

Palmerston North City Council

Minutes of a Proposed Private District Plan Change Whiskey Creek Hearing before a Panel appointed by the Palmerston North City Council under the Resource Management Act 1991, Public, held in the Council Chamber, First Floor, Civic Administration Building, 32 The Square, Palmerston North on 2, 3 June 2022, and 11 July 2022 commencing on 2 June 2022 at 9.09 am.

Panel Present: Commissioner David McMahon (Chairperson), Deputy Mayor Aleisha Rutherford and Councillor Brent Barrett.

NOTES:

- (i) The hearing attendance is detailed in Schedule 1.
- (ii) There were 7 Minutes issued relating to the directions for the filing of evidence and other matters relating to hearing procedure and process, namely:
 - Minute #1 – 14 April 2022
 - Minute #2 – 22 April 2022
 - Minute #3 – 18 June 2022
 - Minute #4 – 18 July 2022
 - Minute #5 – 26 July 2022
 - Minute #6 – 05 August 2022
 - Minute #7 – 29 August 2022

1. Hearing of the Private Plan Change Request relating to the Palmerston North City Plan: 609 and 611 Rangitikei Line, 165 to 243 Flyers Lane and 127 Benmore Avenue, Palmerston North – Rezoning from Rural Zone to Residential Zone and Conservation and Amenity Zone.

Consideration was given to:

- (i) Documents pre-circulated included in the Agenda.
- (ii) Documents tabled before the hearing:
 - 1. Letter Submitter 18 – Horizons Regional Council – Penelope Tucker – 25 May 2022.
 - 2. Statement Submitter 18 - Horizons Regional Council - Evidence on flood risk and stormwater management matters - Jonathon Bell - 25 May 2022.
 - 3. Statement Submitter 23 - Heritage Estates Ltd. – Amanda Coats – 25 May 2022 and Letter (email) – 1 June 2022.
 - 4. Letter Submitter 17 – Waka Kotahi – Natasha Reid – 31 May 2022.

- (iii) Documents tabled at the hearing on Day 1 on the 2nd day of June 2022:

Requestor

1. Legal submissions - Flyers Investment Group Ltd. - Morgan Slyfield.
2. Summary of planning evidence of Paul Mitchell – Stormwater Evidence.
3. Summary of evidence of Andrew Burns – Urban Design.
4. Shading Study 04: 3m rear boundary setback - Andrew Burns.
5. 5 m rear boundary setback- Andrew Burns.
6. Summary of evidence of Daniel George Males – Landscape Architecture.
7. Summary of evidence of Philip Lawrence Wallace – Flood issues.
8. Summary of evidence of Kevin Barry Judd – Earthworks.

PNCC

9. PowerPoint presentation S42A Report: Marz Asgar.
10. Tabled item requested by the Chair - Building Consent Restriction n.48920 – 23B Meadowbrook Drive.
11. Tabled item requested by the Chair - Landuse Consent n.201285 - 23B Meadowbrook Drive.

Submitters

12. Photographs by Edward and Marion Anderson (Submitter 1 & 2).
13. Summary statement of Submitter Sally Rasmussen including photographs (Submitter 22).
14. Summary statement of submitters Rose and Barney Hyde including photographs (Submitter 9).

- (iv) Documents tabled at the hearing on Day 2 on the 3rd day of June 2022:

Submitters

1. Summary statement of submitter Michael McCavana including photographs (Submitter 11).
2. Summary Statement of submitter Edward Anderson and additional letter (Submitter 2).
3. Summary statement of submitter Anthony B Cade (Submitter 15).
4. Summary statement of submitter John Robert and Raewyn Beryl Anderson (Submitter 20).
5. Photographs - Submitter John Robert and Raewyn Beryl Anderson (Submitter 20).
6. Petition Signatures - Submitter John Robert and Raewyn Beryl Anderson (Submitter 20).
7. Summary statement of submitter Anne Judith Milne including maps (Submitter 21).

8. Document submitted by Heritage Estates 2000 Limited (HEL) – represented by Amanda Coats (Submitter 23).
9. Document submitted by Heritage Estates 2000 Limited (HEL) – represented by Amanda Coats part 1 (Submitter 23).
10. Document submitted by Heritage Estates 2000 Limited (HEL) – represented by Amanda Coats 2 (Submitter 23).
11. Email from Sally Rasmussen (Submitter 22).

Requestor

12. Summary of evidence of Nigel Robert Lloyd – Noise.
13. Summary of evidence of Paul Norman Thomas – Planning.
14. Flood Depths: Proposed situation overlay on Master Plan (as per p42 application) – Philip Lawrence Wallace.
15. Flood Hazard: Proposed situation overlay on PNCC DP online map - Philip Lawrence Wallace.
16. Flood Hazard: Proposed situation overlay on PNCC DP online map depth legend - Philip Lawrence Wallace.
17. Summary of evidence Harriet Barbara Fraser – Transportation.

PNCC

18. Item requested by Chair: Planning and Strategy Committee Agenda meeting 30 June 2021 – Michael Duindam.
19. Summary of transport review of Chris Rossiter.

PNCC and Requestor

20. Joint witness statement regarding integration of flood risks – Tim Preston, Philip Wallace, and Paul Mitchell.

- (v) Documents tabled before the reconvened hearing date, as directed by the Independent Hearing Panel:

PNCC

1. Supplementary Evidence of Michael Duindam in response to Minute 3 of Independent Hearing Panel - 4 July 2022.

Requestor

2. Supplementary Evidence of Paul Norman Thomas - Planning Evidence - 08 July 2022.
3. MarkUP_D P Section 7A Greenfields Residential Areas PT tracked changes - 08 July 2022.
4. MarkUP_D P Section 10 Residential Zone PT tracked changes - 08 July 2022.

PNCC and Requestor

5. Joint Witness Statement of Planning Witnesses in Response to Minute 3 of Independent Hearing Panel - 4 July 2022.

(vi) Documents tabled at the hearing reconvened day on the 11th day of July 2022:

Submitters

1. Addition to Submission Edward and Marion Anderson - 5 July 2022.
2. Request to make a second presentation to the Panel - Submitter 2 - 8 July 2022.
3. Submitter 13 submission - 11 July 2022.
4. Tabled item by Submitters 1 and 2 - Edward and Marion Anderson - 11 July 2022.

PNCC

5. Legal Submissions PNCC reporting officers - 9 July 2022.
6. Planning Summary Statement of Michael Duindam - 11 July 2022.
7. Addendum to Summary of Transport review - Chris Rossiter - 11 July 2022.
8. Summary Statement of Tim Preston - 11 July 2022.
9. Update of Marz Asgar for the PNCC - Planning - 11 July 2022.

(vii) The following documents were submitted after the hearing was adjourned, as directed by the Independent Hearing Panel:

10. Statement of Evidence - David Rei Miller tabled item 14 July 2022.
11. Memorandum of Counsel for the Requestor - 19 July 2022.
12. Whiskey Creek Structure Plan UPDATES - joint agreement - 25 July 2022.
13. Working Version Mark-up D P Section 7A Greenfields Residential Areas - 25 July 2022.
14. Working Version Mark-up D P Section 10 Residential Zone - 25 July 2022.
15. Memorandum of Counsel for the Requestor 26 July 2022.
16. Section 32AA Evaluation of proposed changes to the plan change by Marz Asgar, and Paul Thomas – 29 July 2022.
17. Memorandum of Counsel for the Requestor - 3 August 2022.
18. Legal submissions in reply for the Requestor - 5 August 2022.
19. Legal submissions in reply for the Requestor in respect of Housing Density and Typology - 11 August 2022.
20. Section 32AA Evaluation of proposed changes to the plan change by Marz Asgar, Paul Thomas, and Michael Duindam – 11 August 2022.

The Chair of the Independent Hearing Panel started the hearing on 2 June 2022 at 9.09 am.

The following people appeared in this order before the Hearing Panel:

- 1) Marz Asgar (Consultant Planner – PNCC).
- 2) Morgan Slyfield (Legal Counsel - Requestor).

The hearing adjourned at 10.47 am.

The hearing resumed at 11.10 am.

- 3) Grant Higgins (Company Representative - Requestor).
- 4) Andrew Burns (Urban Design - Requestor).

The hearing adjourned at 12.55 pm.

The hearing resumed at 1.39 pm.

- 5) Dan Males (Landscape witness - Requestor) (online).
- 6) Philip Wallace (Flood Modelling witness - Requestor) (online).
- 7) Paul Mitchell (Stormwater witness - Requestor) (online).

The hearing adjourned at 3.27 pm.

The hearing resumed at 3.37 pm.

- 8) Kevin Judd (Earthworks and Services witness - Requestor).
- 9) Edward Anderson & Marion (Submitters 1 and 2).
- 10) Sally Rasmussen (Submitter 22).
- 11) Barney Hyde (Submitter 9).

The hearing adjourned at 5.08 pm.

The hearing resumed on 3 June 2022 at 8.35 am.

- 12) Andrew Burns (Urban Design witness - Requestor).
- 13) Ngāti Tūranga Hapū (Submitter 14).

The hearing adjourned at 10.02 am.

The hearing resumed at 10.21 am.

- 14) Michael McCavana (Submitter 11).
- 15) Anthony B Cade (Submitter 15).
- 16) Horizons Regional Council represented by Jon Bell (Submitter 18).
- 17) John Anderson (Submitter 20).
- 18) Anne Judith Milne (Submitter 21).
- 19) Heritage Estates 2000 Limited (HEL) represented by Amanda Coats (Submitter 23).

The hearing adjourned at 1.12 pm.

The hearing resumed at 1.56 pm.

- 20) Harriet Fraser (Transportation witness - Requestor) (online).
- 21) Nigel Robert Lloyd (Noise witness - Requestor) (online).

The hearing adjourned at 3.46 pm.

The hearing resumed at 3.59 pm.

22) Philip Wallace (Flood Modelling witness - Requestor) (online).

23) Paul Norman Thomas (Planning witness - Requestor).

The Chair of the Independent Hearing Panel adjourned the hearing at 5.06 pm on 3 June 2022 and declared that the Panel will reconvene on a date and place to be confirmed.

The Chair of the Independent Hearing Panel determined on 18 June 2022 that the hearing will be reconvened at **9 am on Monday 11 July 2022** at the Council Chamber (Minute #3).

The hearing resumed at 9.10 am on 11 July 2022.

The following people appeared in this order before the Hearing Panel:

24) Michael Hermansen (Submitter 13).

25) Edward & Marion Anderson (Submitter 01 and 02).

26) Joint Witness Statement of Planning Witnesses - Marz Asgar/Michael Duindam /Paul Thomas.

The hearing adjourned at 10.38 am.

The hearing resumed at 11.02 am.

27) Joint Witness Statement of Planning Witnesses - Marz Asgar/Michael Duindam /Paul Thomas (continued).

The hearing for adjourned for the lunch break at 1.00 pm.

The hearing resumed at 1.50 pm.

28) Paul Norman Thomas (Planning witness - Requestor)

29) Marz Asgar (Consultant Planner – PNCC).

30) Morgan Slyfield (Legal Counsel witness - Requestor).

31) Bill Wood (Noise witness – PNCC) (Online).

32) Tim Preston (Stormwater witness – PNCC) (Online).

33) David Miller (Water Supply witness – PNCC) (Online).

34) Chris Rossiter (Transport witness – PNCC) (Online).

The hearing adjourned for the afternoon break at 3.37 pm.

The hearing resumed at 3.49 pm.

35) Michael Duindam (Principal Planner - PNCC).

36) Marz Asgar (Consultant Planner – PNCC).

37) Shannon Johnston (Legal witness – PNCC).

38) Morgan Slyfield (Legal Counsel - Requestor).

The hearing adjourned at 5.35 pm on 11 July 2022.

Right of Reply of Applicant

Mr Morgan Slyfield filed the right of reply on behalf of the Applicant in writing and in accordance with the Independent Hearing Panel's request:

1. Legal submissions in reply for the Requestor - 5 August 2022 (Minute #5 of Hearing Panel).
2. Legal submissions in reply for the Requestor in respect of Housing Density and Typology - 11 August 2022 (Minute #6 of Hearing Panel).

The hearing was officially closed on 15 September 2022.

Further consideration was given to the evidence before the Independent Hearing Panel assembled into deliberation meetings on 26 July and 12 August 2022.

The INDEPENDENT HEARING PANEL, under delegated authority on behalf of the Palmerston North City Council, RESOLVED:

- 1.1 That the Plan Change be accepted as notified, and as further amended prior to, during and subsequent to the hearing, as set out in the Decision (attached).
- 1.2 That copies of the decision be served on the Requestor, Submitters, and Council Officers and be available for public inspection.

The Decision was issued on the 29th day of September 2022.

CONFIRMED THIS 22ND DAY OF NOVEMBER 2022.



CHAIRPERSON

**SCHEDULE 1
ATTENDANCE REGISTER**

DAY 1 – 2 June 2022

The following people attended the hearing on Day 1 of the hearing on the 2nd day of June 2022:

For the Requestor:

- 1) Andrew Burns
- 2) Kevin Judd
- 3) Paul Thomas
- 4) Morgan Slyfield
- 5) Grant Higgins

For the Council:

- 1) Nicholas Jessen (Legal Counsel).
- 2) Marz Asgar
- 3) Richard Peterson
- 4) Chris Rossiter
- 5) Michael Duindam
- 6) Kate Scrase
- 7) Desiree Harvey
- 8) Tim Preston
- 9) Barney Hyde

As Submitters to be heard:

- 1) Edward Anderson (Submitter 2)
- 2) Sally Rasmussen (Submitter 22)
- 3) Barney Hyde (Submitter 9)

Public (in person):

- 1) Marion Anderson
- 2) John Anderson
- 3) Toni Haddock
- 4) Mike Haddock
- 5) Judy Milne
- 6) Jess Richards
- 7) Gina Bailey
- 8) Sally Rasmussen

Public (virtual attendance):

- 1) Nigel Lloyd
- 2) Harriet Fraser
- 3) Horizons – Robert Marshall
- 4) Amanda Coates
- 5) Paul Mitchell
- 6) Philip Wallace

- 7) Reiko Baugham
- 8) Craig Auckam
- 9) Jono Ferguson-Pye
- 10) Dan Males
- 11) Kath Olliver
- 12) Bill Wood
- 13) Sam Dowse

DAY 2 – 3 June 2022

The following people attended the hearing on Day 2 of the hearing on the 3rd day of June 2022:

For the Requestor:

- 1) Andrew Burns
- 2) Kevin Judd
- 3) Paul Thomas
- 4) Morgan Slyfield
- 5) Grant Higgins

For the Council:

- 1) Nicholas Jessen
- 2) Chris Rossiter
- 3) Todd Taiepa
- 4) Marz Asgar
- 5) Richard Peterson
- 6) Tim Preston
- 7) Desiree Harvey

As Submitters to be heard:

- 1) Hayden Tuira - Ngāti Tūranga Hapū
- 2) Edward Anderson
- 3) Michael McCavana
- 4) Anthony B & Carlyne A Cade
- 5) Jon Bell - Horizons Regional Council
- 6) John Anderson
- 7) Raewyn Anderson
- 8) Anne Judith Milne
- 9) Amanda Coats - Heritage Estates 2000 Limited (HEL)

Public (in person):

- 1) Justin Tamihare
- 2) Greg Carlton
- 3) Emily Burns
- 4) Marion Anderson
- 5) Bain Clearly

Public (virtual attendance):

- 1) Amanda Coates
- 2) Harriet Fraser
- 3) Nigel Lloyd
- 4) Rachel Findon
- 5) Reiko Baugham
- 6) Craig Aukram
- 7) Kath Olliver
- 8) Ellie Shokri
- 9) Robert Marshall
- 10) Philip Wallace
- 11) Jeff Baker
- 12) Irene Hamilton
- 13) Tara Lennard
- 14) John Farquhar
- 15) Bill Wood
- 16) Georgina Dean
- 17) Janine Rankin
- 18) Eleni Gkeli
- 19) Ioannis Antonopoulos
- 20) David Rei Miller
- 21) Sam Dowse

DAY 3 – 11 July 2022

The following people attended the hearing on Day 3 of the hearing on the 11th day of July 2022:

For the Applicant:

- 1) Paul Thomas
- 2) Kevin Judd
- 3) Morgan Slyfield
- 4) Grant Higgins

For the Council:

- 1) Shannon Johnston
- 2) Chris Rossiter
- 3) Todd Taiepa
- 4) Marz Asgar
- 5) Richard Peterson
- 6) Tim Preston

As Submitters to be heard:

- 1) Michael Hermansen
- 2) Edward Anderson

Public (in person):

- 1) Janine Rankin
- 2) Marion Anderson
- 3) John Anderson
- 4) Mike Haddock
- 5) Toni Haddock
- 6) Sally Rasmussen

Public (virtual attendance):

- 1) Ben MacGibbon
- 2) Kevin Judd
- 3) Paul M
- 4) Philip Wallace
- 5) Reiko Baugham
- 6) Chris Rossiter
- 7) Sarah Claridge
- 8) Tim Preston
- 9) Elliot Couper
- 10) Craig Auckram
- 11) Jono Ferguson-Pye
- 12) Nicholas Jessen
- 13) Eleni Gkeli
- 14) Billy Wood
- 15) Irene Hamilton
- 16) Janine Rankin
- 17) Scott Adams