

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of application RC LU5959 by Soul Friend Pet Cremations (Applicant) to the Palmerston North City Council for resource consents to establish and operate a pet cremation business, public memorial garden, woodworking workshop and spray booth for urn finishes and to undertake land disturbance and a change in use of a piece of land described in the hazardous activities and industries list without a detailed site investigation at 94 Mulgrave Street, Ashhurst.

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**REPORT TO THE COMMISSIONER**

**MARK ST CLAIR**

**SECTION 42A REPORT OF PHILLIP JOHN HINDRUP - PLANNING**

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**28 SEPTEMBER 2021**

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## **1. OUTLINE OF REPORT**

- 1.1 This report, required by Palmerston North City Council (PNCC), pursuant to Section 42A of the Resource Management Act 1991 (the "Act"), assesses the environmental effects and statutory obligations that are set out in Section 104 of the Act, to the extent that they are relevant to the resource consent application lodged by Soul Friends Pet Cremations with PNCC.
- 1.2 The resource consent applied for by Soul Friends Pet Cremations (hereafter the 'Applicant') is required for land use consent to establish and operate a pet cremation business, public memorial garden, woodworking workshop and spray booth for urn finishes and to undertake land disturbance and a change in use of a piece of land described in the hazardous activities and industries list without a detailed site investigation at 94 Mulgrave Street, Ashhurst. being a non-rural activity located in the Rural Zone.
- 1.3 This report has been prepared in accordance with Section 42A of the Act, which outlines the matters that the report must cover. I have been commissioned by PNCC as an independent planning consultant for the purpose of preparing this report. In preparing this report, I have minimised repetition of information included in the application under Section 88 by adopting parts of the application that which I agree.
- 1.4 The report includes:
- An introduction;
  - A description of the applications sought;
  - Site description;
  - The notification process;
  - Assessment against the relevant Section 104 matters;
  - Assessment against Part 2 of the Act; and
  - Recommended conditions.

## **2. QUALIFICATIONS/EXPERIENCE**

- 2.1 My full name is Phillip John Hindrup.
- 2.2 I am a Principal Planner and Director of Strategy Planning (MWT) Limited, a planning consultancy firm based in Palmerston North.
- 2.3 I graduated from Massey University with a bachelor's degree in Resource and Environmental Planning in 2001 and have 20 years professional planning experience.

- 2.4 I have participated in numerous consent hearings as an expert planning witness and submitter. I am also an accredited Recourse Management Commissioner and have sat as an Independent Commissioner to hear and make decisions on resource consents.
- 2.5 I have read and agree to comply with Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note (2014). My qualifications are set out above. I confirm that this evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 2.6 Statements expressed in this report are made within my area of expertise. However, some aspects of my report rely on the following expert reports:
- Hudson Associates Landscape Architects – Landscape Effects Assessment (Appendix 2);
  - Nigel Lloyd – Noise Effects Assessment (Appendix 3);
  - Chris Lai – Traffic Assessment (Appendix 4);
- 2.7 I confirm that I have visited the proposed site on 15<sup>th</sup> April 2021, and I am familiar with the location and characteristics of the current environment in relation to the proposed activity.

### **3. INTRODUCTION**

- 3.1 The Applicant lodged a resource consent application with PNCC on 5 March 2021 for land use consent to establish and operate a pet cremation business, public memorial garden, woodworking workshop and spray booth for urn finishes and to undertake land disturbance and a change in use of a piece of land described in the hazardous activities and industries list without a detailed site investigation at 94 Mulgrave Street, Ashhurst,
- 3.2 The assessment and recommendations contained within this report are intended to inform the Commissioner as part of the hearing process. My assessment and recommendations are based on the information provided by the Applicant, my review of the submissions and my reliance on the expert reports that have been commissioned by PNCC. For the benefit of the submitters, I record that my assessment and recommendations are not binding to the Commissioner.
- 3.3 In preparing this report I have considered:
- a. The Assessment of Environmental Effects (AEE) which accompanied the application;
  - b. The further information provided 12 May 2021 in response to PNCC's Section 92 request;
  - c. All submissions received on the application;

d. The amended application received 23 September 2021.

- 3.4 The recommendations made and conclusions reached in this report may be revised following on from the presentation of further evidence later in the hearing process.
- 3.5 I wish to highlight the amended application that was received on 23 September 2021. This has detailed that the existing cattery and dog kennel operation at the site, which is operating under existing use rights, has been closed due to the impacts of the Covid-19 pandemic. While PNCC reporting officers have not had long to fully consider the implications of these changes, I do confirm that the section 42A reports have assessed the amended proposal.
- 3.6 I also note that a fresh application has been lodged with PNCC (LU6450) which is for the same activity, but which did not include the cattery and dog kennels. Tshi was received on 27 September 2021 to explore whether that application could be advanced without notification based on the revised assessment of effects. Due to the timing of the hearing that has been set down, no determination on that application has been made as PNCC officers has to commit to their s42A reports.

#### **4. PROPOSED ACTIVITY**

- 4.1 The Applicant has provided a detailed description of the proposed activity in section 3 of the application dated 5 March 2021. I adopt description and provide the following summary.
- 4.2 The proposal seeks to relocate a pet cremation business and associated facilities to 94 Mulgrave Street, Ashhurst. The Applicant proposes to construct a 500m<sup>2</sup> Totalspan Shed to house a maximum of four cremators and cremator stacks, along with the relocated workshop, a reception, staff areas, and chapel. The proposed cremation activity will involve the following:
- Undertaking cremation of domestic animals (around 700 pets per month) and incinerating documents, biological, pathological and medical wastes.
  - Autoclaving sharps for disposal at landfill.
  - Undertaking aquamation using alkaline solution.
- 4.3 The Applicant has included a Landscape and Visual Assessment in Appendix D of the application. The proposed building will comprise of the following elements:
- One 500m<sup>2</sup> Totalspan shed (containing four cremators, an aquamator, an autoclave, a woodwork workshop, and chapel).

- Four Chimney Stacks will be 10.5m above the ground. There will be two cremators operating in the morning; two in the afternoon; and in some instances, two during the evenings. Each course will last approximately 3 hours.
- One 20-foot shipping container (containing the spray booth for urn finishes) will be constructed. The shipping container is generally double door with a dimension of approximately 2.6m high x 6.1m long.
- A timber acoustic fence stretching the length of approximately 73 metres and is approximately 1.8m high.
- Access Track and Parking. The existing access will be upgraded and widened.

4.4 The Applicant proposes to establish the woodwork workshop within the proposed Totalspan shed to make urns, a spray booth for urn finishes onsite and a memorial garden for the public to visit between 7am to 7pm Monday to Friday. The proposed hours of operation for the cremation business are 9am to 5pm Monday to Friday and by appointment on weekends. The Applicant proposes a total of three full time staff and three part-time staff.

4.5 There does remain some confusion with the PNCC reporting team regarding the hours of operation for the crematorium and workshop. This is due to observed inconsistencies in the hours recorded in the Applicant's noise impact assessment and Management Plan. PNCC reporting officers have relied on the hours described in the Applicant's most recent noise assessment provided for the purpose of their assessments. However, it would be of assistance if the Applicant could confirm the hours of operation in their written briefs.

4.6 With the closure of the cattery and dog kennels, the proposed vehicle movements per day will be 30, in lieu of the permitted 100 vehicle movements in the Rural Zone as required under Rule R20.4.3 a) xi) in the District Plan. The application states the existing vehicle crossing will be upgraded as part of this proposal. It would again be of assistance for the Applicant to confirm whether the accessway/driveway will still be widened and upgraded now that the cattery and kennels have closed.

4.7 I note that an application has been lodged with the Horizons Regional Council for the discharge of contaminants to air from the crematorium. At the time of writing this report, that application continues to be processed. I further note that the issue of smoke and odour effects have been raised by some submitters and I discuss these matters later in this report.

## **5. SITE AND SURROUNDING AREA**

- 5.1 The Applicant has provided a detailed description of the immediate and surrounding environment within the application, which I adopt. A summary of the description of the site is outlined below.
- 5.2 The site is 4 hectares in area and is located at 94 Mulgrave Street, Ashhurst. The site is zoned Rural. There are no other zoning overlays across the site. The legal description of the property is Lot 2 DP 35100 and held in record of title WN12A/55.
- 5.3 The 4-hectare subject site is within the rural zone and contains flood prone areas as has been shown by information obtained from Horizons Regional Council (**Appendix 5**). The site is flat and is covered in pastoral grass with existing shelter belts located along the property boundaries. A small stream known as the Ashhurst Stream is located near the north-western boundary extending in a north-south direction. A notable tree is present onsite but will not be affected by the proposal.
- 5.4 The original application states that the site is currently operated as Tolly Farm Boarding Cattery and Kennels who presently employ one full time and two part time staff. On 23 September officers were advised by the Applicant that the cattery and kennels have closed and will no longer form part of the existing environment.
- 5.5 The area surrounding the proposed site is generally rural in nature to the north, east and west. A nursery is located to the east, and an abattoir is located to the west of the proposed site. Rural dwellings are located further north. To the south is undeveloped residential land, and low-density typically single-story residential dwellings.
- 5.6 Access to the site is provided via an existing vehicle crossing off Mulgrave Street at the western end of the road frontage extending to a driveway that leads to the existing dwelling and recently closed cattery and kennels.
- 5.7 Surrounding land uses include residential properties at 80 Mulgrave Street, 82 Mulgrave Street, 84 Mulgrave Street, 86 Mulgrave Street, 88 Mulgrave Street and 98 Mulgrave Street.

## **6. REQUIRED RESOURCE CONSENTS**

- 6.1 The Operative Palmerston North City District Plan (hereafter the ODP) is the relevant statutory planning document. The land involved with the development is zoned Rural.

### Land Use

- 6.2 Pursuant to Rule R9.9.1 the proposal is assessed as a Non-Complying Activity as the ODP does not provide for Crematoria as a permitted, controlled, restricted discretionary or discretionary activity in the Rural Zone.

### Noise

- 6.3 With respect to noise generated from the activity, pursuant to Rule R9.9.1 the proposal is assessed as a Non-Complying Activity as the proposal would exceed the permitted noise levels under rule R9.11.1.

### Land Transport

- 6.4 The original application applied for a land use consent as a Restricted Discretionary Activity under Rule 20.5.1 (Land Transport) as the original proposal did not comply with the maximum vehicle movement requirements of 100 vehicles per day (due to the existing cattery and kennels). With the application being amended, the number of daily vehicle movements will be lowered to 30 which is within the permitted allowance under the ODP.

### NESCS

- 6.5 The proposed volume of soil disturbance will exceed 25m<sup>3</sup> per 500m<sup>2</sup>, a total of approximately 1,666m<sup>2</sup> area to a depth of approximately 275mm and as such would not comply with the permitted standards under regulation 8(3) of the NESCS. The proposal would also result in soil disturbance to form the building footprint and hardstand areas and a change in land use is required under regulation 8(4) of the NESCS.
- 6.6 The Applicant has not provided a detailed site investigation as required under the NESCS. Therefore, the application is considered a Discretionary Activity pursuant to regulation 11(1) of the NESCS.

### Overall Activity Status

- 6.7 Utilising the bundling technique whereby all three applications are assessed together, on the basis of the most stringent activity classification, the proposal is assessed as a Non-Complying Activity under the ODP. Due to their interrelatedness this is considered appropriate.
- 6.8 In summary, the proposal has been assessed as a **Non-Complying Activity**.

## **7. FURTHER INFORMATION**

- 7.1 Further information was requested under Section 92 of the Act on 18 April 2021 in respect to noise, building elevations of the total span building and potential precedent issues. A response to the further information request was received on 12 May 2021. There is no outstanding further information at the time of writing this report.

## 8. NOTIFICATION AND SUBMISSIONS

8.1 A decision was made under delegated authority pursuant to Section 95 of the Act to process the application on a limited-notified basis. The application was limited notified to the following parties on 28 June 2021 with the submission period closing on 27 July 2021:

### Residentially Zoned

- 80 Mulgrave Street
- 82 Mulgrave Street
- 84 Mulgrave Street
- 86 Mulgrave Street
- 88 Mulgrave Street
- 98 Mulgrave Street

### Rurally Zoned

- 73 Winchester Street (no dwelling)
- 114 Mulgrave Street (no dwelling)

8.2 Six submissions were received from the following property owners:

Sub #	Name	Address	Support/oppose	Status (Heard/not Heard)
1	Buddha Developments- Peter Colville	86 Mulgrave Street, Ashhurst	Oppose	Not heard
2	Katrina Anne Wallace	98 Mulgrave Street, Ashhurst	Oppose	Not heard
3	Hanno Pieterse	84 Mulgrave Street, Ashhurst	Oppose	Not heard
4	Isobel Esther Currie and Bevan Philip Currie	83 Mulgrave Street, Ashhurst	Oppose	Heard
5	Dave Denton	106 Mulgrave Street, Ashhurst	Oppose	Heard
6	Catherine Shannon	82 Mulgrave Street, Ashhurst	Oppose	Not heard

8.3 From the submissions received, the following points are considered key matters:

### Sub #1

- The crematorium/workshop will detract from property values in the immediate area.
- This area should be rezoned to residential which would allow the owner to develop or sell the land at a higher market value and provide options to relocate the business.

### Sub #2

- Additional traffic movements generated;
- The increased noise level;

- The decrease in property value;
- Chemicals or psychological welfare of neighbouring animals.

#### Sub #3

- Noise - Modelling does not include a scenario that combine the dogs barking, workshop and crematorium operating simultaneously.
- The noise modelling does not include future residential development planned by PNCC in the area between Mulgrave and Winchester Street.
- Meeting with Ashhurst held in June 2021 with PNCC - how does this consent effect future development and property values. On page 12.13 lists the advantages and disadvantages for Soul Friends but it does not take the disadvantages to the current rural landscape and residential properties into account.
- Smoke and odour - is this evaluated and addressed and what is the mitigation measures for this?
- Council should review the mitigation measures stated in the resource consent application. Stricter noise control measures should be included as well as mitigation to reduce the effect on the rural landscape.
- Review modelling that includes dogs barking and possible increase in barking due to the new development.
- Review consent against future residential properties/development that may be closer to the workshop/crematorium.
- Stronger measures against the working hours that will be finally approved in the resource consent. 7 days a week on noise generating operations (Workshop/Crematorium) should be limited to five days and normal business hours.

#### Sub #4

- 83 Winchester Street is currently being re-zoned residential, and it will be undesirable to have a pet crematorium located in close proximity to residential properties.
- Aspects of visual, air and noise pollution are all serious concern.

#### Sub #5

- The location of the proposal is within land identified as subject to inundation.
- The proposal is on land that is of a rural residential nature and is not in accordance with the existing environment. The proposal is an industrial use not one of a rural or rural residential use.
- There is sufficient industrial land within the City and Manawatu District without the need for the activity to be sited in the Rural zone. The proposal is not required to be sited within the Rural zone and does not provide any service to the rural industry.

Sub #6

- Noise from the woodwork area, the odour and pollutants released are a concern.
- The increase in traffic along Mulgrave Street and what impact that has on the residential properties in this area.
- No amount of screening will hide the four 10 metre high chimneys.
- Total lack of regard and respect for neighbouring properties as only 12 notification letters were sent out which clearly shows more parties will be impacted by the proposal.

8.4 The matters raised in submissions, along with other matters pertaining to this application have been considered in the assessment of effects section below.

## **9. ASSESSMENT OF ENVIRONMENTAL EFFECTS**

### Landscape character and rural amenity

9.1 Hudson Associates Landscape Architects have been engaged by PNCC to provide a landscape assessment, in particular to review and evaluate the revised Landscaping Plan submitted by the Applicant on 23 September 2021.

9.2 My assessment of the adverse effects of the proposal on rural amenity and character is based on both of these assessments, with the report by Hudson Associates attached as **Appendix 2**.

9.3 The report by Hudson Associates notes<sup>1</sup> that the OPD explains that:

*“Crematoria have the potential to adversely affect the amenity values of both adjoining and adjacent properties. Council recognises that there are appropriate locations for the siting of crematoria but these need to be in such a location that does not adversely affect the amenity values of the surrounding community”*

9.4 The report also notes<sup>2</sup> that:

*“The application site is not within a Significant Amenity Landscape (“SAL’s”) and has no Significant Natural Areas (“SNA’s”)”*

9.5 This is an important distinction as it confirms there are no specific objectives or policies from either the ODP or Regional Policy Statement that regard significant natural features that relate to the site or its immediate surrounds.

9.6 Regarding the localised area, the Hudson Associates make the following assessment<sup>3</sup>:

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<sup>1</sup> Report by Hudson Associates Paragraph 15, Page 7.

<sup>2</sup> Report by Hudson Associates Paragraph 18, Page 7.

*"The characteristics of the broader context carry through into the localised area. It is apparent that the application site is at an interface between rural, residential, and industrial land use. Tall shelterbelts line the property boundaries of the application site, and larger lots to the north and west. Plant nurseries are located to the north and east of the site, with rural lifestyle properties along Wyndham Street and to the north-west. Lifestyle dwellings are typically accompanied by stands of amenity plantings, surrounded by pastoral fields. To the east, closer to Manawatū Scenic Route/ Cambridge Avenue, smaller residential lots are linearly located along Winchester Street and Mulgrave Street. Just north of the railway line and SH3 is a small industrial zone, opposite the application site (Figure 4). This creates a diversity of land use within a relatively small area, which is typical of small rural townships in New Zealand."*

9.7 I concur with this assessment which confirms that the site is at an interface between rural, residential and industrial land use creating a diversity of land use within a relatively small area. I also draw attention to the comment that tall shelterbelts line the property boundaries of the site which I consider provide a reasonable level of screening from adjacent properties to the north, east and west. This in my view is reinforced by the following comment in the Hudson Associates report<sup>4</sup>:

*"Visibility of the application site is generally quite limited due to the screening undulating landform, and intervening vegetation and buildings (Figure 8 - Figure 11). These existing landscape elements contribute to the sense of containment"*

9.8 Overall I consider the site to be reasonably well contained from external views from neighbouring properties.

9.9 Regarding the compatibility of the activity with surrounding land use, the Hudson Associates report makes the following statement<sup>5</sup>:

*"Given the proximity to commercial/industrial activities of a similar nature (e.g., Abattoir, Kennels and Cattery, Plant Nurseries, and the Ashhurst Transfer Station), the activity is not uncharacteristic of the surrounding landscape."*

9.10 Given this observation the report concludes that the activity will result in an indiscernible change in land use which is considered to have a **very-low** effect.

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<sup>3</sup> Report by Hudson Associates Paragraph 26, Page 13

<sup>4</sup> Report by Hudson Associates Paragraph 28, Page 13

<sup>5</sup> Report by Hudson Associates Paragraph 35, Page 16

9.11 The report notes that the with the open space on-site, the existing shelter belt trees being retained, which will provide a buffer between potential conflicting activities, and the mitigation planting being established will reduce visual effects during construction.

9.12 Commenting on the mitigation proposed, the Hudson Associates report notes the following<sup>6</sup>:

*"Mitigation measures have been included in the proposal, i.e., planting and colour palettes, to blend structures into the surrounding landscape and minimise the prominence of the built forms. We are in agreeance with the Landscape Assessment, that the stacks will remain below the ridge and skyline and views of the ranges and Te Āpiti will remain intact. Effects of any visible stacks will be mitigated by the recessive colour of the stacks which will blend with the escarpment vegetation surrounding the Manawatū Gorge (Te Āpiti). We therefore consider these effects to the very low".*

9.13 The report makes the following concluding statement with regards to effects<sup>7</sup>:

*"To conclude, the proposal would cause very low adverse effects to the landforms, vegetation, landuse, built forms, and general visual appreciations which are characteristic of the broader context and localised area. These adverse effects translate to less than minor in RMA terminology."*

9.14 Based on this assessment and the design elements incorporated into the crematorium building, I consider the building will have no more than minor effects on the surrounding environment.

9.15 I note that no additional mitigation measures have been proposed by the Hudson Associates report. However, I do consider it appropriate to require a landscape planting plan as a condition of consent to ensure that the proposed mitigation planting is established prior to operation of the crematorium and workshop. This has been included in the condition schedule attached at **Appendix 1**.

#### Conclusion – Landscape Character and Rural Amenity

9.16 Having had regard to the technical assessments provided with the application, and the Hudson Associates Landscape Assessment, overall I consider the proposal to have less than minor effects on the surrounding landscape character and rural amenity.

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<sup>6</sup> Report by Hudson Associates Paragraph 39, Page 17

<sup>7</sup> Report by Hudson Associates Paragraph 40, Page 17

### Noise Effects

9.17 Mr Nigel Lloyd has been engaged by PNCC to provide a technical assessment of the environmental effects of the proposal in respect to noise impacts, including on adjacent properties. Mr Lloyd's report is attached as **Appendix 3** to my report and has been relied on when considering potential noise impacts and the concerns raised in submissions.

9.18 Mr Lloyd has assessed the proposed non-rural activity in respect to noise related with the cremators, workshop and vehicle movements and the updated noise report prepared by Mr George van Hout of WSP. As described in his report, Mr Lloyd's assessment does not include the recently closed cattery and kennels<sup>8</sup>.

9.19 With respect to the noise modelling undertaking by the Applicant, Mr Lloyd makes the following comment<sup>9</sup>:

*"The noise modelling is based on noise monitoring undertaken at the existing workshop and crematorium and this appears to be reasonable."*

9.20 Mr Lloyd further comments in paragraph 22 of his report that in his view the correct noise modelling standard has been used in modelling the proposed activity.

9.21 Regarding 114 Mulgrave Street which currently does not contain a dwelling, Mr Lloyd has made the following comment<sup>10</sup>:

*"The noise levels at the closest boundary with 114 Mulgrave Street are not predicted in Table 4.4 but it can be deduced as 57 dB LAeq from the commentary in 4.2.4 of the Report and Table 4.5.*

*I questioned the likelihood of a dwelling being constructed at 114 Mulgrave Street and the applicant has identified issues with flood prone areas throughout the lot and I understand that a submission has not been received from the owner."*

9.22 With respect to the reference in the preceding paragraph, I point to the Applicant's assessment on that matter:

*"Based on the District Plan permitted activity standards for the Rural Zone and Flood Prone Areas, a dwelling could only be built in the north-western and southeast corners of the property. This is due to the presence of flood prone areas throughout the lot. We note that*

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<sup>8</sup> Section 42A report By Nigel Lloyd Paragraphs 8-9, Page 3

<sup>9</sup> Section 42A report By Nigel Lloyd Paragraph 21, Page 5

<sup>10</sup> Section 42A report By Nigel Lloyd Paragraphs 27-28, Page 6

any dwelling in the southeast corner (which is the closest site where a dwelling could be built near the boundary of the Soul Friends site) would likely be expensive as the vehicle access leg to the area would need to cross the unnamed stream twice and require discretionary consent pursuant to Rule 17-14 of the One Plan to do so given the stream's status of a Schedule B waterbody with Flood Control and Drainage Value. Similarly, any access to the northwest corner would also require consent from Horizons Regional Council due to the access leg having to cross the stream. "

9.23 I understand that this property is owned by the owner of 106 Mulgrave Street who has made a submission on the proposal and who will be speaking at the hearing. It will be beneficial to this assessment to understand the future plans for this property and to hear their view on the assessment of whether a dwelling is planned and on the practicality of a dwelling being constructed in the southeastern corner of their property near the proposed crematorium.

9.24 I note that submitters have raised the issue of traffic from vehicles. Mr Lloyd has confirmed that onsite traffic noise will be less of an issue with the elimination of visits to the kennels<sup>11</sup>.

9.25 Overall Mr Lloyd has made the following conclusion<sup>12</sup>:

*"I consider that the Report represents a comprehensive assessment of the noise impacts of the pet crematorium and workshop. The predictions are that noise will comply with District Plan noise limits at Residentially Zoned properties but, because of the short distance to the nearest (Rurally Zoned) side boundaries, the District Plan noise limits will be exceeded."*

9.26 In summary, the two noise assessments have confirmed the following:

- Noise levels at surrounding residential properties will comply with the ODP noise limits when two cremators and the workshop are operating concurrently within the hours of restriction proposed.
- Noise levels at 83 Winchester Street (Nursery) will comply with Mr Lloyd's recommended noise level of 55 dB LAEQ noise level afforded to the that property being a commercial use.
- Noise levels at the southeastern corner of 114 Mulgrave Street has been predicted at 57 dB LAEQ however it is the Applicant's view that due to physical and consenting constricts related to the Ashhurst Stream, a dwelling will unlikely be constructed in

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<sup>11</sup> Section 42A report By Nigel Lloyd Paragraphs 37, Page 8

<sup>12</sup> Section 42A report By Nigel Lloyd Paragraphs 47, Page 12

that position. However it will be beneficial to this process and evaluation to hear from the landowner on this matter. Mr Lloyd and myself will speak to this matter on hearing further from the Applicant and from the submitter.

#### Conclusion – Noise

- 9.27 Having considered Mr Lloyd's assessment, and the conditions he has recommended to mitigate potential effects, I am satisfied that the imposition of those conditions would ensure that adverse effects on neighbouring properties would be less than minor. These conditions have been included in the schedule of conditions in **Appendix 1** of this report.

#### Traffic Effects

- 9.28 Mr Chris Lai, PNCC's Senior Transportation Engineer has provided an assessment of the proposal with regard to traffic effects in his letter dated 23 September 2021 (attached as **Appendix 4**) Ms Mercia Prinsloo of WSP has provided a traffic impact statement on behalf of the Applicant which is contained within Appendix C of the application and has since been updated (22 September 2022) with the removal of the existing cattery and dog kennels from the site. Mr Lai has revised this updated assessment and has concluded based on the reduced number of vehicle movements per day that overall, the transport effects caused by the development are considered to be less than minor.

- 9.29 Other points of note include:

- There appears to be agreement between the two traffic experts on key matters relating to the proposal including traffic counts, road status, sight distances and revised trip generation.
- The number of car equivalent vehicle movements per day will comply with the district plan permitted activity limit of 100.
- The Applicant has proposed to upgrade the existing vehicle crossing and should consent be granted this is recommended as a condition of consent. Tshi has been acknowledged by Mr Lai.
- It is not expected that any heavy vehicles will need to access the property.
- No other conditions have been recommended in Mr Lai's assessment.

#### Conclusion – Traffic Effects

- 9.30 Having considered the Applicant's TIA and relied on Mr Lai's evidence, I consider that any adverse traffic effects of the proposal will be less more than minor.

## Natural Hazards

- 9.31 Information obtained from Horizons Regional Council has shown that the site is susceptible to areas of inundation during a 0.5% Annual Exceedance Probability (AEP) modelled flood event based on the PNCC Combined Flood Model. Horizons District Advice Liaison Team have provided the following comments with respect to flooding on the site<sup>13</sup>:

*"The modelled information for this area is held by Palmerston North City Council (PNCC). PNCC have a PN City Rapid 1 in 200 year (0.5% Annual Exceedance Probability) modelled information for flood and stormwater inundation. Please find attached PNCC's Rapid modelled flood depths for a 0.5% AEP flood event. The key gives an indication of water depths. Please note that depths less than 50mm are not shown. Rapid modelling is where rainfall is "dropped" onto each cell (5m Grid) of the model with basic accumulation and does not go into more complex interaction with in-stream flows and complex flow accumulation and culverts and bridges are not detailed in the model. The modelling was undertaken to provide a guide as to what areas would warrant further investigation/detailed modelling. The modelled depths are indicative and the model should not be used to set floor levels, however, areas that show as dry will most likely be dry. As the flood modelling for this property is PNCC's information and not that of Horizons models, we cannot comment on its accuracy with respect to the flood risk to this property. Horizons recommends that further flooding assessment may be required at this property for any future land development proposals.*

*The intent of the One Plan and main purpose of Chapter 9 is to avoid increasing the risk to people and property from natural hazards, by limiting development in areas where natural hazards, especially floods, are likely to occur. Reasonable freeboard for a commercial and industrial building is a minimum height of 0.3 m as per New Zealand Standard 4404:2010 – Land Development and Subdivision Infrastructure. This freeboard requirement is to account for factors which cannot be included in the model, such as waves and debris effects. As well as ensuring that safe egress/access is easily achieved (access between occupied structures and a safe area where an emergency evacuation may be carried out). PNCC will need to be comfortable that safe access and egress can be easily achieved during a 0.5% AEP flood event. They also need to be satisfied that the proposal mitigates the flood risk and that the proposal is not increasing risk to people and property."*

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<sup>13</sup> Email correspondence received from HRC, 27 September 2021

- 9.32 The Applicant has acknowledged that the proposal will result in a non-habitable building in a flood prone area near the unnamed stream on the site. They further note that the a more typical rural non-habitable building could be constructed that would meet the permitted performance standards in the ODP for non-habitable buildings in flood prone areas. I concur with that assessment.
- 9.33 I also concur with the Applicant's assessment that in terms of the Horizons One Plan and Schedule B Value of 'Flood Control and Drainage' by keeping earthworks and hardstand areas 8 metres from the landward toe of the stop bank that a resource consent from the Regional Council will not be required.
- 9.34 Regarding a minimum floor level for a non-habitable building, I am awaiting advice from the PNCC Building Consents team and will provide an update at or before the hearing. I also consider it appropriate for the Applicant to provide their comments on this matter, in particular their view on the risk of inundation, how that would affect their operation, their willingness to accept this risk, and any proposed mitigation such as a minimum floor level for the proposed buildings.

#### Conclusion – Natural Hazards

- 9.56 I consider that it is likely that adverse effects from Natural Hazards will be no more than minor, given that the proposal is for non-habitable buildings. However I do wish to reserve my position on this matter until I have received advice from the PNCC Building Team.

#### Servicing

- 9.57 The Applicant provided further information on the 12 May 2021 stating a new septic system would be installed to service the Totalspan building and would capture the toilet and wash facilities (i.e. domestic wastewater only). A sump would be installed to capture water from wash downs inside the Totalspan building, and this would be disposed of offsite as required. Consent may be required from Horizons Regional Council, and I consider it appropriate to allow that process, if required, to run its course separate to this application.
- 9.58 In my experience, onsite water supply can be sourced from tank supply and stormwater will be able to be discharged to land in a controlled manner with an acceptably designed solution.
- 9.59 I am therefore of the opinion that the site can be adequately serviced and that any effects relating to the proposed services would be no more than minor on the wider environment.

#### Effects on the Productive Capacity of Elite and Versatile Soils

- 9.60 The Applicant has confirmed the site is within the rural zone and part of the site contains both Class 2 and Class 3 land<sup>14</sup>. It is further noted that the buildings will be sited on the area with Class 3 soils so as to retain the land with higher productive capability.
- 9.61 The potential limitations of the property for other land use purposes such as market gardens were also discussed in the memorandum as follows<sup>15</sup>:
- *Although the Ashhurst area has historically been known for market gardens, this property currently has horses grazing. The site for the pet crematorium is also not suitable for vegetable growing due the soil wetness limitation.*
  - *If this property was to potentially look at land use change to market gardens in the future, only 2.2 ha of land is suitable. This would create difficulties in creating a viable business.*
- 9.62 I accept the findings of that assessment which confirms the site has limited productive capability and I therefore consider any associated effects will be less than minor.

#### Contaminated Soils

- 9.63 The Applicant has commissioned a Preliminary Site Investigation (PSI) which has identified potential sources of contamination, based on review of historical information, specifically agrichemical application, potential fuel storage in the 1960's and potential asbestos contamination from renovations to historic buildings. The PSI has included a number of recommendations, including sampling prior to disturbance of the area to quantify potential contaminants. The recommended sampling has been included in the schedule of consent conditions attached as **Appendix 1** to this report.
- 9.64 I have recommended further conditions that requires any sampling and earthworks to be supervised by a suitably qualified person and a Post-Earthworks Land Contamination Planning and Management report be prepared to confirm the risk of any contamination and required mitigation. With the imposition of these conditions, and based on the findings of the Applicant's report, it is my view that the risk of adverse effects on human health will be less than minor.

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<sup>14</sup> Resource Consent Application to Palmerston North City Council - Section 2.2, Page 9

<sup>15</sup> Resource Consent Application to Palmerston North City Council – Appendix B, Pages 3-4

### Property Values

- 9.65 Submitters have raised concerns that the proposal will negatively impact property values. No expert opinion has been provided on this matter however it is my view that property values are not and effect under the Act that can be considered when assessing an application for resource consent. I therefore consider this matter to be out of scope and need no further consideration.

### Future Rezoning

- 9.66 A number of submitters have raised that land adjacent to the site is to be rezoned residential by PNCC. I can confirm that PNCC has previously sought community feedback on this matter having identified four areas that may be potentially rezoned residential. These areas are shown in the information provided in **Appendix 6** of this report.
- 9.67 It is my understanding that while community feedback on possible future rezoning has been sought as far back as late 2020, no formal rezoning process has commenced under the First Schedule of the Act. As such it is my view that no weighting can be placed at this time on whether that land will be rezoned residential into the future, and that the proposal should be evaluated against the existing environment, being the current zoning and existing land uses as they currently stand.

### Effects Conclusion

- 9.68 Having considered all actual and potential effects associated with the proposed activity, including those effects raised by submitters, and having relied on the technical assessments provided in the application and from PNCC reporting officers, I consider that overall the effects of the proposal on the surrounding environment and neighbouring properties to be no more than minor. This conclusion is based on the imposition of the imposition of the suggested draft conditions provided in **Appendix 1** of this report.

## **10. STATUTORY PROVISIONS**

- 10.1 The provisions of Section 104 of RMA must be investigated by the decision maker in making a determination on the resource consent application. The matters contained within Section 104 that I consider to be of relevance to application include:
- 10.1 104(1)(a) – Actual and potential environmental effects. I have considered the findings of the Applicant's assessment of effects and technical reports in considering my overall assessment in Section 9 above.
- 10.2 104(1)(b) – any relevant provisions of –

- 104(b)(i) – National Environmental Standards. The NES for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations is relevant to this application. There are no other National Environmental Standards relevant to this proposal.
- 104(b)(ii) – Other regulations. There are no other regulations of relevance to the application.
- 104(b)(iii) – Relevant National Policy Statements (NPS). I consider the Proposed National Policy Statement for Highly Productive Land to be relevant to this application.
- 104(iv) – New Zealand Coastal Policy Statement (NZCPS). The NZCPS is not relevant to this application.
- 104(b)(v) – Regional Policy Statement. I concur with the application that the ‘One Plan’ is relevant to the consideration of the application. I have had regard to the objectives and policies of the ‘One Plan’ in the discussion below.
- 104(b)(vi) – Palmerston North City District Plan.
- 104(1(c) – Other Matters. I consider the only other matter related to this proposal to be the issue of precedent which have been discussed below.
- Sections 104(2A), 104(2B) and 104(2C) of the Act do not apply to this application.
- 104(3) – Regard has not been given to trade competition and no such matters have been raised in submissions. has been given to the persons who have given their written approval to the application. Granting of the consents sought would not be contrary to any the provisions listed in 104(3)(c).

#### **National Environmental Standards for Managing Contaminated Soils**

- 10.3 The Applicant has applied for the necessary consents under the NES and the effects of undertaking those activities on the environment have been assessed earlier in this report. No further consideration of this matter is required.

#### **Proposed National Policy Statement for Highly Productive Land**

- 10.4 The Proposed National Policy Statement for Highly Productive Land is likely to take effect in the second half of 2021. The purpose of the policy statement is to:
- recognise the full range of values and benefits associated with its use for primary production
  - maintain its availability for primary production for future generations

- protect it from inappropriate subdivision, use and development.

- 10.5 The Applicant has confirmed the site is within the rural zone and part of the site contains highly versatile land (Class 2). The proposal will limit the use of these into the future. The site has been selected by the Applicant as it reflects the characteristics they wish to project to clients (natural, family owned, etc.), the area where the buildings will be sited are on the least productive soils on the site.
- 10.6 The potential limitations of the property for other land use purposes such as market garden were also discussed in section 9 of my report above.
- 10.7 I concur with the Applicant's assessment that based on the location of the proposed buildings and advice received that there is limited productive capability that there is no inconsistency with the proposed NPS for highly productive land.

### **Regional Policy Statement for the Manawatu-Wanganui Region**

- 10.8 The One Plan is a combined Regional Policy Statement (RPS), Regional Plan and Coastal Plan. The One Plan defines how the natural and physical resources of the region will be cared for and managed by the Regional Council in partnership with Territorial Authorities and the community. Part 1 of the One Plan is the RPS which sets out regionally significant resource management issues, and outlines objectives, policies and methods that will address them.
- 10.9 The Applicant has addressed the RPS within the application. I agree with their assessment but would also add the following assessment in respect to the protection of elite soils. Objective 3-4 and Policy 3-5 of the RPS seeks to ensure that territorial authorities consider and pay particular attention to the benefits of retaining Class I and II versatile soils for production land when providing for urban growth and rural-residential subdivision. I consider that the proposal still will retain reasonable areas of Class II soils, largely due to avoidance of these areas by the proposed new buildings, but also note that the assessment provided with the application has concluded that there is little productive capability with this site.
- 10.10 With respect to Natural Hazards, Objective 9-1 sets out that the adverse effects of natural hazard events on people, property, infrastructure and the wellbeing of communities are avoided or mitigated. As outlined in section 9 above, I will reserve my position on this matter until I receive advice from the PNCC Building Team and the Applicant.

### **Operative Palmerston North City District Plan**

10.11 The ODP was made operative in December 2000. Since 2012, the PNCC has undertaken a review of parts of the ODP through the Palmerston North City Council Sectional District Plan Review (referred to as the 'Shaping Our City' project).

10.12 An assessment of the objectives and policies is outlined below.

#### City View Objectives

10.13 I consider the relevant City View objectives within Section 2.5 of the ODP to include objectives 6, 12, 15, 19, 22, and 23.

10.14 Objective 6 seeks to ensure that development is directed away from Class 1 and 2 soils. I consider the proposal to have achieved this.

10.15 I agree with the Applicant's assessment in respect of Objective 12 which provides for a wide range of business and economic activities.

10.16 The Applicant has actively engaged with tangata whenua thereby achieving the outcome intended by Objective 15.

10.17 With respect to Objective 19 and the avoidance of natural hazards, information has been provided to which does show inundation occurs on the site. Earlier in my report I have raised the question of what mitigation the Applicant is proposing to potentially address this matter, noting that it is a non-habitable structure.

10.18 Regarding Objective 22, consent conditions have been recommended imposing appropriate noise standards should consent be granted.

10.19 It has been determined that the proposal will have less than minor effects on the roading network thereby achieving the intent of Objective 23.

10.20 Overall I consider the proposal to be consistent and achieve the relevant City View objects contained within the ODP.

#### Objectives and Policies - Section 9 (Rural Zone)

10.21 In respect to Objective 1 and associated policies within Section 9 of the ODP, I consider that the proposal is consistent with these provisions for the following reasons:

- In my view this objective and the supporting policies relate more to the protection of land from residential urban growth than they do to the establishment of a rural industry.
- There are sufficient areas of land around the proposed activities for other/ancillary rural based activities.

- The site has not been identified as an area of future urban growth (as depicted in Map 9.2 of the District Plan).

10.22 Objective 2 within Section 9 of the District Plan states:

*“to encourage the effective and efficient use and development of the natural and physical resources of the rural area”.*

10.23 In regard to Policy 2.1 I agree with the Applicant's assessment that the proposal largely avoids additional adverse effects on the versatile soils of the site and that the overall site's land area is a constraint to productive use. This has been confirmed by the soil/land assessment included with the application.

10.24 In respect to Policy 2.2 and 2.3, Mr Hudson's assessment confirms that adverse effects will be minor on the landscape character and rural amenity. Based on the advice of Mr Lloyd, I am satisfied that actual or potential adverse noise associated with the activity can be mitigated via consent conditions (Policy 2.3).

10.25 The proposed buildings are located within areas subject to inundation (Policy 2.5) and I am awaiting advice from the PNCC Building Team on this matter and also respectfully request the Applicant to further address this matter.

10.26 Objective 3 within Section 9 of the ODP states

*“To maintain or enhance the quality and natural character of the rural environment”.*

In respect to Policy 3.1 which seeks to provide for the health and safety of rural dwellers by establishing specific noise limits. Having considered the evidence of Mr Lloyd, I consider that the proposal is consistent with this policy.

10.27 Objective 4 states that:

*“To recognise and enhance the diversity of the rural community”*

10.28 I agree with and adopt the assessment against this objective and supporting policies provided in the application. I specifically note that Policies 4.1 and 4.3 allow for a variety and wide range of land based activities subject to the control of the environmental effects. In this case, and as confirmed by the technical experts, the adverse effects of the proposal will be avoided, remedied or mitigated.

10.29 Overall I consider the proposal to meet this the relevant objectives and policies of the Rural Zone.

Objectives and Policies - Section 20 (Land Transport)

10.30 Objective 1 within Section 20 of the ODP states:

*"The City's land transport networks are maintained and developed to ensure that people and goods move safely and efficiently through and within the City".*

10.31 I consider that associated policy 1.5 in Section 20 is most relevant to the consideration of this application as it deals specifically with the quality and standard of vehicle access to a site. Mr Lai has assessed the effects of the proposal in respect to the number of movements and direction of movements, standard and location of the existing crossing, sight distances and the provision for onsite manoeuvring. I note that the Applicant is proposing to upgrade the existing vehicle crossing to Council standard. Mr Lai has confirmed that in his view:

*"the access to the site is an existing condition and the safety effects are mitigated as the site enables on-site turning, which allows vehicles to exit the site in a forwards direction."*

10.32 I therefore consider the proposal meets this objective.

10.33 Objective 2 states that:

*"The land transport network is safe, convenient and efficient while avoiding, remedying or mitigating adverse effects in a way that maintains the health and safety of people and communities, and the amenity values and character of the City's environment."*

10.34 I consider the proposal is consistent with Policy 2.2 in that the proposed car park areas will be sufficiently screened from the road due to the site configuration, the setback distance from the road and existing vegetation. Therefore, adverse effects on amenity values to the wider community will be less than minor.

10.35 Objective 3 states that:

*"the safety and efficiency of the land transport network is protected from the adverse effects on land use, development and subdivision activities".*

10.36 In respect to Policy 3.1, Mr Lai has assessed the effects of the proposal on the safe and efficient functioning of Mulgrave Street and considers that due to the overall reduction in vehicle movements generated from the site with the disestablishment of the existing cattery and kennels, potential issues associated with traffic generation and road safety have been assessed and do not pose any concerns.

10.37 In respect to Policy 3.4 and 3.5 the Applicant has shown adequate car parking provision within the site. Mr Lai has considered this matter to be acceptable and that there is adequate space within the site to provide adequate circulation and safe sightlines for vehicles existing the site.

10.38 I therefore consider the proposal to meet this objective and its supporting policies.

Objectives and Policies Assessment - Conclusion

- 10.39 I conclude that the proposal is not contrary to the relevant objectives and policies of the ODP on the whole.

**11. SECTION 104(C) OTHER MATTERS**

- 11.1 Section 104(1) requires consideration and regard of any other matters relevant when determining an application. The other matters I consider relevant are discussed below.

Precedent

- 11.2 I note that one of the submissions raises concerns that granting resource consent to this proposal would have a precedent effect. It is important to clarify that the matter of 'precedent' is not an adverse effect on the environment. Precedent reflects a concern that the granting of consent may have planning significance beyond the immediate vicinity of the land concerned<sup>16</sup>. In my view, if the Applicant is able to clarify outstanding matters and the Panel consider that the effects on the environment will be no more than minor and the proposal is not contrary to the objectives and policies in the District Plan then precedent is not a concern that should be taken into consideration for this application.
- 11.3 Furthermore I do consider the proposed activity to be unique in the sense that pet crematoriums are a specialized activity with a target market. I also consider the site to be somewhat unique in the sense that it is a rural landholding located on the periphery of a small township, with mixed use surrounding its boundaries. It would be unlikely in my view that a similar scenario would its present itself potentially creating the issue of precedence. Any future non-complying activity in the district will need to be considered on its merits and will likely have different characteristics and a receiving environment that feature with this activity. I therefore consider that little, if any weight, should be afforded to precedence in this instance.

**12. SECTION 104D ASSESSMENT**

- 12.1 Any non-complying application must be assessed in accordance with Section 104D of the RMA which requires the application to pass one of the non-complying threshold tests before it can be further considered and determined under Section 104. The first threshold test is whether the effects of the activity on the environment are minor, and the second threshold test is whether the activity is contrary to the objectives and policies of the

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<sup>16</sup> *Stirling v Christchurch City Council (2011) 16 ELRNZ 798 (HC) at [90]*

relevant plan. An application only has to pass one of the threshold tests to meet the requirements of Section 104D.

- 12.2 It has been demonstrated through the technical evidence provided, both by the Applicant and PNCC reporting officers, that the potential adverse effects generated by the proposal will be no more than minor. Furthermore, it is my view that the proposal will not overall be contrary to the relevant objectives and policies of the district plan. Therefore, I do anticipate that both limbs of the gateway test under Section 104D could be met. Accordingly, I consider the proposal can meet both of the 'gateway tests' and is deserving of consent.

### **13. PART 2 ASSESSMENT: SECTIONS 5 - 8 RMA**

- 13.1 In respect to assessment of Part 2 of the Act, I draw to the Hearing Panel's attention that the Davidson appeal to the Court of Appeal has been heard and decided<sup>17</sup>. It is my understanding based on this case, that if a District Plan has not been developed with regard to Part 2, then it may be appropriate to refer to Part 2 when assessing an application. In my opinion, the Operative Palmerston North District Plan (ODP) has been through a Sectional District Plan Change review and it has been prepared having regard to Part 2 of the Act. The ODP contains a coherent set of policies designed to achieve clear environmental outcomes. However, I have provided an assessment of Part 2 to assist the Panel for avoidance of doubt.

#### Section 6 - Matters of National Importance

- 13.2 Section 6 of the Act identifies seven matters of national importance that all persons exercising functions and powers under the Act, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide. The following matters of national importance are considered relevant to the proposal and consideration of these matters is provided below:

- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (h) the management of significant risks from natural hazards.*

- 13.3 The Applicant has consulted TMI pre-lodgement which has enabled TMI to be involved in resource management decisions in order to maintain their relationship with their ancestral lands, water, sites, waahi tapu and other taonga. TMI has provided comment confirming they have no concerns with the proposal. Based on that response, I consider the proposal

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<sup>17</sup> RJ Davidson Family Trust v Marlborough District Council [2018] NZCA 316

will not adversely affect Maori's relationship with their ancestral lands, water, sites, waahi tapu, and other taonga.

- 13.4 Although the information received from Horizons Regional Council shows the site to be susceptible to inundation, based on my experience with flooding matters, I do not consider the risk of flooding and any consequential effects to be significant. However I am seeking the advice for the PNCC Building Team and will provide an update at prior to or at the hearing.
- 13.5 Overall I consider the proposal to have adequately recognized and provided for the relevant matters of national importance.

#### Section 7 – Other Matters

- 13.6 Section 7 of the Act identifies 11 other matters which all persons exercising functions and powers under the Act, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to. Particular regard has been given to the following matters:
- (a) kaitiakianga:*
  - (b) the efficient use and development of natural and physical resources:*
  - (c) the maintenance and enhancement of amenity values:*
  - (f) maintenance and enhancement of the quality of the environment:*
  - (g) any finite characteristics of natural and physical resources:*
- 13.7 Having consulted with TMI it is my view that the principle of kaitiakianga has been sufficiently provided for.
- 13.8 The Applicant has designed a proposal that in my view will provide for the sufficient use and development of a physical resource being rural zoned landed. As discussed previously in this report, it has been demonstrated that adverse effects can be appropriately avoided, remedied or mitigated.
- 13.9 The Applicant has, as far as possible, attempted to maintain amenity values for adjoining property owners by managing effects within the subject site. The technical assessments provided by the Applicant and by the PNCC's reporting team have confirmed in my opinion that any adverse on the wider environment and adjacent properties will be no more than minor, subject to the imposition of appropriate conditions. It follows that the quality of the environment within the site will be reasonably maintained despite the land use consent proposal.
- 13.10 In my view the quality of the environment will be maintained through the design principles incorporated into the development.

- 13.11 Although rural land in the Palmerston North District is finite, in my view the Applicant has demonstrated that the proposal is for a specialist activity that does have limited locations where it can be established. The site is unique being a rural property located adjacent to a mixture of residential and rural properties. I have seen no evidence to suggest that this proposal is overall detrimental to the City's wider rural land stocks.

#### Section 8 – Treaty of Waitangi

- 13.12 Section 8 of the Act requires that all persons exercising functions and powers under the Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- 13.13 TMI have been consulted by the Applicant prior to lodgement of this resource consent and by PNCC as part of the statutory acknowledgement process under the Act. TMI have confirmed in email correspondence with both the Applicant and PNCC that they have no concerns with the proposal.

#### Section 5 – Purpose of the Act

- 13.14 The purpose of the RMA is to promote the 'sustainable management of natural and physical resources'. That is, the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -
- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
- 13.15 The proposal will still ensure that the potential of natural and physical resources, including the Class 2 soils at the site will be sustained to meet the reasonably foreseeable needs of future generations. The life-supporting capacity of air, water, soil and ecosystems will still be safeguarded. All other effects of the proposal can be adequately mitigated.

## **14. CONCLUSION AND RECOMMENDATIONS**

- 14.1 The proposed resource consent application for all necessary land use consents required to establish and operate a pet cremation business, public memorial garden, woodworking workshop and spray booth for urn finishes that would exceed the permitted noise standards and number of vehicle movements, associated earthworks and a change in use of a piece of land described in the hazardous activities and industries list without a

detailed site investigation has been assessed in terms of the relevant matters detailed in Section 104 and Section 104D of the RMA.

- 14.2 All evidence suggests that the that the effects of the proposal are no more than minor and that the City View Objectives and objectives and policies of the Rural Zone will be provided for. I therefore consider that the proposal can meet both gateway tests under Section 104D of the Act and that the land use consent is deserving of consent, subject to appropriate conditions.

Recommendation

- 14.3 The proposal to operate a pet cremation business, public memorial garden, woodworking workshop and spray booth for urn finishes that would exceed the permitted noise standards and number of vehicle movements, associated earthworks and a change in use of a piece of land described in the hazardous activities and industries list without a detailed site investigation, is **Granted** consent with the recommended conditions attached as **Appendix 1** to this report.



Phillip Hindrup  
Consultant Planner  
For Palmerston North City Council

**28 September 2021**

## **APPENDIX 1 – DRAFT CONDITIONS FROM S.42A REPORT**

### **CONDITIONS LU5959**

#### **GENERAL ACCORDANCE**

1. The Consent Holder must ensure that the activity operates in general accordance with the information provided with the application dated 5 March 2021, further information dated 12 May, and the amended application received 23 September 2021, except as required by the following conditions, and specifically including the following:
  - a. Soul Friend Pet Crematorium Resource Consent Application to Palmerston North City Council dated 5 March 2021, Project Number 5-P1403.00;
  - b. Section 92 response address to Palmerston North City Council dated 12 March 2021;
  - c. The updated set of plans (Site Plan, Landscaping Plan, Architectural Details) including Sheets C01 and C02 Revision C dated 15 September 2021.
  - d. The updated Soul Friends Pet Crematorium Management Plan dated 17 September 2021;
  - e. Soul Friends Pet Crematorium and Workshop, Ashurst: Updated Assessment of Environmental Noise Effects Report - LU5959, prepared by WSP and dated September 2021.
  - f. The updated Traffic Impact Statement prepared by Merica Prinsloo dated 22 September 2022, File reference 5-P1403.00 Soul Friends Pet Crematorium;

#### **EXISTING USE RIGHTS**

2. That Tolley Farms Cattery and Dog Kennels must be discontinued prior to the commissioning of the Pet Crematorium and Workshop and that any future establishment or reestablishment of these activities must obtain the necessary resource consent approvals.

#### **NOISE**

3. The pet crematorium and workshop (including onsite vehicles) activities must not exceed the following at or within the boundary of the site:

Site	Time	Noise Limit
83 Winchester Street	7.00am to 10.00pm	55 dB LAeq(15min)
114 Mulgrave Street & 102 Mulgrave Street	7.00am to 10.00pm	60 dB LAeq(15min)
Other Rural Zoned Sites	7.00am to 7.00pm 7.00pm to 10.00pm	50 dB LAeq(15min) 45 dB LAeq(15min)
All Rural Zoned Sites	10.00pm to 7.00am	40 dB LAeq(15min) 70 dB LAmax

4. The pet crematorium and workshop (including onsite vehicles) activities must not exceed the following at or within any residentially zoned site:

7.00am to 7.00pm	50 dB LAeq(15min)
7.00pm to 10.00pm	45 dB LAeq(15min)
10.00pm to 7.00am	40 dB LAeq(15min)
10.00pm to 7.00am	70 dBA Lmax

5. Sound levels must be measured in accordance with New Zealand Standard NZS 6801:2008 *Acoustics – Measurement of environmental sound* and assessed in accordance with NZS 6802:2008 *Acoustics – Environmental noise*.
6. The hours of operation of the workshop must be limited to 7.00am to 7.00pm Monday to Friday and the pet crematorium shall be limited to 7.00am to 10.00pm Monday to Friday. The pet crematorium and workshop must not operate on public holidays. This would not prevent access for administrative reasons or cleaning and maintenance nor for visits by the public to the memorial garden between the hours of 9am and 5pm Monday to Sunday provided Conditions 3 and 4 are met.
7. An acoustic fence shall be installed on the boundary of 98 Mulgrave Street in accordance with the recommendations of the WSP *Soul Friends Pet Crematorium and Workshop, Ashhurst, Assessment of Environmental Noise Effects Report - LU5959 Revision 3 dated 22 September 2021*.
8. A Noise Management Plan ("**NMP**") shall be prepared by a suitably qualified and experienced acoustic consultant, in association with the consent holder, prior to the start of the pet crematorium and/or workshop operating. The NMP shall be submitted to the Palmerston North City Council for review 20 working days prior to the commencement of the activity. The NMP shall include but be not limited to:
- i. The relevant noise limits,

- ii. noise mitigation and maintenance requirements for plant and machinery in order to adopt the best practicable option to control noise,
  - iii. general operating procedures,
  - iv. training of staff,
  - v. complaints handling and recording, and
  - vi. noise monitoring.
9. The Noise Management Plan must be certified that it meets the requirements of Conditions 3 and 4 and the consent holder shall operate the pet crematorium and workshop in compliance with the Noise Management Plan at all times.
10. Noise monitoring must be undertaken within 6 weeks of the commencement of the pet crematorium and/or workshop to demonstrate compliance with Conditions 3 and 4. A copy of the results of each period of monitoring must be provided to Council within 20 working days of undertaking the monitoring.
11. The Council may under section 128 RMA initiate a review of the conditions of the consent 12 months after granting the consent in relation to noise and hours of operation to:
- i. Assess the adequacy of (and, if necessary, change) the conditions controlling activities on the sites
  - ii. Deal with any significant adverse effects on the environment that may arise from the exercise of the consent.

## **LANDSCAPING PLAN**

12. Prior to the commissioning of the crematorium and workshop, the consent holder must submit a final Landscaping Plan to Council's Monitoring and Enforcement Officer for technical certification for the site. This plan must include, but is not limited to, the following:

### Planting

- a. The location of all plant species to be installed, including a full schedule of quantities indicating all botanical names, common names, PB size and quantities;
- b. A planting specification that shall cover all method of site soil preparation, type and quality of all plant materials e.g. plants, soils, mulch, stakes, ties, method of physical planting installation, defects and maintenance period of 24 months;
- c. Details of the proposed specimen trees.

13. Prior to commissioning of the crematorium and workshop, the consent holder must ensure that the landscaping plan certified pursuant to conditions 12 above is fully planted and completed in accordance with the approved plan. Where this is not seasonally practicable, the planting must be completed within the first planting season after the commissioning of the crematorium and workshop.
14. The consent holder must contact Council's Monitoring and Enforcement Officer within 2 weeks of the completion of planting so that the initial monitoring visit can occur.

Notes:

- *The plantings will be monitored by Council's Monitoring and Enforcement Officer on 2 occasions as follows:*
    - *At the completion of the physical installation of the planting and associated works.*
    - *24 months after the planting is first installed and completed.*
  - *Any plants that fail must be immediately replaced at the expense of the consent holder.*
  - *All plantings must continue to be maintained by the consent holder thereafter.*
15. At any time should the landscape planting required under condition 12 not achieved its required mitigation purpose, the landscaping or part thereof must be established within 6 months at the cost of the consent holder.

## **CONTAMINATED SOILS**

16. The consent holder shall undertake the following testing prior to the construction of any building authorised by this resource consent:
  - a. Five OCP7 and metals analysis of near surface soils within the proposed footprint of the development and car park area.
  - b. One hand auger to 1m depth downstream of the old above ground storage tank with analysis for TPH.
  - c. A surface soil sample for % w/w asbestos in the car park footprint near to the chemical storage shed that was renovated in 2010.
17. The Consent Holder/contractor shall have all contaminated land earthworks and validation supervised by a suitably qualified and experienced professional (SQEP) land contamination specialist. Reporting shall be prepared by the SQEP.

18. An adequate Post-earthworks Land Contamination Planning and Management report to verify the site's immediate and ongoing safety shall be prepared in accordance with Contaminated Land Management Guidelines No's 1 and 5 (2016 edition) by a SQEP land contamination specialist, and include the following:
- a) Evidence (for example photographs and weigh bridge receipts) that any further contaminated soil required to be removed and disposed offsite at a landfill facility consented to receive such material;
  - b) The statement that "it is highly unlikely that there will be a risk to human health" to all future occupants, users and neighbouring occupants;
  - c) An updated 'SLUR' site plan with polygons for each SLUR classification of soil and a specific legend describing each element on the plan;
  - d) Soil Validation reporting requirements including field sampling, lab and general analysis (Contaminated Land Management Guidelines No 1, page. 14);
  - e) Site Management and Monitoring reporting requirements including an assessment of what monitoring procedures are required to maintain the safety of the site regardless of its usage (Contaminated Land Management Guidelines No 1, page. 15).

#### **UPGRADE EXISTING VEHICLE CROSSING**

19. Prior to the arborist base activity commencing at the site the consent holder must upgrade the existing vehicle crossing servicing 94 Mulgrave Street to meet PNCC District Plan Appendix 20H/NZTA's Diagram C standard, or as approved by the Council Roading / Infrastructure Manager.

*Note: A vehicle crossing consent will be required.*

#### **REVIEW CONDITION**

20. Palmerston North City Council may serve notice of its intentions to review the conditions of consent in accordance with Sections 128 and 129 of the Resource Management Act 1991, if there is documented evidence that adverse effects relating to noise, hours of operation and traffic effects that are beyond the limits contemplated by the granting of this consent have been generated by activities associated with the use of the site.

#### **MONITORING FEES**

21. The Consent Holder shall pay a monitoring fee of \$348 (GST incl.) at the time the resource consent is granted for the monitoring associated with the development. Upon completion

of the works required by these conditions, the consent holder shall give written notice to the Head of Planning that the conditions have been complied with. On receipt of this notice, the Head of Planning or nominee shall carry out an inspection to ensure all conditions have been complied with.

The fees will be payable by the consent holder for any subsequent monitoring of the conditions of this consent. This fee is set in accordance with Section 36(1) (c) of the Resource Management Act 1991.

*Note: The current fee for monitoring is set at \$174 per hour. This amount may alter in the future if fees are reviewed. The monitoring fee charged will be the fee applicable at the time of monitoring and will be charged on each additional inspection or hour of work undertaken until full compliance with consent conditions is achieved.*

22. A fee will be payable by the consent holder if any non-compliance with the conditions of this consent are discovered as a result of monitoring. This fee is set in accordance with Section 36(1)(c) of the Resource Management Act 1991 and Section 690A of the Local Government Act 1974.

**APPENDIX 2 – HUDSON ASSOCIATES LANDSCAPE ARCHITECTS - LANDSCAPE ASSESSMENT**

**APPENDIX 3 – NIGEL LLOYD - ACOUSTIC ASSESSMENT**

**APPENDIX 4 – CHRIS LAI - TRAFFIC ASSESSMENT**

**APPENDIX 5 – INFORMATION FROM HROZIONS REGIONAL COUNCIL**

## **APPENDIX 6 – PROPOSED FUTURE ASHHURST REZONING**