

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of hearings by Commissioners appointed by the
Napier City Council regarding submissions to Plan
Change 12 to the City of Napier District Plan.

**STATEMENT OF SUPPLEMENTARY EVIDENCE OF PHILIP ANTHONY MCKAY ON
BEHALF OF MARIST HOLDINGS (GREENMEADOWS) LIMITED**

INTRODUCTION

1. The following statement of supplementary evidence is intended to provide comment to some of the matters raised in the first day of the hearing through questioning by the commissioners, by the amended recommendations of Ms Anstay and some matters raised by submitters.

TABLED RECOMMENDATIONS OF MS ANSTAY

2. In the following paragraphs I refer to the referencing used in the document titled 'Appendix E – Annotated Plan Change Provisions' as tabled by Kim Anstay.

Amendment 1 Design Outcome 7 & Amendment 2 Design Outcome 21

3. I support the changes recommended by Ms Anstay as Amendment 1 so that Design Outcome 7 remains specific to the Residential Precinct.
4. As per my evidence dated 5th September 2018 I consider there to be lesser justification for a design manual process to be applied to the Rural Residential Precinct as compared to the Residential Precinct. My preference it therefore that Amendment 2 is not made for the reasons stated in my evidence. If the commissioners were minded to accept Amendment 2, then I would agree that the wording proposed by Ms Anstay is appropriate.

Amendments 5 & 6 Esplanade Reserves

5. I generally support the wording proposed in amendment 5 by Ms Anstay and also in the additional written material of Mr Ide, which does not alter the intent of the wording proposed by Ms Anstay. I do however have one concern and that is to clarify that in the event that the Rural Residential Precinct fronting Church Road was developed that esplanade reserves would only be required adjacent to that land developed into sites of less than 4ha in area and not over the whole balance of the property extending beyond the Rural Residential Precinct.
6. I therefore consider the following amendment shown in bold font to be a more appropriate wording:

...Consideration of the need to apply the esplanade reserve for the Mission Special Character Zone shall only apply in the following circumstances (albeit with the exception listed below). Any subdivision application for land comprised in (either Lot 1 DP 27138 held in Certificate of Title W3/453 W1/63 and/or Part Lot 2 DP25932 held in Certificate of Title HBW1/63 (as at 12 September 2018) which falls within the Productive Rural, and/or Landscape & Visitor, and/or Rural

Residential (fronting Church Road) Precincts where sites of less than 4ha are created within 100m of the Taipo Stream. Upon such subdivision an esplanade reserve shall be set aside either from, or adjacent to, the site created of less than 4ha.

The exception to this provision is that no esplanade reserve will be required for sites created through subdivision within the Residential Precinct and the Rural Residential Precinct which adjoins the Residential Precinct.

7. The purpose of the above amendment is to clarify that esplanade reserves would only be taken adjacent to the land subdivided and not over the entire balance lot. Although it is not anticipated that there would be any subdivision within 100m of the Taipo Stream in the Productive Rural or Landscape & Visitor Precincts within the foreseeable future, subdivision within the Rural Residential Precinct fronting Church Road is more likely. At this point in time most of the MHL property is held in one large certificate of title. The above amendment clarifies that if for example the Rural Residential Precinct were to be subdivided, that esplanade reserves would only be required from the new sites created and not over the whole of the balance lot extending through the Productive Rural and Landscape and Visitor Precincts.

8. Amendment 6 proposes to replace the existing Design Outcome 21 with a new wording clarifying the intent of the esplanade reserve provisions as they are to be applied to the Mission Special Character Zone. Again, I am supportive of the intent of the wording proposed by Ms Anstay. Subsequently Mr Ide has tabled an amended wording seeking to add reference to potential indigenous biodiversity enhancements and protection of conservation values. I acknowledge the protection of 'conservation values' is consistent with the 'purposes of esplanade reserves' stated in section 229 of the Resource Management Act 1991 (the 'RMA'). The context of this zone however has a productive vineyard immediately adjacent to the Taipo Stream which is incompatible with plantings designed to harbour birds. Indigenous biodiversity enhancements may be appropriate to promote conservation values if and when the property is ever fully developed for residential / rural residential purposes, but would cause conflict until such time as the existing vineyard is removed. In my opinion the Design Outcome would be more appropriate with the following suggested wording, which is based on Ms Anstay's Amendment 6 taking on board some of Mr Ide's suggestions (my suggested changes are highlighted in bold font):

*Any subdivision application for land in the Mission Special Character Zone which falls within the Productive Rural, and/or Landscape & Visitor, and/or Rural Residential (fronting Church Road) Precincts where sites of less than 4ha are created within 100m of the Taipo Stream will be subject to the provision of a 20m esplanade reserve requirement **adjacent those sites**. An esplanade reserve of*

*20m allows for effective stormwater quality improvements, the mitigation of natural hazards, **protection of conservation values** and provides for public access and recreational use. Not requiring the esplanade reserve at this point in time mitigates health and safety concerns of public access through a working vineyard **and concerns relating to the harbouring of potential vineyard pests in a planted reserve**. This allows the **rural and winery activities** of the MSCZ to continue until such time as there is a change of land use to a residential or **rural residential** form of development."*

9. In regard to the last sentence I agree with Mr Ide that the term 'Rural Activity' is defined in the District Plan. I have suggested adding reference to winery activities as some of existing wine making facility yard, as well as accessory buildings and structures are currently within 20m of the Taipo Stream. I also prefer that the wording suggested by Ms Anstay at the end of the sentence remain to clarify that the imposition of esplanade reserves is not proposed until residential development or rural residential development occurs near to the stream.

Other Appendix E Amendments

10. I agree that all of the other amendments suggested by Ms Anstay in Appendix E are appropriate.

Questions from Commissioners

Width of Bridle Path / Puketitiri Road Buffer Strip

11. This proposed buffer strip reserve is outcome focused and does not have a prescribed width. The exact width would be determined as part of the subdivision application process. The width is shown on the structure plan map in a non-uniform manner reflecting the non-linear nature of this section of Puketitiri Road and the varying topography of the MHL land adjacent to the road. The reserve strip would however need to be of sufficient width to meet Design Outcome 11. I note also the cross section diagram included as Figure 31 of the Isthmus 'Urban Design Statement + Assessment of Landscape and Visual Effects' as appended to the Plan Change AEE shows the features intended to be accommodated within the buffer strip, including low landscape planting adjacent the road reserve, the walkway / bridle path and then higher screen planting adjacent to the new residential development.

Controlled Activity Status for Buildings in the 'Prominent Visual Development Areas'

12. The reason for the controlled activity status is explained in Chapter 51b under the heading 'Principal Reasons for Rules' at paragraph 51b.129. To be a controlled

activity the condition in Rule 51b.75 1.b) needs to be met. That is, demonstration by cross section diagrams that the proposed buildings will be screened from view from Church Road. If the cross section diagrams show that the building would be visible from Church Road over the crest of the hill and above the trees on the eastern face, then the Rule would not be met and the application would default to Restricted Discretionary under Rule 51b.79.

13. It is also relevant to note that subdivision in the Residential Precinct of the Mission Special Character Zone is a restricted discretionary activity if all the relevant plan conditions and standards are complied with. This provides the opportunity to determine appropriate building platform location from a landscape effects perspective in relation to the crest of the eastern hill face in the subdivision consent process.

District Plan Structure

14. The introduction to Appendix 26A sets out that the Structure Plan Design Outcomes have the effect of assessment criteria in assessing resource consent applications. The rules in Chapter 51b also refer back to the 'Design Outcomes in the Mission Special Character Zone Structure Plan in Appendix 26A', under the heading 'Matters the Council will Restrict its Discretion to...'

Policy 51b.5.2 – Council will Implement and Retain Woodland Planting

15. All policies in the City of Napier District Plan are prefaced with the wording "*To achieve this objective the Council will:*"
16. In my opinion the intent of policy 51b.5.2 is that in its regulatory function in administering the district plan the Council will ensure that the woodland planting will occur prior to the subdivision of the Residential Precinct as stated in Design Outcome 16 and that regulatory mechanisms (such as a consent notice under section 221 of the RMA) are used to ensure that such planting is retained. This is opposed to a literal interpretation that the Council would physically undertake the planting themselves. I consider that if scope is available, or otherwise under Clause 16 of Schedule 1, that this policy could be clarified by amending the beginning of policy to read: "*Ensure the implementation and retention of woodland planting on the hill face ...*"

Timing of Design Manual

17. Implementation of the design manual through the subdivision consent process (via Design Outcome 7) is so that the manual will be able to be more specific in its recommendations on building design following the design of the subdivision.

Measurement of Esplanade Reserves

18. The definition of esplanade reserve in the district plan defers to section 2 of the RMA. The definition of esplanade reserve in the RMA does not specify where the reserve is measured from. Section 230 of the RMA 'Requirement for Esplanade Reserves or Esplanade Strips' does however at subsection 3 state: "*...an esplanade reserve 20 metres in width shall be set aside from that allotment along ... the bank of any river...*" On this basis it is my opinion that the esplanade reserves would be measured from the bank (of the active channel) of the river / stream.

Kite Submission

19. Ms Baxter expressed concerns regarding a loss of rural view and outlook to the south. I note that the current zoning of this land is Western Hills Residential. The structure plan currently included as Appendix 26 provides different site sizes for land within that zone including a strip of 1,500m² (Area B) minimum sized sites adjacent Puketitiri Road, beyond this strip however subdivision is permitted to a minimum site size of 250m² (Area A). That Appendix is extracted into the AEE Report as Figure 2 on page 8.
20. In my opinion the proposed Puketitiri Road Buffer Strip with its dual functions of public access and screening will provide a more effective visual mitigation measure adjacent Puketitiri Road than a 1,500m² minimum site size would have. I also note that although significant earthworks will be required to implement the subdivision, one of the principles of the proposed rezoning is to work with the existing landform as much as possible which will require the use of narrower and steeper roads than otherwise specified by the Council's Code of Practice for Subdivision and Land Development. In this regard I note Design Outcomes 4 and 5, which allow for road design that works with topography.
21. The current Western Hills Residential Zone would require significantly more earthworks to implement to ensure achievement of the road widths and grades prescribed in the Code of Practice. The visual amenity resulting from residential development within the Residential Precinct of the Proposed Mission Special Character Zone will therefore in my opinion be superior to that which would have

resulted from implementation of the existing Western Hills Residential Zoning. I consider this to apply generally as well as in relation to views from the opposite site of Puketitiri Road.

Conclusion

22. Thank you for your time Commissioners. I am now happy to answer any additional questions.

A handwritten signature in black ink, appearing to read 'Philip McKay', written in a cursive style.

Philip McKay

19th September 2018