

MEMORANDUM

TO: SUBMITTERS ON THE MATANGI RESIDENTIAL AREA (WHISKEY CREEK)
PRIVATE PLAN CHANGE

FROM: JONO FERGUSON-PYE (CITY PLANNING MANAGER)

CC: HEARINGS PANEL; ROSA DE SOUZA

SUBJECT: MINOR AMENDMENT – MATANGI RESIDENTIAL AREA
RECOMMENDATIONS OF THE HEARING PANEL

DATE: 19/10/2022

Introduction

Council has the capacity to correct errors and “make an amendment, without further formality, to its plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors” under Clause 16 (2) of the First Schedule to the Resource Management Act 1991.

The correction of minor errors has to be considered according to guidelines developed through case law. Case law states that the test in determining whether an amendment is authorized by Clause 16(2) is “does the amendment affect (prejudicially or beneficially) the rights of some members of the public, or is it neutral?” Only if it is neutral is an amendment permitted by Clause 16(2).

The City Planning Manager has delegated authority to correct minor errors.

Issue

The Requestor for the Private Plan Change advised Council of the following:

“In reviewing the Matangi Residential Area decision I think I have identified an error in the provisions that need to be corrected.

It relates to the building setback from Meadowbrook Drive.

The Panel has gone for the full 5m along the full length of Meadowbrook with 45% site coverage.

The Panel were provided with wording for the options with the sole exception being the 45% site coverage.

However, the amendment made to the provisions to give effect to this has been applied to R10.6.15(d) part (c) which is the standard we proposed for permeable areas.

This of course is not the same as building site coverage albeit it is in the same section.

In my opinion what the panel should have done is amended part (a) of that standard which links back to R10.6.1.1(d)(ii) and added in the exception to this part of the standard

a) Compliance with R10.6.1.1(d) (ii) except for any sites in the Matangi Residential Area adjoining lots on Meadowbrook Drive where the maximum amount of the site which may be covered by buildings shall be 45%.

The relevant part of the written decision is at paras 3.80 – 3.82.

This makes no mention of permeable limit just site coverage so I do think this is an unintended error."

Hearings Panel feedback

The Hearings Panel for the Private Plan Change has been advised of the error and agrees that the Requestor is correct, and a minor amendment is appropriate. The Chairperson has advised that the intention of the Panel was definitely to allow a greater site coverage for those dwellings backing onto the existing residential boundary to compensate for the increased setback (5m vs 3m offered by the applicant and vs 1.5 m being the standard setback). Therefore, the provisions drafting does not quite deliver on the stated decision outcome.

Resolution

Pursuant to clause 16(2) of the First Schedule of the Resource Management Act 1991, that the decision provisions be amended to read as follows:

R10.6.1.5 Dwellings & Accessory Buildings in the Greenfield Residential Areas

Any dwelling and/or Accessory Building in any Greenfield Residential Area is a Permitted Activity provided it complies with the Performance Standards detailed in Clauses(a) – (h).

Performance Standards

...

(d) Site Area and Coverage

i. Site Area

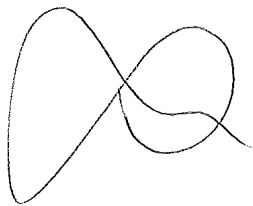
- a) A maximum net site area of 1000m² for each dwelling unit, provided that the areas shall be exclusive of the acoustic setbacks required by the provisions of R10.6.1.5(e), (i) and (ii).
- b) Compliance with R10.6.1.1(d)(i) in the Kikiwhenua Residential Area.

ii. Site Coverage

- a) Compliance with R10.6.1.1(d)(ii) except for any sites in the Matangi Residential Area adjoining lots on Meadowbrook Drive where the maximum amount of the site which may be covered by buildings shall be 45%.
- b) At least 30% of the net site area for each dwelling unit in the Kikiwhenua Residential Area shall be permeable.
- c) Dwelling units in the ~~Whiskey Creek~~ Matangi Residential Area (Map 7A.3) shall have the following permeable areas:
 - 25% of the net site area for each dwelling where this is between 171m² and 366m²
 - 30% of the net site area for each dwelling where this is between 367m² and 449m²
 - 35% of the net site area for each dwelling where this between 450m² and 561m²
 - 40% of the net site area for each dwelling where this between 562m² and 1050m²

Decision

Accept



Jono Ferguson-Pye

City Planning Manager