



**PAPAIOEA
PALMERSTON
NORTH
CITY**

PALMERSTON NORTH CITY COUNCIL

AGENDA

HEARING BY COMMISSIONER

9AM, THURSDAY 2 JUNE & FRIDAY 3 JUNE 2022
COUNCIL CHAMBER, FIRST FLOOR, CIVIC ADMINISTRATION BUILDING
32 THE SQUARE, PALMERSTON NORTH

MEMBERS

**Independent Commissioner David McMahon
Commissioner Brent Barrett
Commissioner Aleisha Rutherford**

AGENDA ITEMS, IF NOT ATTACHED, CAN BE VIEWED AT

pncc.govt.nz | Civic Administration Building, 32 The Square
City Library | Ashhurst Community Library | Linton Library

Chris Dyhrberg

Acting Chief Executive | PALMERSTON NORTH CITY COUNCIL

PALMERSTON NORTH CITY COUNCIL

HEARING BY PANEL

Thursday 2 and Friday 3 June 2022, 9.00 am

ORDER OF BUSINESS

Note: All pre-circulated evidence is also available for viewing on the Palmerston North City Council website – [Proposed Whiskey Creek residential area private plan change | Palmerston North City Council \(pncc.govt.nz\)](https://www.pncc.govt.nz/Proposed-Whiskey-Creek-residential-area-private-plan-change).

1. **Hearing of a proposed Whiskey Creek residential area private plan change I request to rezone land at 611 Rangitikei Line.**

- | | |
|------------------------------------|----------------------|
| a) Notice of hearing | Link |
| b) Hearing Procedure Sheet | Page 7 |
| c) Overview of the Hearing process | Page 11 |
| d) Hearing schedule | Page 13 |
| e) Commissioner's Minute 1 | Link |
| f) Commissioner's Minute 2 | Link |

To consider the following:

(i) **Flygers Investment Group Ltd (Applicant/Requestor)**

- | | |
|--|----------------------|
| a) Private Plan Change Request for Whiskey Creek Residential area | Link |
| b) Appendix 1 | Link |
| c) Appendix 2 | Link |
| d) Appendix 3 | Link |
| e) Appendix 4 | Link |
| f) Appendix 5 | Link |

- g) Appendix 6 [Link](#)
- h) Appendix 7 [Link](#)
- i) Appendix 8 [Link](#)
- j) Appendix 9 [Link](#)
- k) Appendix 10 [Link](#)
- l) Appendix 11 [Link](#)
- m) Appendix 12 [Link](#)

n) Applicant's expert legal, technical and planning evidence

- o) Evidence of Andrew Burns (Urban Design) [Link](#)
- p) Evidence of Dan Males (Landscape) [Link](#)
- q) Evidence of Grant Higgins (Requestor) [Link](#)
- r) Evidence of Harriet Fraser (Transportation) [Link](#)
- s) Evidence of Kevin Judd (Services and Earthworks) [Link](#)
- t) Evidence of Nigel Lloyd (Noise) [Link](#)
- u) Evidence of Paul Mitchell (Stormwater Management) [Link](#)
- v) Evidence of Paul Thomas (Planning) [Link](#)
- w) Evidence of Philip Wallace (Flood Issues) [Link](#)

(ii) Submissions

- Submitter SO-01 Marion J Anderson [Link](#)
- Submitter SO-02 Edward Anderson* [Link](#)
- Submitter SO-03 Paula Eyres [Link](#)
- Submitter SO-04 Flyers Investment Group Ltd [Link](#)
- Submitter SO-05 Peter D Jones [Link](#)
- Submitter SO-06 Joshua Thompson [Link](#)
- Submitter SO-07 Michele Mitchell [Link](#)
- Submitter SO-08 Palmerston North City Council [Link](#)
- Submitter SO-09 Barney & Rose Hyde [Link](#)
- Submitter SO-10 Brian S McPherson [Link](#)
- Submitter SO-11 Michael McCavana* [Link](#)
- Submitter SO-12 Maureen A Haddock [Link](#)
- Submitter SO-13 Michael G Hermansen* [Link](#)
- Submitter SO-14 Ngāti Tūranga Hapū* [Link](#)
- Submitter SO-15 Anthony B & Carolyne A Cade* [Link](#)

Submitter SO-16 David John Setter	Link
Submitter SO-17 Waka Kotahi NZ Transport Agency	Link
Submitter SO-18 Horizons Regional Council*	Link
Submitter SO-19 MidCentral District Health Board*	Link
Submitter SO-20 John & Raewyn Anderson*	Link
Submitter SO-21 Anne Judith Milne*	Link
Submitter SO-22 Sally M Rasmussen*	Link
Submitter SO-23 Heritage Estates 2000 Limited (HEL)*	Link
Submitter SO-24 First Gas Limited	Link
Submitter SO-25 Brian Kouvelis	Link
Submitter SO-26 Irene G Hamilton	Link

(Note: Those identified with an asterisk, indicated their wish to be heard at the hearing.)

Submitter FS-1 Edward & Marion Anderson	Link
Submitter FS-2 Sally M Rasmussen	Link

(iii) Palmerston North City Council

Section 42a Report of Marz Asgar (Planning)

Appendix A: Modifications to the Whiskey Creek Plan Change as Recommended in the S42A Report	Link
Appendix B: Summary of Recommendations in relation to the Whiskey Creek Plan Change Decisions Requested by Submitters	Link
Appendix C: Strategic Planning Evidence by Michael Duindam	Link
Appendix D: Stormwater & Flooding Evidence of Tim Preston	Link
Appendix E: Geotechnical Review from Eleni Gkeli and Ioannis Antonopoulos	Link
Appendix F: Noise Review from Bill Wood	Link
Appendix G: Transport Engineering Review from Chris Rossiter	Link
Appendix H: Infrastructure Services Assessment from Jaques Mik	Link
Appendix I: Parks and Recreation Assessment from Aaron Phillips	Link

(iv) Right of Reply of Applicant

2. Exclusion of Public

The Chair will reserve the right to adjourn the meeting to deliberate on the decision

Information Concerning Procedure for a Hearing

This information is for the assistance of persons participating in a hearing.

1. Engagement of Counsel

You can present your own case, but if you wish you can engage legal counsel or any other person to appear on your behalf.

2. Public Hearings

All hearings are public, and the media and members of the public are entitled to be present. This also means that any evidence provided during the process, the Minutes of the hearing and the Decision of the Committee will be published on the Council website and remain publicly available.

However, the Committee may hold any part of the hearing in private and has the power to make an order to protect sensitive information. (*See paragraph 14 below*).

3. Hearings Committee or Commissioner Conducting the Hearing

The Council has delegated the conduct of the Hearing and the power to make a final decision to the Hearings Committee or a Commissioner. A Commissioner will conduct the hearing if the Council has an interest in the application or if the appointment of a Commissioner has been requested by the Applicant pursuant to section 100A of the Resource Management Act 1991.

4. Agenda

An agenda for the Hearing will be sent to you before the Hearing. The agenda lists generally the order of the day although there may be some variation to this. The agenda will also include pre-circulated evidence. (*See paragraph 6 below*).

5. Attendance of Parties

Unless you have previously sought and been granted an adjournment of the hearing, if you do not or are unable to attend the Hearing, the Hearings Committee or Commissioner may proceed and make decisions in your absence.

6. Preparation of Evidence

Directions of the Commissioner regarding pre-circulation of evidence are set out in Minute # 2 of Commissioner distributed on 13 September 2021.

For all reports and evidence that are pre-circulated before the hearing, the Hearings Committee or Commissioner may decide that the evidence be taken as read or that you may elaborate on principal points. In this case, there would be no need for this evidence read in full. You will not be obliged to elaborate any further unless asked to.

However, if your evidence is written but is tabled for the first time at the hearing, your evidence must be read in full by yourself or by your representative. You should also have 5 copies of your evidence available for distribution by the Democracy & Governance Administrator, to the Hearings Committee or Commissioner, other parties, the Planning Officers and the media.

It would assist the Hearings Committee or Commissioner if you prepare a written copy of your evidence. It is not necessary to produce copies of the original submission itself as the Hearings Committee or Commissioner will have been previously supplied with this.

The Planning Officers' evidence for the Council will be circulated to the parties with the agenda prior to the Hearing. Other evidence given to the Council before the hearing will be circulated to the parties when it becomes available.

7. Content of Evidence

Parties may elaborate on points they have already raised in their original or further submission.

Where it is considered that there is likely to be excessive repetition, the Chairperson of the Hearings Committee or Commissioner may limit the circumstances in which parties having the same interest may speak or present evidence.

8. Venue for the Hearing

The Hearing will be held at the Council Chamber which is situated on the first floor of the Civic Administration Building, Te Marae o Hine, 32 The Square, Palmerston North (unless otherwise stated). Please note that access is via the automatic doors on Te Marae o Hine - The Square side of the roadway where our Customer Service Centre is situated. There are stairs and a lift to the first floor on the right as you enter the building.

9. Evidence

The Hearings Committee or Commissioner may require evidence given at the Hearing to be on Oath or Affirmation. Any pre-circulated evidence may also be required to be sworn whether it is read or taken as read.

If a witness is unable to attend the hearing, the Hearings Committee or Commissioner has the discretion to accept evidence in the form of an affidavit. An affidavit must be in writing, sworn before a solicitor, Justice of the Peace or other authorised officer, and should also set out the reasons why the witness is unable to attend the hearing in person.

10. Cross-Examination

There is no right to cross-examination. This means that the parties do not have the right to address questions to other parties, or to the Hearings Committee or Commissioner. The Hearings Committee or Commissioner may, however, question any party concerning their submission or evidence.

11. Conduct of the Hearing

At the start of the Hearing, the Chairperson of the Hearings Committee or the Commissioner will introduce the Panel or Commissioner, if appropriate, and staff members present and will briefly outline the hearing procedure.

The following order of appearance will usually apply:

- The Applicant and witnesses;
- Submitters;
- The Planning Officers for Palmerston North City Council;
- The applicant, who has a right of reply.

12. Tikanga Maori

Tikanga Maori is recognised where appropriate and the Hearings Committee or Commissioner will receive evidence written or spoken in Maori. Directions of the Commissioner on this are set out in Minute # 2 of Commissioner distributed on 13 September 2021.

13. Visual Aids

If you wish to use a data projector, video, whiteboard, pin-up board or a similar aid, please contact the Democracy & Governance Administrator no later than two days before the Hearing so that arrangements can be made.

14. Sensitive Information

The Hearings Committee or Commissioner may make an order to protect sensitive information. The reasons for which such an order can be made, and the consequences, are detailed in Section 42 of the Resource Management Act 1991.

15. Adjournment of the Hearing

The Hearings Committee or Commissioner has the power to adjourn the Hearing.

16. Decision of the Hearing

After the Hearings Committee or Commissioner has heard the evidence and submissions, it will usually declare the Hearing closed and will leave the Council Chamber to consider its decision. All parties will be advised in writing of the decision on the objection and the reasons for those decision.

17. Additional Information

After the Hearings Committee or Commissioner has reserved the decision, further details of information from any party involved in the proceedings may be requested. If this happens, all parties will be circulated with copies of the additional information obtained and will be given the opportunity to comment before the Hearings Committee or Commissioner makes a final decision.

18. Appeals against Council Decision

Any person who has made an application, objection or submission has a right of appeal to the Environment Court. Such appeal may be against the whole or any part of the decision. The time within which the right of appeal to the Environment Court must be exercised is within 15 working days of notice of the decision being received in accordance with the Resource Management Act 1991.

Because the appeal procedure is more involved than the initial Hearing, it is suggested that parties consult a solicitor if they wish to appeal.

19. Variation of Procedure

The Hearings Committee or Commissioner may, at their sole discretion, vary the procedures set out above if the circumstances indicate that some other procedure would be more appropriate.

20. General

You should not endeavour to contact members of the Hearings Committee or Commissioner. However, a staff member of the Council, on behalf of the Hearings Committee or Commissioner, may contact you to arrange an inspection of any property affected by the application. In this event, do not discuss the case with them.

PALMERSTON NORTH CITY COUNCIL
PRIVATE PLAN CHANGE REQUEST FOR WHISKEY CREEK RESIDENTIAL AREA AT
611 RANGITIKEI LINE, PALMERSTON NORTH

OUTLINE OF PROCESS

The process following the Pre-hearing meeting will follow the following lines:

1. Minute/notes from the Prehearing circulated to parties - no date specified in Minute 2 but suggest no later than 9 May (and earlier if possible)
2. Circulation of s42A report – 11 May
3. Expert evidence to be called by Requestor – no later than 18 May.
4. Expert evidence called by submitters – 25 May.
5. Hearing to commence on 2 June

Between 4 May and 2 June – there is an unfettered opportunity for any parties (Council, Requestor and Submitters) to undertake ‘one on one’ liaison on a voluntary basis (refer para 6 of Minute 2). Any agreements reached can be included in a memorandum.

Before the hearing, the Hearing Administrator will contact all parties, and particularly submitters, to ascertain how much time is required to present their submission to the Panel.

The Panel will also undertake site visits as requested

For the hearing, the following process is proposed and is based on all expert evidence having been pre-read by the Panel in advance of the hearing. Expert witnesses will be given the opportunity to provide a brief “highlights” package (preferably in writing and say 2 pages) of the content of their evidence with an emphasis on any unresolved matters. The Panel will then ask any questions of clarification of each witness.

Submitters presenting on their own behalf (i.e. without any expert witnesses) do not need to pre-circulate their written statements (but can do so if they wish). They are able to read the statements on the day the hearing. The Panel will then ask any questions of clarification of each submitter.

The sequence for the hearing/post hearing process is as follows:

Hearing Process

- a. Introduction by the Panel including:
 - a. Panel member introductions and delegated functions
 - b. Any procedural issues
 - c. Housekeeping arrangements/health and safety
 - d. Summary of key issues for the hearing
- b. Section 42A author (scene setting only/no evaluation at this point)

Limited to a brief factual presentation of the plan change proposal and statutory process followed up until the hearing

- c. Requestor's presentation comprising:
 - Legal submissions (if any)
 - Technical witnesses
 - Planning evidence
- d. Submitters (in predetermined order based on discussions with Hearing Administrator)
NB submitters are encouraged to liaise amongst each other and where appropriate can present jointly with other submitters who are raising common concerns/matters
- e. S42A Council Reporting Team comprising:
 - Legal submissions (if any)
 - Technical witnesses
 - Planning evidence
- f. Right of Reply (RoR) by Requestor
Limited to matters raised during course of the hearing (i.e. no new evidence permitted)
RoR may be delivered in writing post adjournment of hearing if appropriate

Post hearing process

- a. Hearing adjournment to enable the Panel to:
 - undertake further site visits (where necessary)
 - Determine whether any further information is required amend to request such with a timeframe for response
 - Determine whether to reconvene the hearing to hear any further information or to close try hearing
- b. Panel deliberations to:
 - Determine the contested issues
 - Prepare a recommended decision report to be presented to the Council for final decision.
- c. Council resolution on Panel recommendation / adopt or reject recommendation as Council decision
 - Decision sent to all parties
 - Appeal period of 30 working days.

HEARING BY PANEL

WHISKEY CREEK PROPOSED PRIVATE DISTRICT PLAN CHANGE - PALMERSTON NORTH

HEARING SCHEDULE

Thursday 2 June and Friday 3 June 2022

Please note that these are only indicative presentation times for all participants. Times are subject to change. The hearings administrator will be in contact with submitters being heard to give updates on the hearing progress.

Thursday 2 June 2022 – Day 1		
8.30am – 5.00pm	Committee Room 1 available all day for Commissioner and other panel members for meetings before the hearing, and lunch and tea breaks throughout the day.	
9.00 – 9.15 am	Panel opening	Introductions, administration/procedural issues, housekeeping/ health and safety, and opening comment from the Chair.
9.15 – 9.30 am	PNCC - Section 42A	Scene setting / brief presentation of the plan change proposal and statutory process followed up until the hearing.
9.30 – 10.30 am	Applicant / Requestor - Morgan Slyfield - Legal	
10.30 – 10.45 am	Morning tea break	
10.45am – 1.00pm	Applicant <ul style="list-style-type: none"> - Grant Higgins – Company - Andrew Burns – Urban Design - Dan Males – Landscape - Philip Wallace – Flood Modelling - Paul Mitchell – Stormwater - Kevin Judd – Earthworks and Services 	Grant Higgins - Present at the Chambers requested 10 mins Andrew Burns – Present at the Chambers requested 30 mins Philip Wallace – Present at the Chambers requested 30 mins Kevin Judd - Present at the Chambers requested 30 mins Paul Mitchell and Dan Males attending online requested 30 mins and 15 mins respectively.

1.00 – 2.00pm	Lunch	
2.00 – 2:45pm	Applicant - Harriet Fraser – Transportation - Nigel Lloyd – Noise	Online presentations requested 15 and 30 mins respectively
2:45 – 3.00 pm	Afternoon tea break	
3.00 – 3:45 pm	Applicant - Paul Thomas Planning	Present at the Chambers requested 45 mins
4:00 pm	Submitters - Sally Rasmussen (SO-22) - Michael McCavana (SO-11)	Present at the Chambers requested 15 mins Present at the Chambers requested 15 mins
5.00pm	End of Day	
Friday 3 June 2022 – Day 2		
8.30 – 5.00pm	Committee Room 1 available all day for Commissioner and other panel members for meetings before the hearing, and lunch and tea breaks throughout the day.	
	Submitters	Time requested
9.00 – 11.00 am	Ngāti Tūranga Hapū (SO-14)	Present at the Chambers – 1 hour approx.
	Edward Anderson (SO-2)	Present at the Chambers- Requested time TBC
	MidCentral District Health Board (SO-19)	TBC
	Michael G Hermansen (SO-13)	Present at the Chambers – Requested 5-6 mins
	SO-15 Anthony B & Carlyne A Cade	Present at the Chambers – Requested 30 mins
11.00 – 11.15 am	Morning tea break	
11.30 – 12.30 pm	Horizons Regional Council (SO-18)	Present at the Chambers – Requested time TBC
	John & Raewyn Anderson (SO-20)	Present at the Chambers- Requested 20-30 mins

	Anne Judith Milne (SO-21)	Present at the Chambers- Requested 10-15 mins
12.30 – 1.30pm	Lunch	
1.30 – 2.30 pm	Heritage Estates 2000 Limited (HEL) - Amanda Coats (SO-23)	Present at the Chambers – Requested 1 hour to present expert report (TBC)
2.30 – 2:45 pm	Afternoon tea break	
2.45 – 3.45 pm	Council Reporting Team – s42A Report - Marz Asgar - Michael Duindam	Present at the Chambers – Requested 1 hour to present expert report (TBC)
4.30 pm	End of day	