

**BEFORE HEARING COMMISSIONERS
FOR THE PALMERSTON NORTH CITY COUNCIL**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ
MO TE KAUNIHERA O PAPAIOEA**

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

CLOSING SUBMISSIONS ON BEHALF OF PALMERSTON NORTH CITY COUNCIL

Dated: 11 March 2024



Cooper Rapley Lawyers
227-231 Broadway Avenue
PO Box 1945
Palmerston North
DX PP80001

Shannon Johnston

☎ 06 353 5210

✉ sjohnston@crlaw.co.nz

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MAY IT PLEASE THE COMMISSIONERS:**A. Introduction**

- [1] As has been discussed throughout the hearing of this matter, Proposed Plan Change G – Aokautere Urban Growth (**PCG**) seeks to amend the Palmerston North City District Plan (**District Plan**) to provide for urban growth in Aokautere in accordance with a comprehensively designed structure plan. The Council considers that PCG is necessary to provide required medium to long term development capacity for the City, and to ensure that land use, development, and subdivision in the Aokautere area (and effects from those activities) are managed in an integrated way.
- [2] These legal submissions have been prepared alongside a closing planning statement, supported by accompanying technical reports. Collectively, the submissions and planning and technical statements provide a written response to the issues raised during the hearing (as listed orally on Friday 8 December 2023), additional matters raised by submitters, and to the directions of the Panel to respond to information provided by PN Industrial & Residential Developments Limited (**PNIRD**) at and after the hearing.
- [3] These submissions consider the following issues:
- (a) PCG's compliance with the relevant statutory tests set under the Resource Management Act 1991 (**the Act**);
 - (b) PCG's alignment with the relevant higher order planning documents;
 - (c) The natural character of the plan change area, and in particular the waterways in the gully network;
 - (d) The role of the proposed Conservation and Amenity zone areas; and
 - (e) A review of the approach to managing development outlined in the PCG structure plan.
- [4] Generally, the purpose of these submissions is not to repeat matters already covered in the opening legal submissions, or in the evidence of others,

including the supplementary planning statement of Ms Copplestone, but rather to respond to the legal matters raised during or following the hearing.

B. Key statutory tests

[5] The Council's opening legal submissions outlined the statutory framework applicable to PCG.¹

[6] To assist the Panel, further commentary is provided below on the most relevant elements of that statutory framework.

Whether PCG is designed to accord with and assist the Council to carry out its functions to achieve the purpose of the Act

[7] PCG inserts a new structure plan into the District Plan, along with objectives, policies, and rules to implement that structure plan. In combination, these provisions will:

- (a) achieve integrated management of new development of land in the plan change area;
- (b) assist the Council with ensuring that there is sufficient development capacity for the City in respect of housing and business land;
- (c) provide for a high quality, well-functioning urban environment; and
- (d) mitigate and control adverse environmental effects, particularly those arising from ad-hoc development of Aokautere in the past.²

[8] PCG therefore directly assists the Council with carrying out its functions under s 31 of the Act – in particular, the functions described at s 30(1)(a)(aa), (b)(i), and (b)(iii).

¹ At [45]–[48].

² The current approach to ad-hoc development in Aokautere, with resultant issues is described at [13] of Opening Submissions.

The extent to which each objective is the most appropriate way to achieve the purpose of the RMA

- [9] PCG inserts or amends 6 objectives in the District Plan:
- (a) Section 7, Objective 3: To ensure that subdivision of land and buildings in rural areas is consistent with integrated management of the use, development and protection of land and other natural and physical resources and ...
 - (i) requires development to be in general accordance with any relevant Structure Plan;
 - (ii) protects, restores and enhances the gully network in Aokautere;
 - (iii) avoids or mitigates natural hazards.
 - (b) Section 7A, Objective 4: Stormwater management in the Greenfield Residential Areas is carried out in an integrated manner and, within the Aokautere Greenfield Residential Area, avoids more than minor adverse effects on the environment.
 - (c) Section 7A, Objective 5: Subdivision in the Aokautere Greenfield Residential Area provides for comprehensively designed development incorporating a range of residential areas with high-quality and diverse living environments with a mix of housing densities, which are integrated with surrounding communities, landscape and natural gully systems, and supported by a local centre capable of meeting the day to day needs of the immediate neighbourhood.
 - (d) Section 7A, Objective 6: The indigenous biodiversity, natural values and ecological function of the gully system and natural features in the Aokautere Greenfield Residential Area are maintained and protected from inappropriate subdivision, use and development.

- (e) Section 10, Objective 15: To ensure a high quality, integrated, and safe built form environment in the Aokautere Greenfield Residential Area that reflects the scale, form and density of use and development within the Aokautere Structure Plan and is compatible with the surrounding environment.
- (f) Section 11:10 (Local Business Zone), Objective 6: To provide for an attractive, high amenity, pedestrian focused Neighbourhood Centre that will service the Aokautere Greenfield Residential Area and help to create a sense of place, while being well integrated with the surrounding landscape, roading network, and pedestrian and cycle access.
- [10] Each of these objectives must be examined during evaluation, but it is not necessary that each objective individually be the most appropriate way of achieving the purpose of the Act, as objectives will interrelate and have overlapping ways of achieving sustainable management of natural and physical resources.³ Further, “*most appropriate*” does not mean “*superior*” – it means “*suitable*”.⁴
- [11] As described in the original s 32 report on PCG, in combination these objectives achieve the purpose of the Act by:⁵
- (a) seeking to reduce the impact of residential development on the natural environment, particularly in relation to stormwater effects, while providing for people’s social and economic wellbeing in releasing land for residential and business use;
- (b) focusing on protecting the gully network in Aokautere, which achieves integrated and sustainable management of this unique Aokautere landscape and natural environment;

³ *Rational Transport Soc Inc v New Zealand Transport Agency* [2012] NZRMA 298 (HC) at [46].

⁴ *Rational Transport Soc Inc v New Zealand Transport Agency* [2012] NZRMA 298 (HC) at [45].

⁵ At Table 9.

- (c) supporting the maintenance and retention of the natural landscape features (the gully network and wetlands) that provide this area with its special character while allowing the remainder of the area to be developed for residential housing and supporting amenities;
- (d) recognising and providing for relevant matters of national importance, including those provided in ss 6(a) and (h) (preservation of natural character and risks from natural hazards);
- (e) providing for the matters outlined in ss 7(b), (c), (d), (g), (f) and (i) (the efficient use and development of natural and physical resources, maintenance and enhancement of amenity values, the intrinsic value of ecosystems, the maintenance and enhancement of the quality of the environment, any finite characteristics of the quality of the environment, and the effects of climate change);
- (f) recognising and providing for the values and relationships of Rangitāne as mana whenua, as described in the cultural impact assessment supporting the plan change proposal, and in doing so, accounting for ss 6(e), 7(a) and 8.⁶

[12] It is therefore submitted that these objectives are the most appropriate for achieving the purpose of the Act.

Whether the provisions in PCG are the most appropriate way to achieve the objectives

[13] An assessment of the appropriateness of the provisions for meeting the objectives of the plan change, as required by s 32(1)(b) of the Act, involves:

- (a) Identifying other reasonably practicable options for achieving those objectives; and

⁶ See Section 42A Technical Report of Anita Copplestone – Planning (15 September 2023), Evaluation of Matters Raised in Submissions at Topic 10 (pages 255–262).

- (b) Assessing the efficiency and effectiveness of the provisions in achieving those objectives (including benefits and costs and the risk of acting or not acting).

[14] When assessing the appropriateness of the provisions, it is worthwhile to reiterate some points highlighted in Council's opening submissions, particularly in relation to efficiency and effectiveness.

Effectiveness

[15] *"Effectiveness" assesses the "contribution new provisions make towards achieving the objective, and how successful they are likely to be in solving the problem they were designed to address".⁷*

[16] The Panel has observed that the PCG provisions are relatively directive and stringent in places. As the Panel will be aware, the presumptively correct approach to planning controls is that where the purpose of the Act and the objectives of the Plan can be met by a less restrictive regime, then that regime should be adopted.⁸ This is accepted as a matter of principle – however, subject to the amendments proposed by Ms Coplestone in her supplementary statement (discussed below), the Council's position remains that the purpose of the Act and the objectives of the Plan cannot be met by a less restrictive regime than the one proposed in PCG.

[17] As Ms Coplestone notes in her supplementary statement, the directiveness of the PCG provisions is required to provide:⁹

- (a) clear direction on the desired outcomes for the plan change;
- (b) adequate regulatory control;
- (c) certainty of outcome;

⁷ Ministry for the Environment *A guide to section 32 of the Resource Management Act: incorporating changes as a result of the Resource Legislation Amendment Act 2017* (2017) at 18.

⁸ *Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council* [2017] NZEnvC 51 at [59].

⁹ Supplementary Statement of Anita Coplestone (11 March 2024) at [28].

- (d) appropriate integration with existing developed areas; and
 - (e) management of the complex environmental issues which arise in the Aokautere environment.
- [18] To ensure that the regulatory regime established by PCG is as unrestrictive as possible while still achieving the objectives of the plan change, Council reporting officers have examined the provisions, and have identified the elements which must be ‘fixed’ and which can be ‘flexible’ in their location/design.¹⁰ Some elements are not required to be fixed to achieve PCG’s objectives (e.g., the alignment of local streets A-F, medium density on the promontories), and some are necessarily flexible as they will depend on site design/layout (e.g., stormwater detention ponds).¹¹
- [19] To ensure that more ‘flexible’ elements can be delivered in a variety of ways, but also that the provisions still achieve the outcomes envisioned by the objectives, Ms Copplestone recommends changes to Policy 5.1 and a new policy 5.1A in Section 7A to address this.¹²
- [20] Nonetheless, the Panel will note that much of the structure plan remains fixed as it is critical for delivering on the objectives of the plan change. These include key transport connections, the gully reserves, the cross-sections, the medium density area, and the proposed Local Business Centre (**LBZ**).
- [21] The LBZ, while the subject to a simpler precinct plan,¹³ still needs to be delivered at the proposed site, due to its strategic location, locality, size and relationship to, and with, the proposed medium density housing, including (if taken up) the retirement village option within the Structure Plan.
- [22] The directiveness associated with these elements of the Structure Plan are a direct response to the unique environmental, geotechnical, and existing development constraints in Aokautere, which have been described in

¹⁰ Tabled document: PCG Structure Plan – Key plan components and levels of prescription (5 December 2023).

¹¹ See Supplementary Statement of Anita Copplestone (11 March 2024) at [15].

¹² Supplementary Statement of Anita Copplestone (11 March 2024) at [12]–[14]. Ms Copplestone notes that similar changes to Section 7 are recommended.

¹³ Supplementary Statement of Anita Copplestone (11 March 2024) at [20]; and Supplementary Statement of Andrew Burns (11 March 2024) at [8].

evidence to the Panel, and to also provide a degree of certainty around the development outcome of the land (including housing supply and choice).

- [23] More generally, a structure plan based plan change, such as the one in PCG, can depart from existing land use patterns and still have a valid resource management purpose within the scheme of a district plan. As the Environment Court noted in *Barnhill Corporate Trustee*, “as district plans are instruments to guide and direct subdivision and development into the future, [district plan provisions are] capable of serving holistic intentions that may not necessarily accord with existing land use patterns...”.¹⁴ In that case, the Court commented on the forward looking focus of a district plan, and endorsed the proposed density standards as a deliberate shift designed to “arrest and redirect” development, at a strategic level.
- [24] PCG similarly seeks to “arrest and redirect” development in the Aokautere area, through the requirement for key development elements to be ‘in general accordance’ with its Structure Plan.

Efficiency

- [25] In terms of “efficiency”, this involves the inclusion of a broad range of costs and benefits, many intangible and non-monetary. A wider holistic exercise of judgment is required, weighing market and non-market impacts, to ensure a thorough approach to examining provisions.¹⁵ Economic efficiency involves a comparison of the net social benefits of the objective in question with the social benefits of the best alternative (the status quo or the “do nothing” or “do minimum” scenario).¹⁶
- [26] The anticipated effects and outcomes of the PCG provisions are outlined comprehensively in the s 32 report,¹⁷ which has been added to through Ms

¹⁴ *Barnhill Corporate Trustee Ltd v Queenstown Lakes District Council* [2022] NZEnvC 58 at [54]–[55].

¹⁵ See, for example, *Carter Holt Harvey Limited v Waikato Regional Council* [2011] NZEnvC 380 at pages 59-67.

¹⁶ *Self Family Trust v Auckland Council* [2018] NZEnvC 49 at [311]–[313].

¹⁷ At Table 10.

Copplestone's reporting. The provisions have been refined over time, to better secure the positive effects and outcomes and mitigate adverse ones.

- [27] In contrast, the effects and outcomes of the “do nothing” scenario are represented in the dendritic arrangement of cul-de-sacs and right of ways which exist in Aokautere currently. Landowner preference in the area appears to be to provide detached, low density housing. This is evidenced not only by the attempts in this plan change by the landowners in the area to maintain the status quo,¹⁸ but also by the pattern of development to date.
- [28] Of particular relevance are the Council's provisions directing medium density development in certain areas (discussed below). If the Council's minimum density requirements are included in PCG, it places choices in front of developers. As Mr Burns describes, a range of housing types can be developed on the proposed minimum lot size within the medium density village area.¹⁹ Further, Ms Allen confirms that some of the options (e.g. the single detached dwelling on the smaller lots) would have been feasible in 2021 (before the market downturn) and are “likely to be a feasible development option in the medium term”.²⁰ At the same time the financial viability of medium density is anticipated to improve over time, and within ten years.²¹
- [29] If the minimum density requirements are not included, and higher densities are simply enabled, then the evidence suggests that developers will continue to deliver the same ad hoc, low density subdivisions that they have to date. Further, without provisions directing the outcomes envisioned by PCG, it is likely that rows of large detached suburban houses, poorly integrated with services, the transport network and the surrounding environment will continue to be developed. Inevitably this means development will continue to have adverse environmental, cultural, and social costs within Aokautere. When having regard to the objectives of the plan change, it is submitted that

¹⁸ See the submissions made to the panel by Mr Fugle, Mr Thomas, Ms Coats and Ms Pilkington around the feasibility of the medium density areas, none of which were supported by any relevant expert evidence on feasibility.

¹⁹ Supplementary Statement of Andrew Burns (11 March 2024) at [18]–[19].

²⁰ Supplementary Statement of Ruth Allen (11 March 2024) at [15].

²¹ Supplementary Statement of Ruth Allen (11 March 2024) at [16].

these outcomes will functionally preclude the development of a well-functioning urban environment in Aokautere.

- [30] Whether the PCG provisions are effective and efficient is not necessarily a matter of developer preference. Nonetheless, to the extent that it is relevant to that enquiry, the provisions do address the needs of developers. The provisions provide for a range of potential dwelling types to accommodate market/developer preferences (from terrace houses and low rise apartments to detached houses), while still achieving the density standards.²² Further, outside of the medium density village, developers are largely free to build houses of the types that they are more familiar with.
- [31] Overall, the PCG provisions (as amended by officer recommendations) give effect to the objectives of the plan change, in a manner which no reasonably practicable alternative will do.²³ The PCG provisions are therefore the most appropriate to achieve the objectives of the plan change.

Whether the rules have regard to the actual or potential effects on the environment including, in particular, any adverse effect

- [32] The rules contained in PCG, alongside the existing rules in the District Plan, will also appropriately manage actual and potential adverse effects on the environment.
- [33] One of the distinct benefits of the masterplanning exercise undertaken by the Council, and underpinning PCG, is that it allows for the integrated identification and management of effects at the Council level. This was particularly necessary in Aokautere in relation to stormwater, traffic, and geotechnical effects, which are all closely managed by, in some cases, avoidance (where development is allowed (or not) to occur) and elsewhere, through the proposed provisions (how development will occur).

²² Supplementary Statement of Andrew Burns (11 March 2024) at [18]–[19]; and Supplementary Statement of Ruth Allen (11 March 2024) at section C.

²³ Noting that, following the s 32 report supporting notification of PCG, Ms Copplestone has consistently prepared s 32AA assessments with regard to any recommended changes.

- [34] The management of these effects by the rule framework ensures that major impediments to realising the zoning identified in the Structure Plan have already been addressed at the Structure Plan level and through provisions.
- [35] Stormwater, geotechnical, traffic and ecological effects were carefully considered with regard to the management of effects. Specifically:
- (a) Particular regard was had to the location of development with regard to geotechnical constraints, with some areas avoided, while, in other cases, development is managed at the time of subdivision and land use, through the requirement for detailed investigations and implementation of any recommendations. At a more general level, no new or exacerbated natural hazards are permitted.²⁴
 - (b) Stormwater infrastructure must be in place before land use development, and comprehensive and coordinated stormwater management must be undertaken for entire landholdings, including for the provision of infrastructure. This approach is informed by the principles of the stormwater management strategy embedded in the provisions (including the need for a Stormwater Management Plan).
 - (c) Early works have addressed existing safety concerns for the transport network in and adjoining the plan change area, to the satisfaction of the transportation experts.²⁵ All transport experts agreed that acceptable levels of safety and performance could form the basis for a trigger for upgrades/improvements to the intersections before further development can occur.
 - (d) The directiveness of the provisions in relation to the gully network also secures a variety of positive effects which might otherwise be in question, particularly in relation to the intrinsic, cultural and amenity benefits of preserving access to that network and its restoration over time.²⁶

²⁴ Rule 7.15.2, Assessment Criterion (h)(viii).

²⁵ Joint Witness Statement of Transportation Experts (14 November 2023) at 5.1.

²⁶ Supplementary Statement of Anita Copplestone (11 March 2024) at [32]–[36]. In particular, the discussion of the rules restricting development within the gullies.

[36] With regard to the requirement for the intersection upgrade, there is a clear objective, methodology (for setting the trigger), and a rule framework which avoids undue reservation of discretion to a third party or subjective formulation. The transportation rule is therefore considered *intra vires*.

[37] Of note, in this regard:

- (a) Table 7A.1 prescribes a clear objective of obtaining forecast of level of service of D for the overall intersection, or F for an individual turning movement;
- (b) The methodology and inputs for determining the level of service trigger is both well tested and defined in the industry,²⁷ and the rule specifies that the methodology must be used;
- (c) The level of service must be determined by a suitably qualified expert – and there is no subjective assessment – what is required and how it is to be achieved is clear; and
- (d) The standard can be met without third party approval (the provision for an alternative treatment response as agreed with Waka Kotahi, has been carefully prepared as a ‘true alternative’ given the standard could be achieved without Waka Kotahi approval by provision of traffic lights or a roundabout under the first limb in every case²⁸).

[38] Rule 7A.5.4.1 requires that Waka Kotahi be notified of any application for restricted discretionary subdivisions under r 7A.5.2.1, providing for informed management of transport effects at the subdivision stage.

C. Higher order planning framework

[39] One element of the statutory framework – the requirement to give effect to higher order planning documents – warrants more detailed analysis, and as such has been separated out for comment here.

²⁷ Statement of Reply Evidence of Harriet Fraser (28 November 2023) at [22].

²⁸ The transportation experts agree that either of these upgrades would be appropriate.

NPSUD

- [40] PCG was notified, in part, to help Council achieve its obligations under the National Policy Statement on Urban Development 2020 (**NPSUD**). These include the requirement to provide at least sufficient development capacity for housing and business land in the short, medium, and long term.²⁹
- [41] PCG is planned to deliver its development capacity in the medium to long term. This is supported by a Housing and Business Needs Assessment (**HBNA**), as well as the other documents underpinning the plan change.³⁰
- [42] Clause 3.2(2) of the NPSUD sets out the criteria that housing development capacity must be assessed against in order to determine whether it can be counted when assessing whether an urban area has “*sufficient*” development capacity. One of the criteria, at subclause (c), requires development capacity to be “*feasible and reasonably expected to be realised*”. This requirement is not necessarily a standalone test which every lot shown in the Structure Plan must meet, but rather forms part of the overarching assessment of the extent to which PCG assists Council to provide sufficient development capacity under Policy 2 of the NPSUD.
- [43] In terms of whether the development capacity deliverable through PCG is feasible and reasonably expected to be realised, this is a matter of fact – importantly, Council is entitled to use “*any appropriate method*” to establish feasibility.³¹
- [44] Here, the work undertaken by Ms Allen and Mr Nicholl meets the requirements set out in cl 3.26 of the NPS. To illustrate, Ms Allen and Mr Nicholl’s work modelled profitability based on indexed revenue and cost

²⁹ National Policy Statement on Urban Development 2020 (**NPSUD**), cls 3.2–3.3.

³⁰ Supplementary Statement of David Murphy (11 March 2024) at [14]–[18]; and Palmerston North City Council *Proposed Plan Change G: Aokautere Structure Plan – Section 32 Report* (August 2022) at 20.

³¹ NPSUD, cl 3.26(1).

estimates.³² In comparison, the example of an ‘appropriate method’ for a Tier 2 authority is given in cl 3.26(3) of the NPSUD:³³

The following is an example of the kind of methods that a tier 2 local authority could use to assess the amount of development capacity that is feasible and reasonably expected to be realised:

- (a) assess the number of dwellings that can reasonably be expected to be developed (using building consents data on the number of sites and extent of allowed capacity that has been developed previously), for the short, medium and long term; and
- (b) then seek advice from the development sector about what factors affect the feasibility of development.

[45] Ms Allen and Mr Nicholl’s work is commensurate with what is expected by the NPSUD. It also provides individual assessments for each density level. Ms Allen notes that *“the lot size provides flexibility across a mix of typologies and increased density within the plan change area”*.³⁴ Ms Allen and Mr Nicholl’s work provides evidence that the full range of development typologies contained in PCG are feasible over the medium to long term (within ten years),³⁵ noting some will be more feasible earlier than others.

[46] As to the other criteria in cl 3.2(2) for sufficient development capacity (other than it being plan-enabled, which is being addressed in this process), the development capacity must also be infrastructure ready.

[47] At its simplest, being infrastructure ready requires infrastructure ready capacity to be provided. This is defined in the short term as having adequate

³² Section 42A Technical Report of Ruth Allen and Gareth Nicholl – Feasibility Assessments (15 September 2023) at section E.

³³ NPSUD, cl 3.26(3). Compare, for example, the more stringent assessment methods required for Tier 1 authorities set out in cl 3.26(2).

³⁴ Supplementary Statement of Ruth Allen (11 March 2024) at [10].

³⁵ More commentary on the medium density areas specifically is provided later in these submissions.

existing development infrastructure to support the development of the land, or in the medium and long term, planned development. The latter involves:³⁶

- (a) In relation to the medium term, funding for adequate development infrastructure to support development of the land being identified in the Long Term Plan (LTP); and/or
- (b) In relation to the long term (also relevant here), if not identified in the LTP, identifying the development infrastructure to support the development capacity in the Council's infrastructure strategy (as required as part of the LTP).

[48] Mr Murphy provides additional information on the delivery of the development and additional infrastructure required for PCG, being that:³⁷

- (a) The necessary development infrastructure funding for PCG is identified in the draft 2024-34 LTP as being met via Council debt, or through alternative funding mechanism such as special purpose vehicles (under the Infrastructure Funding and Financing Act 2020), or development agreements with the landowners/developers³⁸; and
- (b) Council has committed funding to a business case with Waka Kotahi for the remaining third-party infrastructure, as well as provided work programmes within the draft 2024-34 LTP, meaning that Mr Murphy is satisfied that this infrastructure is likely to be available.³⁹

[49] When considering the funding identified in the 2024-34 LTP, Mr Murphy advised the Panel of the Council's intent to access funding through a special purpose vehicle under the IFFA. This approach was explicitly anticipated by the drafters of the NPSUD. Specifically, the regulatory impact statement for the NPSUD considered risks and constraints on the Council's ability to deliver

³⁶ NPSUD, cl 3.4(3).

³⁷ Supplementary Statement of David Murphy (11 March 2024) at [22]–[25].

³⁸ The RMA and Local Government Act 2002 provide mechanisms through which infrastructure required for development is funded or otherwise provided by developers. It is not necessary for the details of that arrangement to be worked out by the resource consenting stage or the plan change (rezoning) stage.

³⁹ The test for additional infrastructure in cl 3.5 is that the Council is satisfied that the additional infrastructure to service the development capacity is likely to be available.

the intensification and expansion envisaged by the NPSUD, with the ability to access the IFFA to finance and provide adequate infrastructure considered available (and helpful) for mitigating those constraints.⁴⁰

- [50] Having regard to the NPSUD, and requirements relating to infrastructure readiness and integration of infrastructure planning and funding decisions,⁴¹ infrastructure planning (and funding) and zoning do not need to occur sequentially – i.e., only zone land where there is certainty of funding. The NPSUD contemplates those matters being able to happen contemporaneously, in a complementary way, and over time (the short, medium or long term). In this case, the Council’s commitment to funding in the draft LTP, the funding of the business case with Waka Kotahi, and the suite of provisions (in particular, the transport triggers) will ensure that the appropriate infrastructure is in place to support the level of development.

NPSFM & NPSIB

- [51] As noted by the Panel, the National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**) took effect in June 2023, some time after PCG’s notification. Nonetheless, PCG must still give effect to the NPSIB (to the extent it is possible to do so within scope).⁴²
- [52] Ms Copplestone addresses the provisions of the NPSIB in more detail,⁴³ however, some high-level comments can be made here.
- [53] PCG already addresses key provisions outlined in the NPSIB and Dr Forbes’ constraints assessment report, appended to his s 42A Report, provides a comprehensive analysis against the NPSIB’s significance assessment criteria.⁴⁴ While that assessment was performed against the provisions of the exposure draft NPSIB, Dr Forbes has confirmed that as the NPSIB was not

⁴⁰ Regulatory Impact Statement: National Policy Statement on Urban Development (24 July 2020) at 6.2.2 and 6.2.3.

⁴¹ For example, Objective 6 of the NPSUD.

⁴² RMA, s 77(3).

⁴³ Supplementary Statement of Anita Copplestone (11 March 2024) at [37]–[41].

⁴⁴ Section 42A Technical Report of Adam Forbes – Ecology (15 September 2023) at Appendix A, section 4.2.

significantly changed between the exposure draft and the operative version, he has no updates to make to this assessment.⁴⁵

- [54] More generally, PCG aligns with NPSIB Policy 13, which mandates local authorities to promote and facilitate the restoration of indigenous biodiversity – and does so here by prioritising threatened ecosystems, such as kanuka forest and wetlands, as well as identifying sensitive gully systems to ensure protection. As Dr Forbes also notes, PCG may assist with achieving NPSIB Policy 14’s target of achieving over 10% native cover in urban areas.⁴⁶
- [55] The proposed rezoning of gullies in PCG as Conservation and Amenity areas also serves as a significant step toward securing space for effective restoration efforts. This includes protecting wetlands, addressing natural character values, contributing positively to stream ecosystems, and potentially expanding native vegetation cover. The comprehensive approach outlined in the plan change positions it as a robust strategy to fulfil the requirements of the NPSIB, to the extent they apply here.
- [56] Ms Copplestone has recommended changes to reflect the NPS-IB requirements, to the extent scope exists within submissions. These changes are well described at paragraph [39] of her supplementary statement, and ensure to the extent possible, the NPS-IB is given effect to through PCG.
- [57] In relation to the National Policy Statement for Freshwater Management 2020 (**NPSFM**), the protection of the gully network through its vesting as Conservation and Amenity Zone, and the provisions which seek to protect, manage and restore the gully systems and natural wetlands in Aokautere are critical to freshwater management in the plan change area, as Ms Copplestone points out.⁴⁷ Also relevant is the stormwater strategy proposed by Council reporting officers to limit erosion, scour and sedimentation in those waterways,⁴⁸ particularly as the perennial and intermittent waterways

⁴⁵ Supplementary Statement of Adam Forbes (11 March 2024) at [7]–[8].

⁴⁶ Supplementary Statement of Adam Forbes (11 March 2024) at [11].

⁴⁷ Section 42A Technical Report of Anita Copplestone – Planning (15 September 2023) at Table 3.

⁴⁸ Section 42A Technical Report of Reiko Baugham and Tony Miller – Stormwater (15 September 2023) at Appendix A.

present would naturally be hard bottomed and are therefore vulnerable to sedimentation.⁴⁹

[58] Some other NPSFM matters will be more relevant to any required regional consenting process, which PCG does not (and cannot) address. PCG is nonetheless designed with these requirements in mind.⁵⁰ For example, as noted by Dr Forbes, ample stream length exists within the plan change area to implement the restoration off-sets likely to be required through the regional consenting process.⁵¹

Regional Policy Statement

[59] In addition to national direction, the District Plan must also give effect to any regional policy statement (**RPS**) – here, the RPS portion of the Horizons One Plan.⁵²

[60] The provisions of the RPS are addressed in some detail by the s 32 report, and supplemented by Ms Copplestone’s s 42A report.⁵³ However, given the NPSIB coming into effect, some elements of the RPS have been re-examined in light of this.⁵⁴ In particular, RPS Policy 6-2, which deals with the management of indigenous biodiversity at the regional level, should now be read alongside and in the context of the obligations placed on territorial authorities by the NPSIB (this is discussed further below).

[61] In Ms Copplestone’s view, PCG provides additional policy direction, consistent with the NPSIB, to protect, restore and enhance areas of indigenous biodiversity in the gully network, which is appropriate.⁵⁵ However, going so far as to schedule the indigenous forest areas in the gullies as significant natural areas is not considered appropriate, given the stage PCG is at and the limited scope available to do so. Further, it is likely

⁴⁹ Supplementary Statement of Adam Forbes (11 March 2024) at [13].

⁵⁰ Supplementary Statement of Anita Copplestone (11 March 2024) at [49].

⁵¹ Supplementary Statement of Adam Forbes (11 March 2024) at [17].

⁵² RMA, s 75(3).

⁵³ Palmerston North City Council *Proposed Plan Change G: Aokautere Structure Plan – Section 32 Report* (August 2022) at Table 2; and Section 42A Technical Report of Anita Copplestone – Planning (15 September 2023) at Table 3.

⁵⁴ See *Thumb Point Station Ltd v Auckland Council* [2015] NZHC 1035 at [31].

⁵⁵ Supplementary Statement of Anita Copplestone (11 March 2024) at [34]–[35].

that the process for designating significant natural areas in cls 3.8–3.9 of the NPSIB would be circumvented by introducing them at this stage.⁵⁶

[62] In addition to the operative RPS, the Panel is required to have regard to the provisions of any proposed RPS.⁵⁷ The weight to be assigned is a matter for the Panel, noting that to “*have regard to*” requires material consideration of a proposed RPS but does not necessarily require that it be followed.⁵⁸

[63] Manawatū-Whanganui Regional Council notified Plan Change 3 to the One Plan on 17 October 2022 – shortly after PCG was notified. A hearing on that plan change was completed in February 2024.

[64] The purpose of Plan Change 3 is “*to introduce new provisions to the RPS to give effect to the [NPSUD]*”.⁵⁹ Its provisions are therefore directly relevant to PCG.

[65] The proposed provisions generally align closely with the wording of the objectives and policies of the NPSUD. Two of the most relevant objectives are highlighted below (our emphasis):

(a) UFD-O1(1): Strategic planning for urban development **ensures** that sufficient development capacity ... is provided to support growth.

(b) UFD-O3(1): The intensification and expansion of urban environments contributes to well-functioning urban environments that:

(i) enable all people, communities and future generations to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future,

(ii) **increase housing capacity and housing choice,**

⁵⁶ Compare *Horticulture NZ v Manawatu-Wanganui Regional Council* [2013] NZHC 2492.

⁵⁷ RMA, s 74(2)(a)(i).

⁵⁸ *Winstone Aggregates Ltd v Papakura District Council* EnvC Auckland A096/98, 14 August 1998 at [41].

⁵⁹ Horizons Regional Council *Section 32 Evaluation Report Urban Form & Development (Proposed Plan Change 3)* (September 2022) at page 4.

- (iii) **achieve a quality, sustainable and compact urban form that relates well to its surrounding environment,**
- (iv) are well connected by a choice of transport modes including public transport, and
- (v) **manage adverse environmental effects.**

[66] Relevantly here, PCG seeks to assist Council with ensuring that development capacity is provided in the medium to long term. It also provides for the transformation of Aokautere into a well-functioning urban environment, by requiring a variety of housing types, encouraging a compact urban form which is interwoven with its surrounding environment, and managing adverse effects (particularly from stormwater) at the District Plan level.

D. Natural character

[67] The matter of the natural character effects on the plan change area (particularly the margins of the streams in the gully network) was raised by Commissioner McGarry with both Mr Hudson and Dr Forbes. Some brief comments on the legal context relating to natural character are therefore offered.

[68] Section 6(a) of the Act requires that Council recognise and provide for “*the preservation of the natural character of ... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*”.

[69] The overarching principle of s 6(a) is that natural character should be retained for its own sake.⁶⁰ The Conservation and Amenity zone proposed for the gullies (and wetlands and streams) protects and serves to retain, among other things, natural character where it exists. Inappropriate subdivision, use and development is avoided in the gully network by

⁶⁰ *Kuku Mara Partnership (Forsyth Bay) v Marlborough District Council* EnvC Wellington W025/02, 16 July 2002 at [436].

restricting works to those needed for the roads and essential services directed in the Structure Plan.⁶¹

- [70] However, as noted by Mr Hudson, the margins of the rivers within the plan change area are already modified in many places, including by bank erosion, earthworks, and weed species, and hard structures such as culverts, leaving them without a high degree of natural character to protect in the first place.⁶² While an environment with “*natural character*” is not necessary a “*pristine*” one,⁶³ s 6(a) does not contemplate the reinstatement of a degraded environment – nor does it elevate enhancement activities (as opposed to preservation) to the status of national importance.⁶⁴
- [71] Similarly, the overarching requirement of the RPS, Objective 6-2(b)(iii) is that adverse effects on the natural character of wetlands, rivers and lakes and their margins areas are avoided, remedied, or mitigated. Policy 6-8 says this occurs by protecting them from inappropriate subdivision, use and development, and restoring and rehabilitating the natural character of these areas where appropriate and practicable. For the same reasons described at [69] above, PCG meets this policy intent.
- [72] Nonetheless, the PCG provisions will likely enhance the natural character of the gully network beyond that which it currently has. Mr Hudson notes that he expects a moderate improvement in the natural character of the stream margins in the gully reserves over time, resulting from the proposed stormwater and ecological management of the gully reserves stabilising the gully slopes and promoting succession to native riparian forest.⁶⁵ Further, as outlined by Dr Forbes, securing the gully network as Conservation and Amenity zone secures space to effect restoration, which will (among other things) enhance the natural character of the gully network.

⁶¹ Supplementary Statement of Anita Copplestone (11 March 2024) at [32]–[36].

⁶² Section 42A Technical Report of John Hudson – Landscape (15 September 2023) at Attachment 1, paragraphs 55–59.

⁶³ *Harrison v Tasman District Council* [1994] NZRMA 193 (EnvC) at 197.

⁶⁴ *Auckland Volcanic Cones Society Inc v Transit New Zealand Ltd* [2003] NZRMA 54 (EnvC) at [23].

⁶⁵ Supplementary Statement of John Hudson (11 March 2024) at [25]–[27].

E. Conservation and Amenity zone

[73] As noted in the Council's opening submissions, the Conservation and Amenity zone is integral to delivering the outcomes sought through PCG. The proposed zoning provides for stormwater management, cultural, amenity and recreational opportunities, landscape values, and the maintenance and enhancement of freshwater – it also will help maintain and enhance biodiversity within the gully network.

[74] The Panel raised the question of the Conservation and Amenity zone's interaction with Policies 6-1 and 6-2 of the RPS component of the One Plan. While the RPS is relevant, three points ought to be made, which relate to the discussion of the RPS above:

- (a) While the RPS assigns responsibilities for the making of objectives, policies, and rules for the purpose of protecting indigenous biodiversity to Horizons, Council continues to have functions and duties relating to conservation of amenity, intrinsic, and cultural values associated with the gully network;
- (b) The assignment of responsibilities in the One Plan predates the NPSIB, which assigns new responsibilities to both territorial authorities and regional councils; and
- (c) The One Plan remains relevant and applicable as necessary – for example, any One Plan Schedule F requirements would continue to apply on top of the District Plan's requirements, and would need to be considered whenever a regional consent was sought.

[75] In any case, even if the NPSIB is set aside, under Policies 6-1 and 6-2 of the RPS the Council retains responsibility for any measures for the purpose of recognising amenity, intrinsic and cultural values of indigenous biological diversity. The Conservation and Amenity zoning proposed by PCG serves to do just that, preserving and highlighting the amenity, intrinsic and cultural

values of the gully network's unique landform and vegetation, making it a protected feature for the community to appreciate and enjoy.⁶⁶

[76] Consistent with the zoning intent,⁶⁷ the gullies are protected under PCG for their local amenity and conservation values, with the Council seeking to protect and conserve the character and features of value, while providing access to the gully network for ongoing use and enjoyment by the public.

[77] In relation to the vesting of the gullies in Council, it was confirmed with the Panel during the Hearing that vesting will occur on subdivision. In response to questions, it was agreed that a separate reserve process is available to designate those areas as recreation or local purpose reserves.

F. 'General accordance'

[78] The PCG provisions require development to proceed "in general accordance" with the Structure Plan, both at a policy level,⁶⁸ and in order to access the restricted discretionary consenting pathway for subdivision.

[79] As noted above, some elements of the structure plan have been recognised as being more 'flexible' in terms of delivery, than fixed. Those elements no longer need to be delivered 'in general accordance' with the Structure Plan, although the development must still deliver key outcomes.⁶⁹ However, as a number of the elements of the Structure Plan are critical and remain fixed, the meaning of "*general accordance*" is clarified further below.

[80] While the phrasing is fairly common in plan provisions and consent conditions, there is relatively little case law on the matter. The Environment Court (in the consenting context) commented on the equivalent phrase "*generally in accordance with*" (emphasis added):⁷⁰

⁶⁶ The relevant provisions are set out in Supplementary Statement of Anita Copplestone (11 March 2024) at [34].

⁶⁷ Section 42A Technical Report of Anita Copplestone – Planning (15 September 2023) at 2.2.6; and Supplementary Statement of Anita Copplestone (11 March 2024) at [32].

⁶⁸ Section 7: Objective 3 and Policy 3.7; Section 7A: Policy 1.2, 4.7, 4.10, 5.1.

⁶⁹ See paragraph [19] above.

⁷⁰ *Hood v Dunedin City Council* [2017] NZEnvC 42 at [38]–[41].

The Court of Appeal has held that the use of the word “*generally*” in a condition does not affect its validity as an enforceable condition; **it is intended to permit minor variation to the activity described** in the resource consent and accompanying documents, although **it does not permit the consent holder to conduct the activity in a materially different way than that described.**

The case law referred to by counsel for the Council highlights that the plans which are referred to are an important indicator of the bounds of any change that is permissible in determining what these words mean and that any changes must be “*trifling*” in order to be considered generally in accordance with the plan referred to. **Similarly, in *Cooke v Auckland City Council* the court determined the phrase “*generally in accordance*” enabled alterations to plans that were not material.**

[81] This commentary from the Court aligns neatly with the plain meaning of “*in general accordance*” – that is, in accordance with, for the most part.

[82] As such, features which have specified, fixed locations in the Structure Plan will need to be constructed as shown on that Structure Plan, subject to ‘minor’ or ‘non-material’ deviations.

[83] Having carefully reflected on the critical elements of the Structure Plan, the Council reporting team considers the above (general accordance) threshold to be appropriate for the identified fixed elements given the central role they play in ensuring development delivers on the key drivers, and objectives for PCG. These reasons are well described by Ms Copplestone.⁷¹

G. Medium density

[84] The matter of medium density housing was a topic of some discussion at the hearing, including whether the approach to density in PCG is ‘mandatory’ or ‘enabling’.

[85] As is outlined in Ms Copplestone’s reply, the approach to medium density in the central village area in PCG is directive. It is therefore more ‘mandatory’

⁷¹ See paragraph [17] above.

than 'enabling'.⁷² The exceptions to this are the medium density clusters on the promontories, which are now entirely optional.

[86] This directive approach for the medium density village area is considered necessary to achieve the outcomes envisioned by the objectives of PCG, and is accordingly also the most appropriate way to give effect to the objectives of the plan change. As shown by a range of experts on behalf of the Council, density in the village area is required to (among other things):

- (a) enable and sustain the local business zone,⁷³
- (b) achieve positive urban design outcomes;⁷⁴ and
- (c) provide for a broader range of housing typologies in the area to suit the community's diverse and changing needs.⁷⁵

[87] All the above will be required to achieve a well-functioning urban environment in Aokautere.⁷⁶

[88] These outcomes are both strategically important to the City, but also assist with giving effect to the requirements of the NPSUD. Without the mandatory approach to medium density in the PCG provisions, Council (and the Panel) could have no confidence that these outcomes would be achieved.

[89] Questions arose during the hearing as to the role of PCG in delivering on the housing imperatives for the City, and in particular, the relevance of the HBNA. Mr Murphy addresses these matters in his supplementary statement.⁷⁷ The HBNA identifies Aokautere as feasible and likely to be realised across both the medium and long terms. It projects 300 dwellings in the medium term and 700 in the long term. There is no indication as to the

⁷² These descriptions are not entirely black and white – lot sizes greater than the relevant standards are non-complying, not prohibited, at the subdivision stage. There is therefore *some* latitude available, if only a small amount.

⁷³ Section 42A Technical Report of Michael Cullen – Urban Economics (15 September 2023) at section I–J.

⁷⁴ Section 42A Technical Report of Andrew Burns – Urban Design (15 September 2023) at 60.

⁷⁵ For example, Section 42A Technical Report of David Murphy – Strategic Planning (15 September 2023) at 30–32.

⁷⁶ See the requirements of the NPSUD, Policy 1(a)–(c).

⁷⁷ Supplementary Statement of David Murphy (11 March 2024) at [14]–[18].

set housing typology, which could be either standalone or detached, nor is there any expectation that the first 300 dwellings need to be one or the other (e.g. medium density). That said, the HBNA anticipates growing demand for smaller houses across the City over time.⁷⁸ The flexibility provided by the minimum lot size in terms of delivery of housing typology, as described by Mr Burns and Ms Allen,⁷⁹ is therefore considered to be beneficial in responding to changing housing needs over the medium to long term.

- [90] From a s 32 perspective, it should be noted as well that requiring a higher density of development necessarily means there will be a more efficient use of the scarcest resource – land.

H. Climate change

- [91] The matter of greenhouse gas emissions and climate change was raised by several submitters,⁸⁰ and is considered in detail by Ms Copplestone.⁸¹

- [92] As previously noted by Mr Murphy, PCG seeks to achieve a well-functioning urban environment with a variety of densities, connected to urban centres, with active and public transport routes. These outcomes will reduce emissions and improve wellbeing.⁸²

- [93] Concern has been raised about the plan change area's distance from the City centre, and whether PCG will result in increased transport emissions as a result of this. In this context, it is worth noting that a plan must be forward looking, but it must also be based on the existing environment. A planning proposal is never developed on a truly 'clean slate'.⁸³ This is particularly so here – a significant amount of housing already exists in Aokautere. The operative plan provisions (disregarding the PCG rules, which have been given immediate legal effect) enable further housing to be built in Aokautere.

⁷⁸ Supplementary Statement of David Murphy (11 March 2024) at [13].

⁷⁹ Supplementary Statement of Andrew Burns (11 March 2024) at [18]–[19]; and Supplementary Statement of Ruth Allen (11 March 2024) at section C.

⁸⁰ S18, S20, S31, S54, S62, S73, S95.

⁸¹ See Section 42A Technical Report of Anita Copplestone – Planning (15 September 2023), Evaluation of Matters Raised in Submissions at Topic 3 (pages 69–77).

⁸² Section 42A Technical Report of David Murphy – Strategic Planning (15 September 2023) at 80–82.

⁸³ *Golf (2012) Ltd v Thames-Coromandel District Council* [2019] NZEnvC 112 at [132].

[94] As noted above, PCG will “*arrest and redirect*” the development to limit further growth in emissions, and will assist in, for example, creating opportunities for public and other modes of transportation, enabling the local business area so that residents are less dependent on the centre city, and by creating more amenity features nearby and within walking distance.

I. Other matters

[95] These submissions are accompanied by additional reports from the Council’s experts, which address, among others, the balance of the matters signalled in the list of matters for reply, tabled by the Council. As noted above, matters raised by PNIRD are dealt with in those reports, rather than in these legal submissions.⁸⁴

[96] The matters addressed by experts include:

- (a) Mr Murphy (Strategic Planning):
 - (i) The status of the Housing and Business Needs Assessment 2023;⁸⁵
 - (ii) Housing yields under the operative plan and under PCG;⁸⁶
 - (iii) Timeframes for delivering the development capacity enabled by PCG;⁸⁷
 - (iv) The ‘sufficient’ development capacity obligation in the NPSUD;⁸⁸
- (b) Ms Fraser (Transport):
 - (i) An assessment of traffic effects associated with a retirement village land use activity, and medium density residential

⁸⁴ See Supplementary Statement of Anita Copplestone (11 March 2024) at [64].

⁸⁵ Supplementary Statement of David Murphy (11 March 2024) at [7]–[9].

⁸⁶ At [10]–[15].

⁸⁷ At [16]–[18] and Figures 1 & 2.

⁸⁸ At [19]–[28] and Attachment 1.

development if a land use consent is sought prior to a subdivision consent;⁸⁹

- (ii) A discussion of the timing of roading infrastructure works required for PCG and their delivery;⁹⁰
 - (iii) An assessment from a transport perspective of the impact of removing raingardens from certain road cross-sections proposed in the PCG provisions;⁹¹
 - (iv) An assessment from a transport perspective of the alternative roading connections requested by PNIRD;⁹²
 - (v) Issues with the proposed Turitea road connection;⁹³
 - (vi) Intersection issues raised by submitters;⁹⁴
- (c) Dr Forbes (Ecology);
- (i) The relevance of the NPSIB to Dr Forbes' assessment of ecological effects;⁹⁵
 - (ii) Confirmation of the status of the hydroclass assessment undertaken to identify streams in the plan change area;⁹⁶
 - (iii) An assessment from an ecological perspective of the alternative roading connections and rezoning proposed by PNIIRD;⁹⁷
- (d) Ms Baugham (Stormwater);
- (i) Outlining how geotechnical and stormwater management constraints are dealt with in the proposed provisions,

⁸⁹ Supplementary Statement of Harriet Fraser (11 March 2024) at [7]–[13].

⁹⁰ At [15]–[16].

⁹¹ At [36]–[37].

⁹² At [17]–[29].

⁹³ At [30]–[33].

⁹⁴ At [34]–[35].

⁹⁵ Supplementary Statement of Adam Forbes (11 March 2024) at [7]–[11].

⁹⁶ At [12].

⁹⁷ At [18]–[20].

including some discussion of the siting of some stormwater management features;⁹⁸

- (ii) An assessment from a stormwater engineering perspective of the impact of removing raingardens from certain road cross-sections proposed in the PCG provisions;⁹⁹
 - (iii) An assessment from a stormwater perspective of the rezoning proposed by PNIRD;¹⁰⁰
- (e) Mr Phillips (Parks and Reserves);
- (i) A list of the existing and proposed reserves in the plan change area, including their location, size, and acquisition history;¹⁰¹
 - (ii) The location of Reserve #2, and the reserve coverage arising from the alternative options;¹⁰²
 - (iii) Confirmation of the priority for completing the walkways between reserves;¹⁰³
- (f) Mr Hudson (Landscape);
- (i) An assessment from a landscape perspective of the rezoning and alternative roading connections proposed by PNIRD;¹⁰⁴
 - (ii) A discussion of the potential effects from proposed works in the Conservation and Amenity Zone on landscape and natural character values;¹⁰⁵
- (g) Mr Bird (Geotechnical);

⁹⁸ Supplementary Statement of Reiko Baugham (11 March 2024) at [7]–[17].

⁹⁹ At [18]–[21].

¹⁰⁰ At [22]–[35].

¹⁰¹ Supplementary Statement of Aaron Philips (11 March 2024) at section C.

¹⁰² At section D.

¹⁰³ At section F.

¹⁰⁴ Supplementary Statement of John Hudson (11 March 2024) at [6]–[19].

¹⁰⁵ At [23]–[27].

- (i) An assessment from a geotechnical perspective of the rezoning and alternative roading connections proposed by PNIRD;¹⁰⁶
- (h) Ms Allen (Feasibility);
 - (i) Confirming the feasibility of medium density development in the medium to long term, and the housing typologies considered in the feasibility assessment;¹⁰⁷
 - (ii) How the feasibility assessment accounted for the potential for needing to remedy uncontrolled fill on development sites (or for other site remediation);¹⁰⁸
- (i) Mr Burns (Urban Design);
 - (i) Outlining the changes to the structure plan and precinct plan;¹⁰⁹
 - (ii) Outlining the changes to the street cross-sections in response to requests from Mr Teo-Sherell (submitter 43);¹¹⁰
 - (iii) A discussion of the suitability of the Medium Density Village Area for detached housing;¹¹¹
- (j) Ms Copplestone (Planning);
 - (i) Confirming the changes to the structure plan and precinct plan discussed through the hearing in response to the Panel's questions;¹¹²

¹⁰⁶ Supplementary Statement of Eric Bird (11 March 2024) at sections C–F.

¹⁰⁷ Supplementary Statement of Ruth Allen (11 March 2024) at [7]–[16].

¹⁰⁸ At [17]–[18].

¹⁰⁹ Supplementary Statement of Andrew Burns (11 March 2024) at Table 1 and section D.

¹¹⁰ At section E.

¹¹¹ At [14]–[20].

¹¹² Supplementary Statement of Anita Copplestone (11 March 2024) at [9]–[21].

- (ii) Confirming PCG's medium density requirements for the village area are mandatory, rather than just enabled, and that this is effective and efficient;¹¹³
- (iii) An assessment of the options for delivering the necessary transport interventions, including the RDIS matters of discretion and a commentary on Mr Thomas' 15 December 2023 planning opinion on his non-regulatory option for delivering transport infrastructure;¹¹⁴
- (iv) An assessment of how the objectives and policies of the proposed provisions manage the geotechnical and stormwater effects of development so as to provide for integrated management of the gully network, and whether this approach is appropriate;¹¹⁵
- (v) A further s 32AA analysis of the provisions now proposed by Council.¹¹⁶

J. Summary

[97] The Panel can conclude that PCG satisfies the relevant provisions of the RMA and gives effect to the relevant higher order documents. There are no impediments to development of the plan change area that have not been addressed, and the plan change is considered to be the most appropriate way to achieve sustainable management of natural and physical resources.

Dated: 11 March 2024



Shannon Johnston / Alex Sinclair
Counsel for Palmerston North City Council

¹¹³ At [125]–[130].

¹¹⁴ At [116]–[124].

¹¹⁵ At [53]–[59] and [131]–[138].

¹¹⁶ At Annexure 3.