

**BEFORE PALMERSTON NORTH CITY COUNCIL**

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**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

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**JOINT WITNESS STATEMENT OF PLANNING WITNESSES IN RESPONSE TO MINUTE 3 OF INDEPENDENT  
HEARING PANEL**

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**Introduction**

- [1] Michael Duindam, Marz Asgar, and Paul Thomas (“we”) met to confer in relation to topics raised by the Hearing Panel in Minute 3, dated 18 June 2022. Specifically, we address the following topics:
- Flooding/stormwater management (Minute ref. para 12(a)).
  - Water supply capacity (Minute ref. para 12(b)).
  - Methods for treating the interface of the development area with Meadowbrook Drive (Minute ref. para 12(c)).
  - Intersection treatment of proposed road 1 with Benmore Drive (Minute ref. para 12(d)).
  - National Policy Statement for Urban Development objective 8(a) and Policy 1(e) (Minute ref. para 14(a)).
  - Multi-unit housing/medium density residential standards (Minute ref. para 14(b)).
- [2] Further, we have discussed the following additional issues:
- The approach to policies
  - Flood modelling methodology provisions
  - Performance standards for flood management
  - Assessment criteria for flood management
- [3] The planning witnesses statements of agreement/disagreement are addressed under the above topic headings below.
- [4] We confirm that this statement is given in compliance with our obligations as expert witnesses under the Environment Court’s code of conduct for expert witnesses.

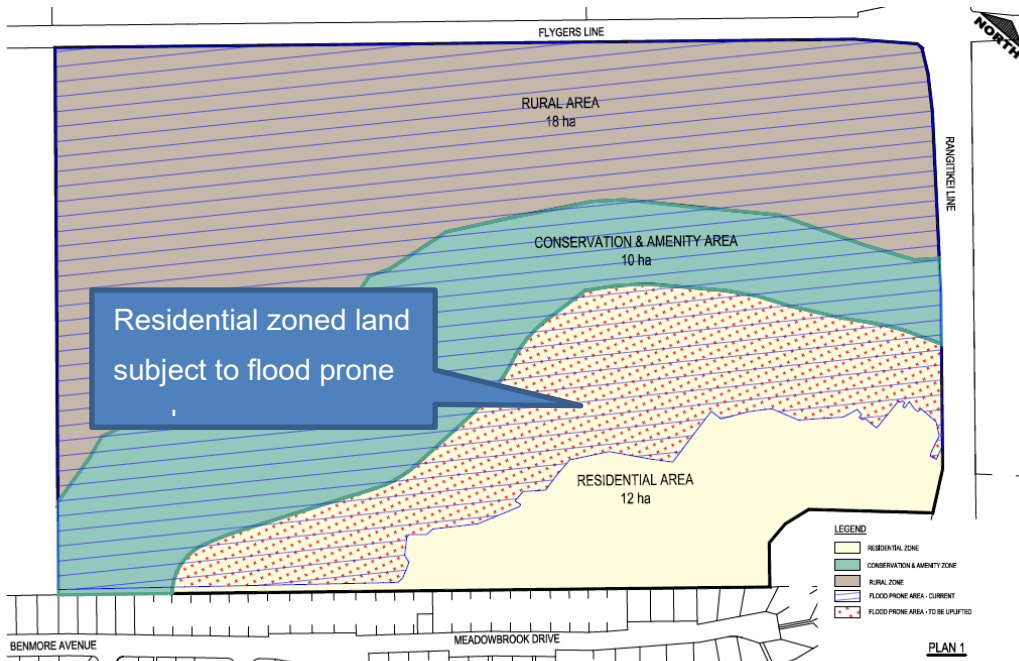
**Flooding/stormwater management**

- [5] This matter relates to how and when the flood prone overlay on the District Plan maps is amended once earthworks are certified.
- [6] It is agreed that once the land is not flood prone the Plan Maps should be amended to reflect this. However, the mechanism to implement this is not agreed. For the reasons set out in paragraph 11 – 16 Mr Duindam and Mr Asgar are of the opinion that this should be actioned through a future Council led Plan Change (either stand alone or part of a separate Plan Change) once the works are actually done and the land is no longer flood prone.
- [7] Mr Thomas is of the opinion that a valid mechanism can be inserted to the Plan as part of this plan change process. He recommends the insertion of an additional Map to Section 22 Natural Hazards

showing the extent of the change together with text as to what is required for it to take effect. A draft is set out below.

### Map 22.6.3 Flood Prone Overlay: Whiskey Creek Residential Area

Map 22.6.3 identifies an area that is zoned Residential and also shown on the Plan Maps as Flood Prone Area. If Flood Hazard Avoidance is achieved for that area, then it shall be deemed to immediately cease being Flood Prone Area, despite anything to the contrary in the Planning Maps.



- [8] The map above shows the zones and the flood prone overlay within the area to be uplifted shown clearly shaded. It should also be noted that “flood hazard avoidance” is already defined in the District Plan and adopts the One Plan definition.
- [9] Mr Thomas considers this is clearly a s32 evaluation matter. Mr Thomas considers that his approach provides certainty and least cost. It avoids any other plan change process and is therefore more efficient with less cost and uncertainty over timing.
- [10] Mr Duindam and Mr Asgar have the following concerns with this approach leading to the position that it should be addressed through a separate Plan Change, which Mr Duindam is happy to commit to doing once flood hazard avoidance is achieved.
- [11] Mr Asgar and Mr Duindam have concerns around the uncertainty with the approach presented by Mr Thomas, as there is room for error with many unknown factors. It is unclear under the proposed provision who is responsible for determining whether ‘flood avoidance’ has been achieved in order to trigger the Flood Prone Overlay removal, as it seems to require the application of an expert opinion or judgment.

- [12] The earthworks consent(s) has also too many uncertainties to currently understand what the detailed design of the final Whiskey Creek Residential Area will look like. There is no updated information in terms of earthworks and flooding/ stormwater assessment that has been provided by the proponent at the time of discussion for this joint witness statement to give Council assurance the above approach will suffice and the detailed area that will be subject for the Flood Prone Overlay in future.
- [13] Mr Asgar and Mr Duindam prefer that the final outcomes from the earthworks consent have been achieved prior to removal of the overlay. The Council considers it would not be best planning practice to have a Map recording a flood hazard overlay that is subject to removal based on a trigger that is not sufficiently certain, and which assumes a future state which is also not sufficiently certain.
- [14] Mr Asgar and Mr Duindam notes further that the proposed provision “deems” the land to no longer be subject to the Flood Prone Overlay, but it does not actually have the effect of changing the Flood Prone Overlay maps. This would be confusing for plan readers and would not be the most efficient or appropriate way to deal with the issue. Accordingly, even if Mr Thomas’ recommended provision was accepted, the Council would still need to fix up the Flood Prone Overlay maps in a future plan change, so there is in effect no planning efficiencies created by the proposed trigger rule.
- [15] As such, Mr Asgar and Mr Duindam have proposed to retain the Flood Prone Overlay as originally recommended within Mr Asgar’s evidence. Once flood avoidance and stormwater mitigation has been achieved to Council satisfaction following earthworks, Mr Duindam has assured that Council will take it on themselves to undertake a future Plan Change seeking to remove the Flood Prone Overlay from within the new Residential Zone. This could occur in any one of the Council’s several upcoming plan changes, subject to the works actually being completed.
- [16] Mr Asgar and Mr Duindam note that in the interim the existing rule framework that would apply to development within the Flood Prone Overlay provides an appropriate and navigable pathway for a resource consent under *Section 22: Natural Hazards*, should the earthworks actually achieve flood hazard avoidance. Operating under Section 22 still enables the applicant to achieve a consenting pathway for future habitable dwelling(s) as a Restricted Discretionary consent pursuant to Rule R22.6.2. In our opinion retaining the flood hazard overlay would not preclude development of the area or be in any way unduly onerous in terms of the development of this land.

### **Water supply capacity**

- [17] Mr Asgar has had further discussions with the Councils Water Services Group. This confirms that the area has low pressure issues but the effect of this arises only during annual peak times and not on a normal day-to-day basis. The effect of this is considered to be acceptable for the properties currently serviced. However, it does affect future growth in a large part of the northern area of the city.
- [18] The evidence of Mr Judd is that there are methods to address this issue in the short term and this may include staging of development or supplementary water storage.

- [19] Notwithstanding this, Mr Duindam and Mr Asgar have reviewed the existing plan provisions and now agree with Mr Thomas that they are fit for purpose to address this issue. The experts note that there is no leading policy in Section 7A in relation to essential services. However, Mr Duindam has advised that the Plan Change for the Aokautere Greenfield Residential Area is currently proposed to include a generic policy for all Greenfield Areas in relation to essential services. This has yet to be publicly notified. However, the experts agree that this is likely to address this issue.
- [20] It is therefore agreed that no changes to the Plan provisions are required on this aspect.

### **Methods for treating the interface of the development area with Meadowbrook Drive**

- [21] We agree that a reserve along the rear of the Meadowbank properties is not a suitable and recommended part of the Structure Plan. The reasons for this are covered in a range of expert evidence. In particular, Mr Burns and Mr Males evidence which details that the interface is better managed in terms of amenity and safety if it is part of private properties and not public land.
- [22] The proponent has proposed a 5m permitted building height limit for future sections adjoining these properties. The proponent has also proposed a policy of ensuring that boundaries are aligned with existing lot boundaries of Meadowbrook Drive where practicable.
- [23] Consideration has also been given to an extended building setback performance standard for lots adjoining this boundary. The setback applying elsewhere in the residential zone is 1.5m. The evidence of both Mr Thomas and Mr Burns considered and recommended this be extended to 3m. Mr Burns also considered a 5m set back at the request of the Panel.
- [24] We agree that a 3m set back strikes an appropriate balance in terms of Section 32 between the effects of neighbouring development, the permitted baseline of the existing rural zone and providing reasonable design flexibility for dwellings on these lots. In particular, it is agreed that a 5m setback is likely to reduce opportunities for outdoor space on the northern side of the dwellings which is an important urban design consideration.
- [25] Overall, we are of the view that if 3m setback is kept then the 5m height restriction should remain. If a 5m setback is chosen than a site coverage of 45% should also be given to the future allotments adjoining Meadowbrook Drive area to enable greater flexibility for development.
- [26] The panel requested from Mr Thomas wording for both options which is set out below. This is located at Rule R10.6.1.5 Performance Standard (c) Separation Distances and sits with the gas pipeline setback standard:
- iii. In the Whiskey Creek Residential Area
- Any building other than an accessory building shall be located a minimum of 20 m from the Gas Pipeline shown on Map 7A.3. and
  - Any buildings, including accessory buildings, on lots abutting existing properties on Meadowbrook

*Drive shall be setback 3m from the Meadowbrook Drive boundary. OR*

- Any buildings, including accessory buildings, on lots abutting existing properties on Meadowbrook Drive shall be setback 5m from the Meadowbrook Drive boundary except for the boundaries with 1, 3A, and 5 Meadowbrook Drive where the setback shall be 3m.

### **Intersection treatment of proposed road 1 with Benmore Drive**

- [27] We agree that no additional provisions are necessary to address detailed design of the intersection with Benmore Avenue and noise effects on the existing properties adjacent to Road 1.
- [28] The reason is that The Restricted Discretionary Activity Rule in Section 7A being R7A.5.2.1 expressly identifies these matters as being within Councils discretion.
- [29] These are at R7A.5.2.1 (1)(f). “Noise attenuation and management” and R7A.5.2.1 (1)(m) “safe and efficient operation of the roading network”.
- [30] The detailed design of the intersection and noise mitigation can be considered at that point in the process.
- [31] Mr Asgar notes that currently the roundabout and 127 Benmore Avenue is not included within the outline of the Greenfield Residential Area for Whiskey Creek in Structure Plan. Mr Asgar’s agreement recorded in this section is provided on the understanding that the operation of the matter of discretion for development within the area would allow for the Council to consider the design of this intersection.
- [32] Mr Thomas considers that the definition of the Whiskery Creek Residential Area should be clarified to clearly exclude the rural zoned land, include 127 Benmore and the intersection with Benmore and Structure plan Map amended accordingly
- [33] It is also relevant to advise that as part of early discussions between Ms Fraser and Mr Rossiter an alternative crossroads design was developed and tested as a back up to the roundabout concept. Ms Fraser and Mr Rossiter can confirm this, but it is our understanding that the transportation experts agree that the preferred design continues to be a roundabout but that the crossroads is a technically feasible alternative.

### **National Policy Statement for Urban Development objective 8(a) and Policy 1(e)**

- [34] The NPS UD requirement to seek to achieve urban environments that “support reductions in greenhouse gas emissions have been discussed by Mr Thomas, Mr Duindam and Mr Asgar. As part of that we have looked at the MFE Fact Sheet on Objective 1 policy 1 regarding “well-functioning urban environments”. We agree that that fact sheet is not helpful. Mr Thomas has also looked at the recently released Aotearoa New Zealand’s First Emissions Reduction Plan. Chapter 7 of this document is titled “Planning and Infrastructure”. The experts also consider this to be of limited assistance, but it does consider that the broad themes of energy efficiency, mixed use urban

development at medium and high densities supported by active and public transport “can” support emissions reduction.

- [35] We agree that the proposed plan change does provide for a higher density than other Greenfield Residential Areas and supports active transport and has reasonable access to public transport. Mr Duindam noted that Horizons has taken this Greenfield Residential Area into account in its current bus routes reviews. To this extent the experts consider that the proposal supports emissions reductions.

### **Multi-unit housing/medium density residential standards**

- [36] Mr Thomas is of the opinion that the Plan Change is not predicated on the multi-unit housing area occurring. He considers it is desirable but not essential. He considers that structure plans should incorporate flexibility and enable development options in appropriate locations whilst giving a clear steer on critical structural elements and constraints. In this case he considers that the critical elements relate to flood risk, the restoration of Whiskey Creek, gas pipeline safety, road connections to Benmore Avenue and Rangitikei Line and alignment of lot boundaries with Meadowbrook Drive where possible.
- [37] The multi-unit housing area provisions in the District Plan operate as an overlay over the residential zone. There is currently no Medium Density Zone in the Plan. Mr Thomas agrees that development of the overlay area for multi-unit housing has the potential to provide a strong urban edge and contribute to the city gateway. However, that is not the only typology that can achieve this outcome.
- [38] Mr Thomas does not consider this issue is material to the overall yield and city-wide Development Capacity targets.
- [39] Mr Duindam considers that multi-unit housing in the location shown is critical and should be directed by the Plan provisions. He considers that certainty of this outcome is important.
- [40] Mr Asgar and Mr Duindam are still of the view that that there would be benefit in taking a more prescriptive approach to delivering medium density housing in the area identified in the Whiskey Creek Structure Plan.
- [41] In recognising that development will need to be delivered in general accordance with the Structure Plan, and that this provides for a certain level of flexibility, a 25 dwelling units per hectare density standard within the multiunit housing overlay is suggested to be added to the minimum lot size performance standard under R7A5.2.2(d) in replacement of earlier recommendations in Mr Asgar’s evidence. This approach will be consistent with Council’s future Plan Changes and also aligns with Mr Burns’ responses to questions at the hearing on 2<sup>nd</sup> July.
- [42] We concurred that there is merit with this method of controlling multiunit development based on density and land area. However, Mr Thomas remains of the opinion that the multi-unit housing area

continue to function as an overlay. **R7A5.2.2 Performance Standards for Restricted Discretionary Activity**

*(d) Lot Size*

- (i) Any subdivision within a Greenfield Residential Area must have an average lot size of 500m<sup>2</sup> - 550m<sup>2</sup>, except for:
- the Whiskey Creek Residential Area which must have an average lot size of 400m<sup>2</sup> – 500 m<sup>2</sup>
  - the multi-unit housing area identified on Whiskey Creek Residential Area Map 7.A.3 where no lot shall be less than 150m<sup>2</sup>, with the average minimum number of dwellings being 25 per hectare.
- (ii) No single lot shall be less than 350m<sup>2</sup>, except within the multi-unit housing area identified on Whiskey Creek Residential Area Map 7.A.3.
- (iii) No single lot shall exceed 1000m<sup>2</sup> (except neighbourhood centre lots and balance lots).
- (iv) In calculating the lot sizes in (i) to (iii) above, no balance lot, public open space lot, or road parcel shall be included; and the lot sizes shall be exclusive of the acoustic setbacks required by the provisions of R10.6.1.5(e)(i) and (ii).

[43] Furthermore, we also agree to include the following Map and associated references within Section 10 of the District Plan in relation to 'Map 10.6.3.3(h) Multi-Unit Residential Housing Area: Whiskey Creek Residential Area'.



*Proposed Map for Section 10: Residential Zone "Map 10.6.3.3(h) Multi-Unit Residential Housing Area: Whiskey Creek Residential Area"*



[44] Mr Thomas's position would be accommodated by amending the second bullet in (i) above to the following:

Except for any multi-unit residential development in the multi-unit housing area identified on Whiskey Creek Residential Area Map 7.A.3 where no lot shall be less than 150m<sup>2</sup>, with the average minimum number of dwellings being 25 per hectare.

[45] Mr Duindam will provide separate supplementary evidence in relation to future planned actions by the Council as requested in para 14 of the Minute.

### **Other Matters Regarding the Plan Provisions**

[46] Just prior to the hearing Mr Asgar provided to Mr Thomas an amended set of tracked changes to the provisions which superseded that in the s42A report. This was not tabled to the hearing.

[47] Mr Asgar then provided tracked changes in complete sets of Sections 7A and 10 to Mr Thomas on 22 June. Mr Thomas has reviewed that set of provisions and has provided further tracked changes reflecting his position back to Mr Asgar on 23 June.

[48] The matters at issue are as follows:

[49] Policies: A single directive policy setting out all design principles relevant to the structure plan as sought by Mr Asgar versus two policies one dealing with critical must do matters and the other having regard to the other design principles as sought by Mr Thomas. Alongside this is the word changes recommended by Rangitāne o Manawatū which were included in Mr Thomas's Evidence Summary. These remain subject to scope, but Mr Thomas has narrowed down the extent of changes in his revised version.

[50] Mr Asgar is of the view that only one set of policy in relation to Whiskey Creek Area should be within the District Plan that covers all the site-specific matters within Whiskey Creek Residential Area. With respect to the wording of the policy Mr Asgar considered the terms 'give effect to' is more appropriate than the phrase 'have regard to' because:

- 'Give effect to' still provides future Plan users with a level of flexibility in terms of enabling development while ensuring key design principles demonstrated within the Structure Plan is achieved.
- Giving effect to gives Council certainty that such design principles are achieved at the time of development onsite.
- Mr Asgar and Mr Duindam are of view that the words 'have regard to' will undermine the Structure Plan.

- [51] **Flood Modelling Methodology Requirements:** These are proposed as a separate performance standard to be documented in a Comprehensive Flood Management Plan. Mr Thomas does not agree these provisions are necessary and stand scrutiny in terms of Section 32 because this information can be sought during the consent process and in any case a hydraulic report is already required in the existing provisions. However, if the Panel determine that this aspect should be included then Mr Thomas has a marginally revised version which in his opinion should be inserted into the Comprehensive Development Plan requirements under the hydraulic report section.
- [52] Mr Asgar recommends the inclusion of R7A.5.2.3 Assessment Criteria around flood management be part of Performance Standards as suggested by Mr Thomas. Whether addressed as part of Performance Standard or as Assessment Criteria future Plan users will need to assess these matters regardless for future subdivision in this area.
- [53] **Performance Standard for Flood Management.** Mr Thomas agrees to the flood level change standard proposed by Mr Asgar. Mr Thomas also agrees with the minimum floor level standard. Mr Asgar, Mr Thomas, and Mr Duindam agree that this should be located in Section 7A and also applied in Section 10 by the simple addition of the words “and Whiskey Creek Residential Area” to the existing standard.
- [54] **Assessment Criteria Flood Management:** The provision proposed by Mr Asgar relates to provision of the flood modelling information and in Mr Thomas’s opinion is not an appropriate assessment criterion and in any case is otherwise potentially addressed through the Comprehensive Development Plan requirements. However, Mr Thomas does consider it necessary to add the words “and flood risk in the locality” to the end of the assessment criteria limb (i).
- [55] Mr Asgar is of the view that the inclusion of additional words “and flood risk in the locality” be tested by appropriate technical experts for validation. Mr Asgar’s general view is that consideration should be given to downstream properties, not just flood risk in the locality. However, if the relevant technical experts consider this edition as an appropriate inclusion, then Mr Asgar has no issues with these edits.

4 July 2022



Marz Asgar



Michael Duindam



Paul Thomas