

PALMERSTON NORTH CITY COUNCIL
PRIVATE PLAN CHANGE REQUEST FOR WHISKEY CREEK RESIDENTIAL AREA AT
611 RANGATIKEI LINE, PALMESTON NORTH
MINUTE 1 OF INDEPENDENT HEARING PANEL

Introduction

1. This Minute is being sent to you because you are either the Requestor, a submitter or a Council reporting officer to the above private plan change proposal.
2. The general function of this Minute is to set out some preliminary matters in preparation for the hearing, which is likely to be held in **on 2 - 3 June 2022**. All parties will be formally advised directly by the PNCC Hearing Administrator of the hearing date(s) and venue once that is known with certainty.

Background

3. Pursuant to section 34A of the Resource Management Act 1991 ("**RMA**") we have been appointed by Palmerston North City Council ("**PNCC**") to hear, consider and make a decision on the proposed Plan Change by Flygers Investment Group Ltd ("**the Requestor**") to the Operative Palmerston North District Plan ("**the District Plan**"). The Plan Change is a privately requested plan change to rezone approximately 12.9 hectares of land from Rural Zone to Residential Zone and an area of 10 hectares of land adjacent to that from Rural to Recreation Zone to establish the Whiskey Creek Residential Area. The remaining area of the 611 Rangitekei Line site is to retain its current Rural zoning. The Proposed Plan Change seeks to assist in meeting future residential needs of Palmerston North in accordance with the City Development Strategy.
4. As we understand it, the Proposed Whiskey Creek Residential Area Plan Change seeks the following amendments to the District Plan:
 - a. Changes to District Plan Section 4: Definitions
 - i. A new definition for Whiskey Creek Residential Area
 - ii. Include Whiskey Creek Residential Area to Greenfield Residential Area
 - b. Changes to District Plan Section 7A: Greenfield Residential Area
 - i. Include the Whiskey Creek Residential area to Section 7A District Plan Greenfield Residential Areas.
 - ii. Apply the objectives, policies, and rules that address resource management issues common to all Greenfield Residential Areas to the Whiskey Creek Residential Area.

- iii. Introduce the Whiskey Creek Structure Plan (Map 7A.3) to guide future development in the Whiskey Creek Residential Area.
 - iv. Include specific provisions for the Whiskey Creek Residential Area into objectives, policies and rules of Section 7A of the District Plan.
 - c. Changes to District Plan Section 10: Residential Zone
 - i. Include specific provisions the Whiskey Creek Residential Area into objectives, policies and rules.
5. Our objective at this preliminary stage is to establish some procedures to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all the parties in readiness for the formal proceedings.
6. In this respect, this minute covers the following matters:
 - a. a. relevant issues/pre-hearing discussions/expert conferencing;
 - b. b. circulation of evidence;
 - c. c. hearing process and presentations; and
 - d. d. site and locality visits.
7. It is likely that we will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Relevant Issues/Pre-hearing discussions/Expert conferencing

8. With most hearings of this nature, all parties (submitters and s42A reporting officers) are encouraged to engage in constructive discussions where practicable before the hearing commences so as to minimise the range of issues in contention. This may occur through pre-hearing meetings, expert witness conferencing, or other informal exchanges – and all are welcome.
9. Without wanting to prejudge any issues prior to the hearing, it is apparent from our preliminary review of submissions and further submissions that have been lodged that the following matters are relevant and may be worthy of discussion between the parties prior to the hearing commencement:
 - a. Natural Hazard Matters
 - Concerns from submitters regarding the cumulative effects of the proposed flood mitigation measures; and
 - Concerns surrounding the impacts of intensification within a known flood overlay; and

- Questions from submitters regarding potential increased run-off and the capacity of stormwater network; and
- Submitters requesting information on how liquefaction has been addressed.

b. Urban Design Matters

- Concerns from several submitters relating to loss of sunlight and visual/rural amenity.

c. Ecological Matters

- Horizons Regional Council seeks further detail in relation to freshwater and wetland resource consent requirements; and
- Submitters concerned with loss of habitat for wildlife; and
- Concerns from submitters over the loss of versatile soils and productive land; and
- Ngāti Turanga have concerns about the cumulative adverse effects on water quality.

d. Transport Matters

- Concern from several submitters regarding traffic generation and associated safety and congestion effects; and
- Request for more information on the roading upgrade requirements; and
- Waka Kotahi New Zealand Transport Agency requests further information and conditions relating to access, stormwater, parking, state highway noise management, parking, public and active transport.

e. Construction Effects

- Requests from several submitters in relation to noise, dust and vibration effects during construction and how these will be managed.

f. Location and effects of commercial activity

- Alternative locations suggested by submitters for the commercial area; and
- Concerns from several submitters regarding adverse effects of commercial area on residential properties.

10. We are not formally directing the undertaking of, or participation in, formal prehearing meetings, discussions or expert conferencing at this stage. We do, however, encourage pre-hearing liaison and extend that encouragement to any parties prior to the commencement of the hearing. This may include general liaison amongst the parties:

- a. to discuss any procedural or substantive matters (including those referred to in paragraph 9 above);
 - b. for submitters to gain a better understanding of what the proposal entails and what the effects and implications may be; and
 - c. for the Council s42A reporting officers, to better understand what the submitters' concerns are and how they might be accommodated.
11. In order to facilitate this, we would suggest that, prior to the hearing, the Requestor and Council endeavour to meet with submitters to discuss issues raised in submissions and resolve any issues where practicable.¹
12. It may be that, where issues remain unresolved following any pre-hearing meeting(s), some parties may seek to engage experts. If so, then expert witness conferencing on such matters and the subsequent preparation of joint witness statements confirming the experts' respective areas of agreement and disagreement may prove to be of benefit.
13. The discussions and/or pre-hearing meetings referred to in paragraph 10 above are likely to assist in informing the focus and scope of any such expert conferencing, and so that should be considered a priority. To provide time for any subsequent expert conference to at least commence prior to the hearing, we suggest that discussions and/or pre-hearing meetings are facilitated and concluded by the beginning of May 2022 at the latest. We certainly appreciate that with School Holidays, Easter and Anzac Day coming up there may be limited opportunity to facilitate such pre-hearing engagements until the last week of April and that is fully understandable. In that respect it would be useful if submitters could advise the Hearing Administrator of two matters:
- a. whether or not they wish to attend any pre-hearing meeting on a date to be determined between 26 and 29 April; and if so
 - b. their availability to attend a meeting during that time.
14. It would be appreciated if such responses from submitters could be sent to the Hearing Administrator (see final page of this Minute for contact details) as soon as possible and certainly before 21 April. Upon receipt of those responses the Hearing Administrator will advise of the preferred date time and venue.

¹ These meetings may be of an informal nature, and/or through formal pre-hearing meetings coordinated by PNCC pursuant to s99 of the RMA.

15. Of course, none the above prevents any 'one on one' liaison between the submitters and the Requestor should that be the preference of parties and that can occur at any time; all we ask is that any agreements been the parties which might narrow the issues are conveyed in writing to the Hearings Administrator.
16. For the facilitated/organised pre-hearing meeting in the last week in April, we request that the Requestors/Council prepare a report to the Council Hearing Administrator on the state of play at that point ; say by no later than 4 May.
17. In the event that discussions and pre-hearing meetings do confirm that expert conferencing would be of benefit, then we will issue specific directions to that effect. These would include directions:
 - a. obliging the Requestor/Council reporting officers and any submitters intending to call expert witnesses at the hearing to advise the PNCC hearing administrator by a specific date, including the name and area of expertise of each witness they intend to call;
 - b. asking those parties to indicate at the same time whether they will make their respective expert(s) available for conferencing with other experts, and if not, the reasons why;
 - c. obliging the Requestor/Council to assume responsibility for co-ordinating any conferencing between their experts and those for submitters; and
 - d. requiring any conferencing that is undertaken to be completed no later than a specific date so that the witness statements can feed into the pre-hearing timetable for circulation of evidence.
18. We will remain in contact with the PNCC Hearing Administrator, and will keep all parties informed through additional minutes as necessary.

Circulation of evidence before hearing

19. On the basis of a 2-3 June hearing date, and pursuant to Sections 41B and 42A of the RMA we direct that evidence be pre-circulated in accordance with the following timeframes:
 - a. the Section 42A Report called by PNCC I be made available by no later than 11 May.
 - b. any expert evidence called by the Requestor must be made available no later than 18 May.
 - c. any expert evidence called by submitters must be made available no later than 25 May

20. The PNCC hearing administrator will confirm the hearing date in due course. This information will be emailed to parties and made available on the PNCC website:
<https://www.pncc.govt.nz/participate-palmy/have-your-say/proposed-whiskey-creek-residential-area-private-plan-change/>
21. To be clear, submitters do not need to pre-circulate any non-expert presentation material they wish to speak to at the hearing. The above circulation requirements only apply to any expert evidence submitters wish to call. Expert evidence is considered to be evidence from independently qualified persons such as flood modelling engineers, landscape architects, and planners. For any questions of clarification about professional expertise and the code of conduct for expert witnesses, please contact the PNCC Hearing Administrator in the first instance.
22. Any legal submissions by counsel for the parties can be made at the hearing and are not subject to pre-circulation.

Hearing process and presentations

23. We anticipate that a hearing of this nature may be a new experience for some submitters, so we will take a brief moment here to provide some information about the hearing for context.
24. For starters, we encourage all submitters to refer to the useful guides about the hearing process and hearings available from the Ministry for the Environment website. The link below, in particular, is a great source of information:
<https://environment.govt.nz/publications/appearing-at-a-hearing-about-a-proposed-plan-or-resource-consent/>
25. Consistent with the above guide, our preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and we will speak to that at the outset of the hearing when it commences.
26. More substantively, the hearing enables us to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve our understanding of those issues.
27. As a rule of thumb, parties should target presentations of 15 minutes or so. This is less a rigid requirement than it is a rough indication, and all parties appearing will be given sufficient time to present their views.

28. Once the actual hearing date has been formally confirmed by the PNCC Hearing Administrator, we will request an indication from all parties as to the amount of time they require for their presentation so that the PNCC administrator can make the necessary arrangements.

Site and locality visits

29. We are generally familiar with the site and general locality.
30. We expect that we will need to undertake more detailed site and locality visits before (if possible) and after the hearing. In that respect, if any party has a desire for us to visit particular sites/localities they should advise the PNCC hearing administrator.

Next Steps

31. As outlined above, we now suggest that the Requestor and Council endeavour to engage with submitters to discuss issues raised in submissions and resolve any issues, where practical. Submitters should let the Hearing Administrator know as soon as possible (and before 21 April) of their interest and availability to attend a meeting in the last week of April. A report on the state of play resulting from such a meeting is to be prepared by the Requestors/Council by 4 May 2022 at the latest. Also, the prospect of parties fielding expert evidence should be a matter for discussion during this engagement. We will then issue any directions, as required, relating to any expert conferencing.
32. We also request that any submitter wishing us to visit a particular site or locality advise the PNCC hearing administrator by 2 May 2022.
33. The PNCC hearing administrator is Rosa de Souza and can be reached at rosa.desouza@pncc.govt.nz

DATED this 13th day of April 2022



DJ McMahon
Chair - Independent Hearings Panel

For and on behalf of:
Commissioner: DJ McMahon
Commissioner: A Rutherford (Deputy Mayor Palmerston North City Council)
Commissioner: B Barrett (Palmerston North City Council Environmental Sustainability Committee Chairperson)