

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of a hearing by Commissioners appointed by the Napier City Council regarding submissions to Plan Change 12 to the City of Napier District Plan

**REPLY STATEMENT:
MS KIM ANSTEY FOR NAPIER CITY COUNCIL**

1. Having had the opportunity to consider matters raised by submitters at the hearing, the following is my response to each submitter that appeared, including a recommendation for consideration as to possible plan amendments to address these residual concerns, where appropriate. Further comments are also made in relation to other matters raised by the Commissioners at the hearing, where I am of the opinion that a specific change or comment is warranted.

Response to Submitters

Submitter 13: Hawke's Bay Regional Council

2. Matters raised by the Hawke's Bay Regional Council focused on the esplanade reserve rule (Chapter 66, Code of Practice Provision 6.1.3.4) and related Design Outcome 22. Refer to the joint statement for an agreed position on these provisions and Appendix E for a tracked changes version of the final recommendation.

Submitter 2: Anthony Kite (Dawn Baxter spoke to the submission)

3. Ms Baxter spoke on the loss of rural views and associated southern outlook from the submitter's property at 164 Puketitiri Road. Ms Baxters concerns focused on the details of the Puketitiri Road Buffer Strip Reserve and the loss of the 1500m² larger lot size provisions in the existing Western Hills Residential Zone (Development Area B of Appendix 26 – Concept Plan).
4. Ms Baxter raised questions on the timing and planting of the Puketitiri Road Buffer Strip Reserve. Questions were also raised by Commissioner St Clair on how the District Plan will deliver on the structure plan design outcomes in general, and in particular in relation to the Puketitiri Rd Buffer Strip Reserve.
5. In regards to timing, the structure plan maps and design outcomes provide the framework for the anticipated form of development through their use as assessment criteria for all activities requiring resource consent, including subdivision. This provides Council with the mechanism to ensure the Puketitiri Rd Buffer Strip is planted prior to the issue of s224(c) certification.
6. It is expected that in practical terms, Design Outcome 11 provides a sufficient level of information to be supplied in relation to landscaping requirements for the Puketitiri Rd Buffer Strip to enable Council to request a landscape and planting plan to be submitted to Council as a condition of the subdivision consent at the s223 stage of depositing the survey plan. This would enable Council's Reserves team to provide input into the choice of appropriate species and planting layout design to ensure compliance with Design Outcome 11 prior to development occurring. The intended outcome from this would be a reduction in the prominence of the residential precinct as viewed from Puketitiri Rd

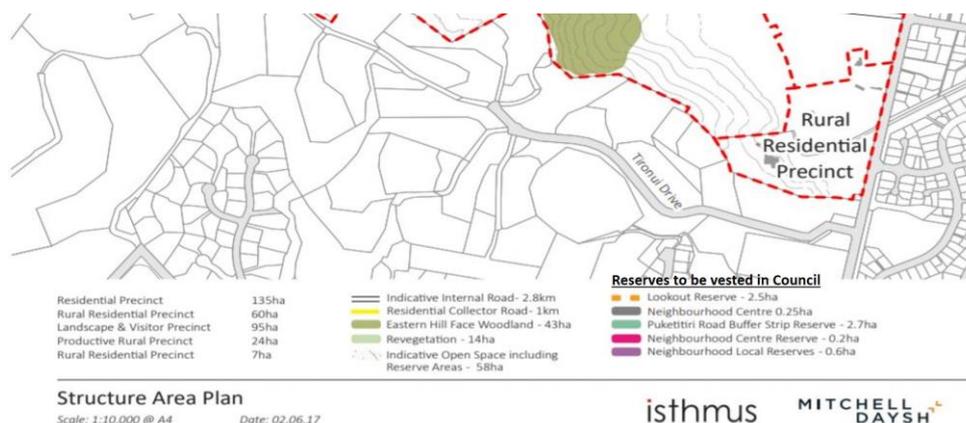
through the requirement for trees capable of growing to 9m high to be planted prior to residential building work commencing.

7. However, to ensure clarity around the reserve's overall purpose and function, including timing of its establishment as a means to mitigate environmental effects raised by this submitter, and to make this explicitly clear for future plan administration purposes I recommend that Design Outcome 11 be amended in the following way (additions are shown as underlined):

Design Outcome 11: Puketitiri Road Buffer Strip

A green buffer is to be provided along the boundary of the Residential Precinct with Puketitiri Road to be vested with the Napier City Council. The buffer is to include a path (potentially able to be used as a bridle path) and woodland trees to achieve the following outcomes:

- A green margin with rural characteristics along Puketitiri Road.
 - Reduced prominence of Residential Precinct houses as viewed from Puketitiri Road. A landscape and planting plan is to be submitted to Council at subdivision application stage to demonstrate how this will be achieved.
 - A reserve width of approximately 12 – 20 metres dependent on any localised topographical constraints. (Refer to figures 31 and 32 of the Urban Design Statement + Assessment of Landscape and Visual Effects, 2018 Isthmus Report for a concept plan and cross sectional diagrams that depict the reserves interface with Puketitiri Road).
 - Trees capable of growing to 9m high.
 - A soft surfaced path (e.g. compacted limestone or similar) that connects the Residential Precinct path network.
 - An off road connection from Puketitiri Road to Church Road via the path network through the Mission Special Character Zone.
 - The reserve location and area is to be generally consistent with that shown on the Structure Plan Area Plan Map in Appendix 26B-2 and is to be vested at the time of the first subdivision of the Residential Precinct. If land within the zone is required to be purchased for the upgrading of Puketitiri Road the internal reserve boundary is to be moved to maintain the reserves proposed width and purpose
8. A consequential change is proposed to Appendix 26B-2 to provide further clarification for Design Outcome 1 and 11 on the specific reserves to be vested in Council including the Puketitiri Road Buffer strip (shown as bold underlined in the following diagram).



9. These amendments clarify information that is already in the Plan Change documents. Making them readily accessible in a single location is to avoid any potential future ambiguity in District Plan administration. The update to Design Outcome 11 wording and the inclusion of the above heading in the structure plan falls within scope of Submission 2 of Anthony Kite.
10. Regarding the submitters request for reinstatement of a minimum lot size of 1500m² directly fronting Puketitiri Road, I concur with the statement of supplementary evidence of Philip MacKay on behalf of Marist Holdings (Greenmeadows) Ltd, that the Puketitiri Road buffer strip, once formed and established as intended, will provide sufficient visual mitigation measures for properties viewing the MSCZ from the north to remedy any potential amenity concerns associated with outlook. While the MSCZ does not provide for larger lots on the Puketitiri Rd frontage as the existing Western Hills Residential Zone does, other measures such as the buffer strip reserve and bridle path and working with the existing landform for earthworks and road design will, in my opinion, result in superior visual amenity outcomes than the current zoning allows for.
11. Ms Baxters recommendations that the developer offers compensation to affected residents' falls outside the scope of the plan change.

Submitter 11 - Historic Places Hawke's Bay

12. While I don't propose any change to the S42A report recommendation 11 on Heritage, I'd like to note the submitter's points around seeking formal heritage status of the buildings and vineyard that form the nucleus of the MSCZ and how such recognition would align with plan change objective 51b.3 and associated policies. My view is that there is currently insufficient information to be able to include the listing of this building and specific sites as part of the Plan Change 12 process and S32A assessment. However, if and when such evidential information was presented to Council for consideration of heritage listings for these features, the policy framework to support such listing in the District Plan has already been largely established through this plan change process. I'd also just like to note that there is an opportunity as part of the recently commenced District Plan review for any interested party to submit on the provisions of a new Proposed Napier District Plan, including the inclusion of new heritage items. In my view,

this is the most appropriate opportunity to seek formal heritage listing of the features described by the submitter.

Submitter 10 – P and L Alexander Partnership, Philip Alexander

13. It is my opinion that the proposed solution for managing stormwater within the Mission Special Character Zone is appropriate. The Regional Council, as the relevant consenting authority, have determined that there will be no adverse environmental effects that are more than minor associated with the proposed stormwater solution and I have no reason nor expertise to challenge that decision.
14. This view is based on the fact that the Hawke's Bay Regional Council have now issued a Resource Consent - Discharge Permit (DP180163L granted 21 May 2018) to divert and discharge stormwater as a controlled activity under the Regional Resource Management Plan for a consent duration of 30 years. As stated in Design Outcome 2 of the Structure Plan Outcomes, a resource consent needs to be obtained for the discharge of stormwater prior to a subdivision consent being lodged. Given that discharge permit has been issued, there is now no impediment associated with the diversion and discharge of stormwater for the applicant to seek subdivision of the land, assuming the plan change becomes operative.
15. Additionally I don't regard the matters raised at the hearing by Mr Alexander as being within the scope of the plan change. The ability to rework the stormwater solution for potential cost savings that could then be diverted to improving the Springfield culvert downstream to manage flooding is a matter for the HBRC, Hastings District Council, MHL and/or the Alexanders to consider if deemed appropriate. That consideration is independent of this plan change and would most likely need to supplement the discharge permit issued rather than replace it.

Submitter 17: Te Taiwhenua o te Whanganui a Orotū

16. Having heard the matters raised by this submitter at the hearing, I believe that the Cultural Impact Assessments provided by the submitter (and additionally Ngāti Pārau), appropriately consider cultural effects and therefore I recommend no changes to the S42A report. However, having had the opportunity to reflect on my earlier recommendation in the S42A report on the location of the Cultural Values Design Outcome in the Structure Plan, I have recommended an administrative change to the design outcome for cultural values as explained in the paragraph immediately below.

Other Matters Raised During the Hearing

Cultural Values and Archaeology

17. At the hearing, Commissioner Kirikiri discussed the difference between 'archaeology' and 'cultural values' and questioned whether it was appropriate for these concepts to be lumped together under the one Design Outcome. Upon reflection I'm in agreement with

Commissioner Kirikiri that these two concepts, although often interrelated, are different fields of knowledge and therefore should be treated as such. Separating Archaeology and Cultural Values in the design outcomes will ensure Māori cultural values, and particularly those unrelated to archaeology, are given appropriate recognition through the plan change. Therefore I recommend a change to Design Outcome 3 that would remove the Cultural Values component of this design outcome (as recommended in my original S42A) and place the exact same wording under a new Design Outcome 4 titled 'Māori Cultural Values'. This amendment in my opinion is simply a matter of minor typographical clarification rather than a change of content and its repositioning still falls within scope of the original submissions.

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

18. I agree that there is a minor misalignment between Policy 51b.5.2, that indicates that Council will implement and retain the woodland planting on the eastern hill face, and Design Outcome 16 that requires the planting to be undertaken by the applicant/developer prior to subdivision. A literal interpretation of this policy could be seen to contradict what will be achieved through the regulatory mechanism of Design Outcome 16 through the consenting process. Also to consider is the statement in the methods section that accompanies the Objectives and Policies which points to non-regulatory methods for achieving the objective:

(2) Other Methods

A Landscape and Planting Plan is to be developed and implemented in partnership between Council (given the acknowledged public significance of the landscape values) and the landowner. The planting plan is best developed and implemented in a non-regulatory cooperative manner to best achieve the 11 regulatory outcomes of screening hilltop development and softening and enhancing the landscape.

Such an approach provides for flexibility should species choices need to change due to unanticipated effects.

19. As suggested in the statement of supplementary evidence of Philip MacKay on behalf of Marist Holdings (Greenmeadows) Ltd, a solution to achieve a cleaner alignment between the policy and design outcome would be to amend the beginning of the policy to read: “ensure implementation and retention of woodland planting on the hill face...”
20. It is my opinion that the amended wording proposed in the paragraph above falls within the scope of a clause 16 (2) amendment under the First Schedule of the RMA. In practice the regulatory method of assessing a resource consent application for subdivision will be considered primarily under Design Outcome 16 and conditions of consent imposed under this provision accordingly. The recommended minor wording amendment to Policy 51b.5.2 will simply make future administration of the policy clear and explicit for all plan users and reflect the reality of what will happen in practice. I therefore am of the opinion that a recommendation should be made to Napier City Council that this particular wording change could, and should, be authorised under Clause 16(2).