gun Club. That is to signal, via zoning, that an increase in the scale or intensity of noise sensitive activities, ie. new dwellings, is inappropriate within the setback defined by the 55 dB_{LAFmax} contour (Section 1.1.2.1.1, paragraphs 21, pg. 275).

3.5.4. Council rejects the decision request to retain Mr Waters' property in its original Rural Zone and Rural-Residential overlay (Planning s42a Report, Appendix 2, pg. 173).

3.6. Water's Further Response:

- 3.6.1. Jon Jones of Bladon Bronka Acoustics Limited (BBA) has been engaged on behalf of Mr Waters and Mr Green (SO-45) in a joint agreement to prepare acoustics evidence in support of the submissions on PCG. BBA Limited are Auckland-based and, due to logistical constraints, there may be slight delays. An extension of time until 3 November 2023 to undertake the required works and provide their evidence was requested. An email dated 26 October 2023 from the Chair of the Hearing Panel agreed to the following extensions:
- Any acoustics expert evidence must be filed no later than 4pm on Wednesday 1 November 2023.

- Any planning evidence to be filed no later than 4pm on Friday 1 November 2023.
- 3.6.2. Due to the logistical constraints, formal acoustic and planning evidence will be provided after the dates specified in Section 3.6.1. However, these are to be circulated upon completion for Council consideration.
- 3.6.3. I instead propose that all rurally zoned land depicted in Map 7A.4 owned by Mr Waters remain within the Rural-Residential overlay, with the understanding that all subdivision applications must be submitted with a geotechnical report and a statement of professional opinion from an accredited Chartered Professional Engineer, as currently required in Rule 7A.5.2.2(a)(xix) in Section 7A of the Operative District Plan. These relate to all activities listed under R7A.5.2.1 in the Greenfield Areas. I would consider this to capture any geotechnical concerns Mr Bird has regarding Mr Waters' land.
- 3.6.4. Any development proposal, subdivision or land use, within the 55dB LAmax acoustics area, as discussed in the s42a report prepared by Mr Lloyd (paragraphs 50, 52 and 55, pg. 14 – 15), shall be assessed as a non-complying activity. Any development would require an acoustics report in support of any resource consent application.
- 3.6.5. This matter is also supported by a further submission (FS-5), prepared by Heritage Estates 2000 Limited (FS 5-3 and FS 5-4).
- 3.7. Issue 3 – That Council have not included access provisions to the remainder of Mr Waters' property, adjoining to the northeast.
- 3.8. Council and Consultants s42A Responses:

3.8.1. The s42a report prepared by Ms Fraser, responds to this issue, stating that *'the connection to Turitea Road is intended to provide access to the rural-residential part of PCG and only emergency access for the wider PCG area. The location of the connection onto Turitea Road and nature of the route support this desired function'* (paragraph 32, (3), pg. 36).

3.8.2. Council accepts in part the request to include a roading extension from Council Designation No. 106 - Aokautere Water Supply leading to the east to connect to the remainder of Mr Waters property (Planning s42a Report, Appendix 2, pg. 114).

3.9. Water's Further Response:

3.9.1. Although the analysis by Ms Fraser and Ms Copplestone does not hinder the ability for Mr Waters to provide a future roading connection, the Structure Plan does not specifically allow for this to be achieved either. Our main concern is the assessment provided by Ms Fraser has not been accurately reflected in the Structure Plan accordingly.

3.9.2. Should development occur within this area, the applicant will need to demonstrate general accordance with the Structure Plan (Map 7A.4A). Therefore, the absence of a notional transport connection shown on the proposed Structure Plan specifically, may result in the inability to construct one, albeit the assessment provided within the Ms Fraser's and Ms Copplestone's reporting.

3.9.3. This issue is raised due to consenting matters from previous plan changes and structure plans. Assurance is therefore sought for the ability for Mr Waters to construct a roading link towards the east, as depicted in Appendix (b).

3.9.4. We consider adopting Appendix (b) into the proposed Structure Plan would assure that Mr Waters has the ability to construct such a roading connection to the remainder of his property, whilst remaining in general accordance with Map 7A.4A.

3.10. Issue 4 – That Council have rezoned a portion of land of Mr Water’s property to Residential.

3.11. Council and Consultants s42A Responses:

3.11.1. The s42a report prepared by Ms Copplestone, states that *‘this land may be required to develop an ‘Urban Connector’ road to link the proposed residential area with Pacific Drive, and with a road connecting to the Turitea Valley’*. It is not considered necessary to restrict the Structure Plan layout to reflect existing land ownership boundaries. The Structure Plan layout has been determined by a range of constraints, including the topography in this location’ (Section 1.2.1.1, paragraph 17, pg. 311 – 312).

3.11.2. Council rejects the decision request to retain Mr Waters' property in its original Rural Zone and Rural-Residential overlay (Planning s42a Report, Appendix 2, pg. 195).

3.12. Water’s Further Response:

3.12.1. We sought that this specific portion of Mr Waters property retain its Rural zoning and Rural-Residential Overlay.

3.12.2. An alternative roading network, depicted in Appendix (c), demonstrates a proposed realignment of the ‘Urban Connector’ to the proposed residential area within Pacific Drive.

- 3.12.3. The proposed roading linkages to the Turitea Valley will be established, upon future development of Mr Waters' property, in accordance with Map 7A.4A.
- 3.12.4. The proposed roading connection would be located within the land owned entirely by Mr Green (SO-45), thereby achieving adequate connections to the area sited at the east of Mr Green's property.

4. REQUESTED OUTCOMES FROM PANEL'S DECISION

- 4.1. Require Council to provide detail regarding the acquisition, financial compensation, maintenance, and accessibility protocols of the areas rezoned Conservation and Amenity (Reserve G14 – G18 and Forest F1 – F3), with specific regard to:
 - 4.1.1. Financial compensation when land zoned Conservation and Amenity (Reserves G14 – G18) is vested with Council.
 - 4.1.2. Financial compensation includes the use of land zoned Conservation and Amenity (Reserves G14 – G18) for reasons such as public walkways and open spaces.
 - 4.1.3. Further clarification to understand what scale of development on Mr Waters' property is required for these Conservation and Amenity areas (Reserves G14 – G18) to be vested with Council.
 - 4.1.4. Access to Conservation and Amenity areas (Reserves G14 – G18) remains unclear.
 - 4.1.5. Further clarification is required to understand the availability of funding (if any) are available for Mr Waters to help the manage and protect the Conservation and Amenity areas (Forest F1 – F4).
- 4.2. Require Council to reintroduce the Rural Zone and Rural-Residential Overlay within Mr Waters' property. The current performance standard within Section 7A of the Operative District Plan, Rule 7A5.2.2(a)((xix), requires all activities under R7A5.2.1 to be accompanied by a geotechnical assessment which would assess any geotechnical constraints at the time of further development. Council would also introduce any development of land, subdivision or land use, located within the 55dB L_{Amax} acoustics

area, to be assessed as a Non-Complying Activity. I propose the following amendments to the Operative District Plan:

- 4.2.1. Introduce Rule 7A5.5.2 to state, **“Any subdivision in the Aokautere Greenfield Area situated within the 55dBL_{Amax} contour identified on Map 7A.4B are Non-Complying Activities, except subdivisions for the purposes of accommodating any network utility”**.
 - 4.2.2. Introduce Rule 9.9.6 to state, **“Any dwelling proposed in the Aokautere Greenfield Area situated within the 55dBL_{Amax} contour identified on Map 7A.4B are Non-Complying Activities”**.
 - 4.2.3. I further propose an additional clause within Rule 7A.5.4.1 to state, **“(v) The Rifle Rod & Gun Club may be given limited notification of an application made under R7A5.5.2”**.
- 4.3. The proposed provisions discussed in Sections 4.2.1 – 4.2.3 is considered to adequately address Mr Lloyd’s concerns that *‘deferring assessment to a resource consent stage would have reverse sensitivity implications for RRGc and would create a false expectation of the development potential of this land’*, as stated in the Acoustic s42a reporting, paragraph 58.
- 4.4. The current requirement, that all activities under R7A5.2.1 to be accompanied by a geotechnical assessment which would assess any geotechnical constraints at the time of further development, discussed in Section 4.2, would address Mr Bird’s concerns regarding geotechnical constraints. This requirement shall remain.
- 4.5. Require Council to amend the Structure Plan to incorporate a notional roading connection and an alternative roading alignment, as depicted in Appendix (a) and (c).



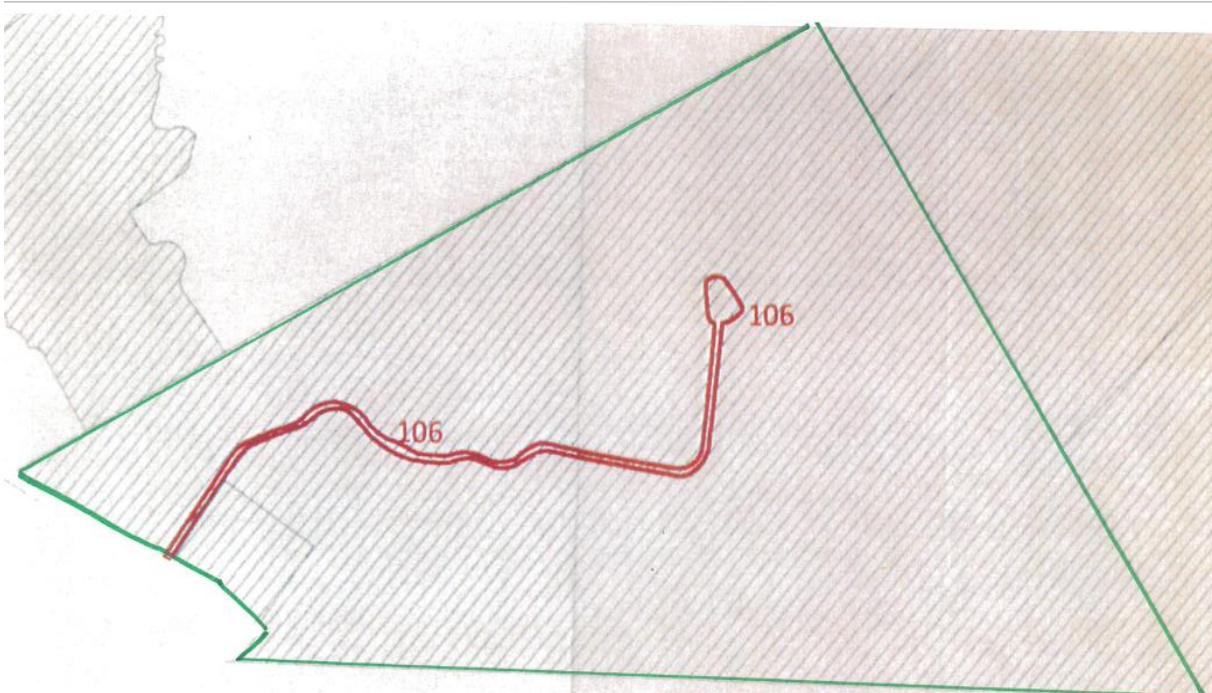
Pepa Moefili

27 October 2023

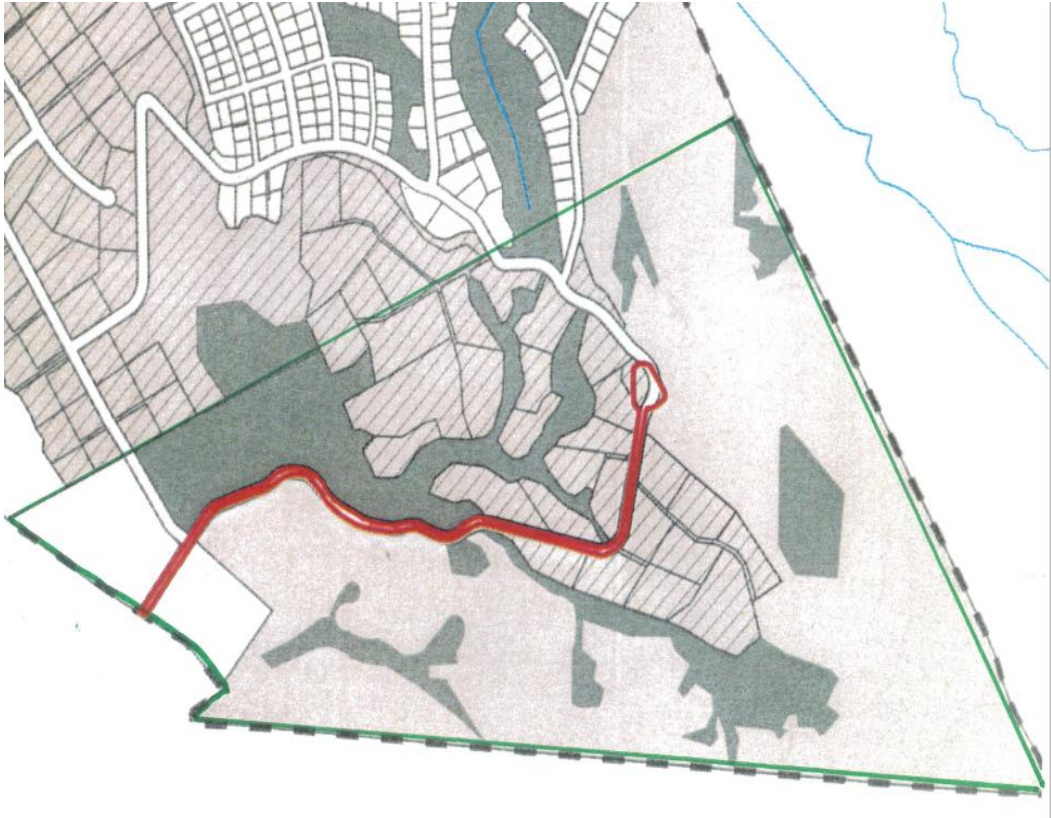
Appendix (a) Council Zoning Maps



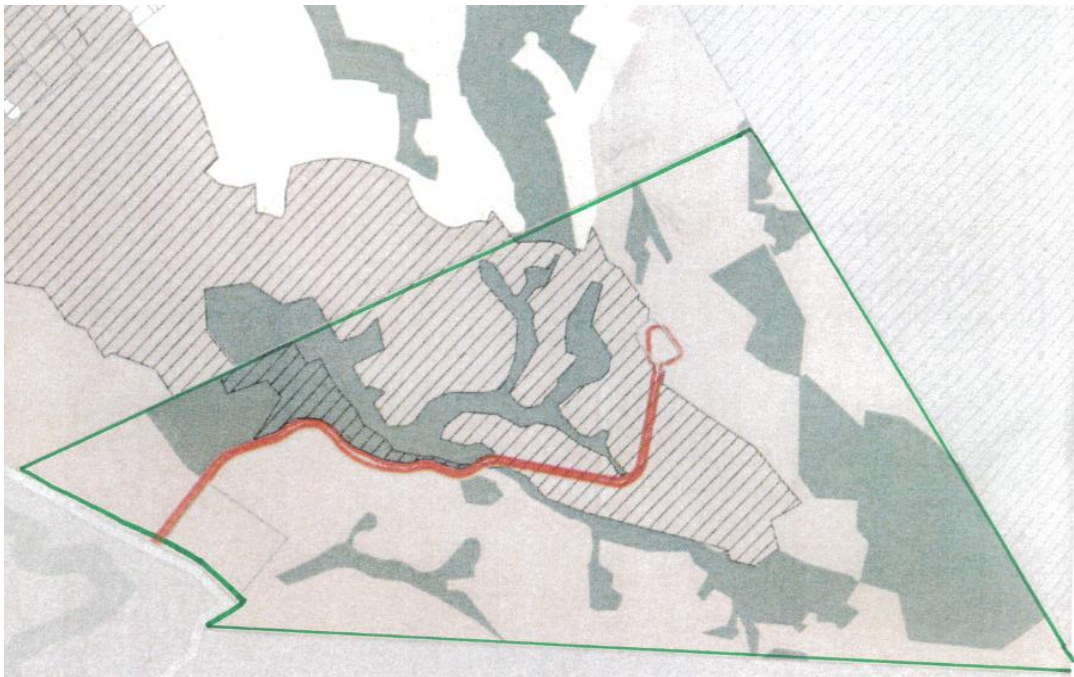
DISTRICT PLAN (PRESENT)



DISTRICT PLAN (2015)



NOTIFIED SECTION 32



NOTIFIED SECTION 42

Appendix (b) Notional Roding Link

F1-F2 - Forest
G16 - Reserve (Extents Shown are Indicative Only)
L - Existing Water Tank

L - Existing Water Tank



F2

PROPOSED LINK ROAD

[illegible]

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Appendix (c) Alternative Road Alignment

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