

**BEFORE THE PALMERSTON NORTH CITY COUNCIL
INDEPENDENT HEARINGS PANEL**

UNDER

the Resource Management Act 1991

IN THE MATTER

a proposed plan change to rezone land at 611
Rangitikei Line to establish the Whiskey Creek
Residential Area

**STATEMENT OF EVIDENCE OF AMANDA COATS ON BEHALF
OF
HERITAGE ESTATES (2000) LIMITED ("HEL")
Dated 25 May 2022**

INTRODUCTION

1. My name is Amanda Michele Coats
2. I hold the following qualifications:
 - a) Bachelor of Building Science.
 - b) Bachelor of Architecture.
 - c) Diploma of Business Administration.
 - d) Registered Architect status under the Architects Act 2005; and
 - e) Postgraduate Diploma in Planning with Merit
3. I am a Fellow and Member of the New Zealand Institute of Architects (“**FNZIA**”), an Associate Member of the New Zealand Planning Institute (“**NZPI**”), a member of the New Zealand Association for Impact Assessment (“**NZAIA**”), the Resource Management Law Association (“**RMLA**”), and I am a signatory to the Ministry for the Environment (“**Mfe**”) Urban Design Protocol. I have accumulated over 20 years’ experience in the inter-related fields above and Project Management of various matters relating to the Resource Management Act 1991.
4. I am here in my capacity as Project Manager on behalf of Heritage Estates (2000) Limited (“**HEL**”) to present evidence on their behalf in relation to submission (**S0-23**) on planning matters on the proposed plan change to rezone land at 611 Rangitikei Line to establish the Whiskey Creek Residential Area, and to assist the hearings panel.
5. I have read the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note 2014¹. I have prepared my evidence per the code and agree to further comply with this code of conduct. This evidence is within my area of expertise except where I refer to what I have been told by another person or where I defer to other experts. I have not failed to consider material facts known to me that might alter or detract from the opinions expressed.

¹ Part 5 of the Court's practice note has been updated in 2022

BACKGROUND INFORMATION FOR THE PANEL - TRANSPARENCY

6. HEL is involved with the Pioneer City West Limited Proposed Private Plan Change B² (“PCWL-PPCB”) downstream of the Whiskey Creek Private Plan Change Area, and any effects of the Whiskey Creek plan change on the Lower Manawatu Drainage Scheme and Taonui Basin affect PCWL-PPCB land. The PCWL-PPCB land resides within the 2010 Anders Road and Racecourse (City West) Growth Area adopted by Council as the preferred residential growth area³ for Palmerston North in 2010. PCWL-PPCB was accepted by the Council and notified in 2013 and in 2022 PCWL-PPCB.
7. PCWL-PPCB has been anticipated by Council for many years⁴, far longer than the Whiskey Creek Private Plan Change, see SOE- Michael Duridan at paragraph [15] *Council’s strategic direction over the past decade has determined that urban growth should take place in Whakarongo in the short-term and that long-term growth be accommodated in Kākātangiata (formerly referred to as City West).* Its land holding is identified in the 2018 City Development Strategy, 2018 Infrastructure Strategy, 2018-2028 Long Term Plan and the 2019 Housing and Business Needs Assessment. More recently, it was acknowledged in the 2021 Long Term Plan and accompanying strategic documents and is within the Councils proposed Kākātangiata Plan Change residential area, referred to in other evidence before this hearing, see the SOE-Michael Duridan at paragraphs [7] & [8] for instance.
8. The operative district plan zones PCWL-PPCB land as **rural** and includes its land in Map 9.2 City West-Potential Residential Growth Area⁵.

² <https://www.pncc.govt.nz/Council-city/Official-documents/District-Plan/Private-Plan-Change-B>

³ 2010 Residential Growth Strategy

⁴ My earliest involvement with PCWL-PCB was circa 2007, the consultant team for the requestor liaised with PNCC throughout 2008-2009 before lodging the application in June 2009, that application was 30 October 2009, prior to the Councils acceptance of PCWL-PCB.

⁵ Inserted into the Operative District Plan as an outcome of PNCC PC-C Kikiwhenua, see page 42 RURAL ZONE | SECTION 9 | Palmerston North City Council District Plan

SUMMARY OF EVIDENCE

9. My statement of evidence will speak to the HEL submission:
 - a. The HEL submission
 - b. Inconsistency with previous PNCC planning committee recommendations and council decisions that directly affect the submitter.
 - c. Why the mandatory definitions of the national planning standards should be considered as part of this plan change if it is approved.
 - d. Section 5, 6 & 75 of the RMA and whether the proposal should be approved.

THE HEL SUBMISSION

10. Heritage Estates (2000) Limited (“HEL”) are submitter (S0-23). They said:

HEL considers that the proposed plan change is inconsistent with aspects of the Councils previously adopted residential growth (and other strategies) and various long term infrastructure projects adopted in the PNCC including in the Long Term (10-Year) Plan. HEL acknowledges that the Council is faced with several regulatory changes including the Government direction on the Three Waters Reforms <https://www.dia.govt.nz/Three-waters-review> with a flow on effect to the Nature Calls Project, the mandatory requirements to amend the Operative District Plan due to the National Planning Standards and the National Policy Statements, all of which must be considered in the rezone of land under this proposed plan change.

HEL conditionally supports the plan change as the technical reports and Section 32 report demonstrate that the landowner can mitigate the effects of the plan change on the environment even in the absence of resolution of the Governments direction on Three Waters Reforms.

HEL supports the inclusion of the mandatory definitions of the National Planning Standards in the text of the operative district plan – Proposed Whiskey Creek residential area private plan change.

However, HEL opposes the plan change, and seeks the primary relief that the proposed plan change should be declined where the effects of the plan change on the environment are greater than those demonstrated by the notified documents and where any aspect of the assessment (the s32 or supporting technical reports) are found to be incorrect as an outcome of further submission, or of evidence, or through additional information provided at the Council hearing.

11. The Council's summary of original submissions notified by the Council includes three points 1-3.

Submission point Number	Plan Provision	Support/oppose	Reasons	Decision Requested Number	Decision Requested
S23 Heritage Estates 2000 Ltd					
S23/1		Conditional support.	The plan change is inconsistent with Council's residential growth and long term infrastructure projects.		Supports with conditions.
S23/2			Supports the inclusion of the mandatory definitions from the National Planning Standards.		Supports with conditions
S23/3			Opposes the plan change where the effects of the plan change are greater than those demonstrated by the notified documents or where information is found to be incorrect.		Supports with conditions

12. The Council's Summary of Recommendations before the commissioners references two points 1 & 3 and is silent on point 2.

Submission point	Plan Provision	Support/oppose	Reasons	Decision Requested	Relevant s42A Section	Planners Recommended Decision
SO23 – Heritage Estates 2000 Ltd						
S23/1	All	Conditional support.	The plan change is inconsistent with Council's residential growth and long-term infrastructure projects.	Supports with conditions	Overview - Strategic context	Accept in part
S23/3	All	Conditional support	Opposes the plan change where the effects of the plan change are greater than those demonstrated by the notified documents or where information is found to be incorrect.	Supports with conditions	Entire report	Accept in part

13. The s42A report mentions SO23 in a table on page 7, as a submission offering "conditional support" but does not otherwise refer to the HEL submission.

S23/1 HEL considers that the proposed plan change is inconsistent with aspects of the Councils previously adopted residential growth (and other strategies) and various long term infrastructure projects adopted in the PNCC including in the Long Term (10-Year) Plan.

14. Refer to paragraphs 6 & 7 PCWL-PPCB, the Submitter considers that PCWL-PPCB is another relevant matter in terms of consistency of previous PNCC planning committee recommendations and council decisions that directly affect the submitter and application of the National Policy Statement-Urban Development 2020 ("NPS-UD") before this hearing.

S23/2 HEL supports the inclusion of the mandatory definitions of the National Planning Standards in the text of the operative district plan – Proposed Whiskey Creek residential area private plan change.

15. The HEL submission supports the inclusion of the mandatory National Planning Standards⁶ in the text of the operative district plan - Whiskey Creek Private Plan Change. The Whiskey Creek plan change has relied on the former PNCC Plan Change C⁷ Kikiwhenua plan change, promoted in 2018 and proposes to insert Map 7A.3 into the district plan as part of Section 7A: Greenfield Residential Area.

16. Planning is a progressive discipline and the National Planning Standards set the mandatory direction which future operative district e-plans will follow. Both the Whiskey Creek Private Plan Change and Kikiwhenua plan changes were promoted prior to the national planning standards coming into effect. Whiskey Creek was notified and is being heard after they came into effect and the national planning standards have more relevance in the Panel's decision making today. Under the national planning standards Whiskey Creek would naturally fit in the **Precincts (Multi-Zone) section** of the ODP rather than in Section 7A: Greenbelt Residential. This is because the Whiskey Creek proposal is for **Multi-Zones** (18 hectares of Rural Area, 10 hectares of conservation and amenity area and 13 hectares of residential area).

17. Section 7A: Greenbelt Residential contains Whakarongo⁸ and Kikiwhenua⁹. These areas have a primary residential activity for the rezoned land. Conversely less than 32% of the Whiskey Creek proposal is proposed as a residential zone. I would support the Whiskey Creek Plan Change (if the decision approves it) being inserted into a **new ODP Chapter Precincts (Multi-Zone)** and in a more consistent manner to that referenced in the national planning standards, rather than by attempting to embed a non-residential structure plan without the flexibility for good outcomes into Section 7A of the plan. There is no "*Greenbelt Residential*" zone in the national planning standard zones.

⁶ Ministry for the Environment, November 2019 *National Planning Standards* pursuant to RMA1991 section 58G First Set of national planning standards. Section 58G: inserted, on 19 April 2017, by section 50 of the Resource Legislation Amendment Act 2017 (2017 No 15).

⁷ Made operative 18 January 2021

⁸ Former PNCC Rolling District Plan Change 6

⁹ Former PNCC Plan Change C

18. The District Spatial Layer Standard, Table 18¹⁰ gives the function of Zones:

A zone spatially identifies and manages an area with common environmental characteristics or where environmental outcomes are sought, by bundling compatible activities or effects together, and controlling those that are incompatible.

The location of spatial layer provisions is then contained in the Zone Chapters or Sections of the plan, whereas the function of Precincts is given as:

A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s).

The location of spatial layer provisions for a precinct are treated differently in the national planning standards, if the underlying precinct spatial layer applies to only one zone, the precinct is referenced in the associated zone chapter or section, if the underlying precinct spatial layer applies to multiple zones, then the layer provisions for the precinct is included in the multi-zone precincts chapters.

19. There are specific mandatory definitions from the national planning standards (listed below) that are not in the operative district plan, but are relevant, and helpful to the interpretation of the Whiskey Creek Private Plan Change, they are:

- a. Freshwater

fresh water	has the same meaning as in section 2 of the RMA (as set out in the box below) means all water except coastal water and geothermal water.
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- b. Green infrastructure

¹⁰ Ministry for the Environment, November 2019 *National Planning Standards*

green infrastructure	means a natural or semi-natural area, feature or process, including engineered systems that mimic natural processes, which are planned or managed to: <ul style="list-style-type: none"> (a) provide for aspects of ecosystem health or resilience, such as maintaining or improving the quality of water, air or soil, and habitats to promote biodiversity; and (b) provide services to people and communities, such as stormwater or flood management or climate change adaptation.
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c. Groundwater

groundwater	means water occupying openings, cavities, or spaces in soils or rocks beneath the surface of the ground.
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d. Land disturbance

land disturbance	means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) that does not permanently alter the profile, contour or height of the land .
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e. Peak particle velocity

peak particle velocity	means, to the extent used for the assessment of the risk of structural damage to a fixed structure , the instantaneous maximum velocity reached by a vibrating surface as it oscillates about its normal position.
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f. Primary production

primary production	means: <ul style="list-style-type: none"> (a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and (b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); (c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but (d) excludes further processing of those commodities into a different product.
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g. Noise rating level

noise rating level	means a derived noise level used for comparison with a noise limit.
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h. Natural hazard

natural hazard	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.</p> </div>
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i. Natural and physical resources

natural and physical resources	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>Includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.</p> </div>
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j. Residential activity

residential activity	means the use of land and building(s) for people's living accommodation.
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k. Reclamation

reclamation	<p>means the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area, and:</p> <ul style="list-style-type: none"> (a) includes the construction of any causeway; but (b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land.
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l. Wetland

wetland	<p>has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.</p> </div>
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20. Many of the statements of evidence before the Panel refer to these terms (or similar terms) in reference to the Whiskey Creek Plan Change. I ask the Panel to consider their inclusion in support of this plan change.

S23/3 HEL However, HEL opposes the plan change, and seeks the primary relief that the proposed plan change should be declined where the effects of the plan change on the environment are greater than those demonstrated by the notified documents and where any aspect of the assessment (the s32 or supporting technical reports) are found to be incorrect as an outcome of further submission, or of evidence, or through additional information provided at the Council hearing.

21. The s32 provides that the adverse effect of flooding and liquefaction (natural hazards) can be fully mitigated and the land subject to the Whiskey Creek Plan Change is suitable for the three zones proposed.
22. There are four pieces of legislation that are key to influencing natural hazards management:
 1. The Resource Management Act 1991
 2. The Building Act 2004
 3. The Local Government Act 2002; and
 4. The Civil Defence Emergency Management Act 2002.

Section 5 of the RMA sets out the sustainable management purpose of the RMA where both the *“well-being”* and *“health and safety”* elements of this purpose have relevance for natural hazard planning. Section 6 of the RMA sets out matters of national importance includes that land management in decision making includes *“the management of significant risks from natural hazards”*. Section 7(i) of the RMA requires that PNCC must have regard to the effects of climate change in exercising its functions under the Act. In this context, this means that PNCC must consider the effects that climate change may have on the frequency or severity of natural hazards. Section 75 of the RMA requires District Plans to *‘give effect to’* the RPS provisions of the One Plan and *“not be inconsistent with”* the Regional Plan provisions of the One Plan.

23. I am aware through my involvement with the submitter through the PNCC Rolling District Plan review, that the PCWL-PPCB land downstream of Whiskey Creek is accepted by both Horizons and PNCC as being free of the effects of any flooding. Mr

John Philpott presented evidence on PNCC's Plan Change 15D.¹¹ I understand that the outcome of Mr Philpott's evidence removed the flood prone areas from the PNCC Planning Maps in the operative district plan.

24. Having reviewed the expert evidence of Council and the Requestor I am not satisfied that there is no **adverse flow on effects** in terms of **increased flood level downstream** of the Whiskey Creek Proposed Plan Change, or that the effects are fully mitigated, this is chiefly due to the SOE Mr Marzuq Asgar, at paragraph 7.1

*7.1 That Whiskey Creek Plan Change is accepted, **excluding the proposal to remove the Flood Prone Area overlay from the site** and with the modifications set out in Appendix A. [emphasis added underlined and bold]*

25. My primary concern with the Whiskey Creek Private Plan Change arises from the expert SOE Mr Timothy Preston for Palmerston North City Council s42A Report (Stormwater) at paragraphs 2.3-2.5, particularly 2.4 referenced to footnote 1, and 2.5 referenced to footnote 2.

*2.4. I understand that **Horizons have agreed with the applicant that an increase in flood levels of not more than 50mm in the presently rural areas**, and in particular areas southwest from the plan change request and outside of the Palmerston North City Boundary is considered less than minor.¹*

Footnote 1. John Bell, per teleconf 1pm 23/3/2022 with John Bell, Sara Carswell, Cliff Thomas, Veni Demado, Marz Asgar, Reiko Baugham, Tim Preston

2.5 I note that PNCC commented, via email², positively about the mitigation option recommended in the DHI 2019 report, but cautioned that Council would "not allow any increase in discharge to the downstream network at Benmore Avenue" and that they would rely on "...Horizons to ensure the stopbank upgrade works along Benmore Ave will ensure the proposed increase in flood levels (+50mm) under this

¹¹ Dated 14 October 2015 on behalf of Pioneer City West Limited and Heritage Estates (2000) Limited in relation to the land subject to PCWL-PPCB.

development is acceptable and has no adverse impact to the residential line along Benmore Ave”.

Footnote 2. Veni Demado, Activity Manager Stormwater, sent to Kevin Judd (Resonant) on 12/11/2019

26. The evidence does not append or include the minutes of the footnotes referenced to assist the Panel.¹² Based on what various flood analysis and survey experts have advised me on over many years, flood modelling is complex, I note that various documents reference multiple reports and models not in evidence, this makes it difficult for any submitter to obtain peer review technical expert evidence.

27. I am aware through my ongoing work as project manager for HEL that Horizons has advised on PCWL-PPCB that:

Horizons does not support any increase in the rate of stormwater run-off from the site to roadside drains that would adversely impact on the flood flows within the Taonui Basin or other downstream watercourses.¹³

28. The PCWL-PPCB land is zoned *Rural* and the evidence of Mr Preston at paragraph 2.4 highlights that an increase of 50mm is acceptable in the downstream environment. I consider that this is contrary to the advice that PCWL and HEL has received from Horizons on PCWL-PPCB.

29. I therefore conclude that the submitters interest in the land (contained in the City West area shown in Map 9.2 City West-Potential Residential Growth Area, of the Operative District Plan) in the downstream environment is adversely affected by the plan change in a manner that was not anticipated in the notified documents.



Amanda M Coats – 25 May 2022

¹² Or other submitters.

¹³ Horizons Regional Council **Further Submission 1.1**, 28 November 2013 paragraph 2.

<https://www.pncc.govt.nz/Council-city/Official-documents/District-Plan/Private-Plan-Change-B>