

**Before a Hearings Commissioner appointed by
the Kāpiti Coast District Council**

Under

the Resource Management Act 1991

And

In the Matter

of an application under section 88 of the Act by M R Mansell, R P Mansell and A J Mansell to undertake earthworks that do not meet the permitted activity standards for a 49-lot rural residential subdivision that do not comply with the standards relating to the construction of a new road, reserves to vest with Council and land use consent for a reduction in yard setbacks and modification of indigenous vegetation and the surrender of easements at 48 and 58 Tieko Street and 131, 139 and 147 Otaihanga Road, Otaihanga, Paraparaumu RM210147

Memorandum on behalf of
Kapiti Coast District Council
Regarding Minutes 2 and 3

Dated: 1 September 2022

The following information is supplied in response to the Commissioners Minutes 2 and 3 dated 12 and 19 August 2022.

1. Paragraph 5a of Minute 2 sought a summary and expert planning analysis of the following matters:

1.1 Having reviewed the NPS-UD, I have identified the following provisions refer to *well-functioning urban environments*:

- Objective 1
- Policy 1
- Policy 6
- 3.8 Unanticipated or out-of-sequence development
- 3.11 Using evidence and analysis
- 3.13 Purpose and content of FDS

1.2 The full wording of these provisions is included at Attachment A.

1.3 The proposal is considered to meet the intent of **Objective 1** which reflects the purpose of the RMA for the following reasons:

The proposed subdivision would allow for the construction of an additional 39 dwellings that would provide for the health and safety of the community now and into the future. Dwellings provide for the social and economic wellbeing of their owners/occupants, and the proposal, if granted, would provide for the economic wellbeing of the Applicant.

Due to the works being undertaken with respect to the Dray Track that would not be possible without the proposed subdivision and creation of Lot 104, the proposal could also provide for the cultural wellbeing of Ātiawa ki Whakarongotai.

1.4 The proposal is considered to meet the intent of **Policy 1** which requires planning decisions to contribute to *well-functioning urban environments* and identifies the attributes of such an environment:

More recently Council has seen an increase in applications for townhouse style development and smaller residential lots. With the range of lot sizes proposed, the subdivision will provide for a range of household types in a different location, where there is space for landscaping for those who wish to have larger lots with outdoor areas and those who may wish to have more rural residential lifestyles and keep a small farmlet.

Local iwi Ātiawa ki Whakarongotai have been consulted with throughout the process and the Applicant will continue to work with iwi particularly in respect to the recognition of the Dray Track.

Open space will be provided for the area within the development by the vesting of Lot 105 as recreation reserve. The MacKays to Peka Peka Expressway and walkway link adjoining 12 Otaihanga Road will provide access to Petrel Close and the wider northern Paraparaumu Beach area.

Public transport is the role of the Regional Council and it outside the scope of the District Council's jurisdiction. Currently the nearest bus stop is over 1km from the site; however, the proposal could result in increased demand for these services leading to the Regional Council providing for buses within the Otaihanga area. Long term, Council would like to see a train station provided at Otaraua Park where it adjoins Old State Highway One. This is approximately 2km to the east of the application site.

- 1.5 **Policy 6** identifies matters that decision-makers should have 'particular regard to' when making decisions on urban environments.

As outlined above, the proposal is considered to be consistent with well-functioning urban environments and the proposal will contribute to meeting the requirements of the NPS-UD by creating an additional 39 allotments for residential development.

The wording of Policy 6 with respect to 'particular regard' is considered important when assessing the consistency of the proposal against the matters identified.

- 1.6 **3.8 Unanticipated or out-of-sequence development** relates to plan changes that would provide significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.

There are non-statutory documents of Council as outlined below relating to planned growth areas of which the site is within. While not currently anticipated by the District Plan, the proposal would provide 39 additional allotments that can be adequately serviced for their future intended use.

- 1.7 **3.11 Using evidence and analysis** relates to plan making/changes that affect the development of urban environments and details what local authorities must do.

- 1.8 **3.13 Purpose and content of FDS** details one of the purposes of the FDS is to achieve *well-functioning urban environments* in existing and future urban areas.

- 1.9 **Urban environment** means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

a) *is, or is intended to be, predominantly urban in character; and*

b) *is, or is intended to be, part of a housing and labour market of at least 10,000 people*

Both (a) and (b) must be met for an area to be considered an urban environment.

With respect to (b), Statistics New Zealand has identified spatial extent of “functional urban areas” throughout New Zealand. These are described as “socially and economically integrated areas based on the linkages between where people live and where they work, and subsequently learn, trade, and access facilities and services”, and can be used as a proxy for determining the spatial extent of a housing and labour market. Functional urban areas include one or more urban cores, satellite urban areas, and the hinterland that surrounds them. The Kapiti Coast has two Functional Urban Areas (Kapiti Coast Functional Urban Area and Otaki Functional Urban Area), Otaihangā is included in the Kapiti Coast Functional Urban Area.

With respect to (a), the area in which the site is located is not intended to be predominantly urban in character under the Operative District Plan 2021 based on the definition of *existing urban area* not including the Rural Lifestyle Zone:

the spatial area that includes the District’s centres, industrial and service areas, and suburban areas existing at the date of notification of this Plan. These areas are identified on the District Plan Maps as comprising one (or more) of the following zoning classifications:

1. *Airport Zone;*
2. *Hospital Zone;*
3. *Metropolitan Centre Zone;*
4. *General Industrial Zone;*
5. *Local Centre Zone;*
6. *Mixed Use Zone;*
7. *Residential Zones; and*
8. *Town Centre Zone.*

While the District Plan does not intend for the Rural Lifestyle Zone to be within an urban area, the definition under the NPS-UD of an urban environment relates to areas predominantly urban in *character* and therefore it may be considered that both (a) and (b) are met.

1.10 NPS-UD: tier 1 urban environment means an urban environment listed on column 1 of table 1 in the Appendix – Kapiti Coast District Council is listed as a Tier 1 local authority being part of the Wellington Tier 1 urban environment.

2. Paragraph 5b of Minute 2 sought detail of the proposal in respect to Te tupu pai

2.1 At a full Council meeting held 24 February 2022, the Council resolved to adopt the District Growth Strategy: Te tupu pai: Growing well.

- 2.2 It was confirmed by Council’s Manager Research and Policy on 18 August 2022 that Te tupu pai is not a Future Development Strategy (FDS) as required by the NPS-UD, rather the vision and direction for future growth developed under the framing of the Wellington Regional Growth Framework (WRGF). Te tupu pai will be used to inform the review of the WRGF to meet the FDS requirements of the NPS-UD. Following the WRGF review, a FDS will be developed that will cover the Tier 1 Wellington urban environment (including the Kapiti Coast). It will be completed in time to inform the 2024 Long Term Plans.
- 2.3 Members of the public had an opportunity to provide feedback on how they wished to see the Kapiti Coast District grow and this has resulted in Te tupu pai broadly seeking to retain rural areas that protect productive land and provide for lifestyle choice, while maintaining rural character.
- 2.4 Also used to inform the Strategy were assessments undertaken by Boffa Miskell and 4Sight Consulting. This included meetings with Council officers to understand any capacity constraints on transport networks and water and wastewater services.
- 2.5 In the Boffa Miskell Kapiti Coast Urban Development Greenfield Assessment, the site subject to this application is identified within an area labelled OH-1 in Future Urban Study Area (FUSA) Priority Group 2A which could provide a theoretical estimate of 2,100 dwellings.
- 2.6 Priority Group 2A is identified as areas that are *a candidate for medium or long term urban development, although there are a number of constraints that need to be overcome. Development of the area presents the opportunity to achieve a range of positive outcomes, however there are a number of constraints that need to be overcome*¹.
- 2.7 There is a subset to the FUSA Priority Group 2A being the Theoretical Development Area (TDA). The Kapiti Coast Urban Development Greenfield Assessment describes Theoretical Development Areas as indicative only and having been identified for the purpose of estimating theoretical dwelling capacity for each area. The Greenfield Assessment states the primary purpose of identifying these areas was to provide a basis for a plausible estimate of the dwelling capacity for each study area. Therefore, the extent and location of these areas should be interpreted as general in nature, and the identification of these areas should not be seen to exclude the possibility of development in other areas. They should also not be interpreted as ‘proposed’ areas for urban development, as they have not been developed as part of a structure planning or similar process. Notwithstanding this, the areas identified as “theoretical development areas” are a useful proxy for areas of low constraint within each of the study areas.²

¹ Boffa Miskell (October 2021), Kapiti Coast Urban Development Greenfield Assessment, page 15

² Boffa Miskell (October 2021), Kapiti Coast Urban Development Greenfield Assessment, page 8

- 2.8 The Theoretical Development Areas were identified at a high level where attempts were made to avoid the following constraints:
- flood hazard areas
 - areas of high combined earthquake hazards
 - areas in proximity to the coast
 - ecological sites, conservation open space and QEII covenant sites
 - outstanding natural landscapes and special amenity landscapes
 - areas within 20m of waterbodies, including streams, rivers, drains, lakes, ponds and wetlands
 - areas of topography steeper than 1:5
 - areas within 40m of the National Grid
 - waahi tapu sites
- 2.9 The Greenfield Assessment further acknowledges the potential impacts of the National Policy Statement for Freshwater Management and National Environment Standards for Freshwater on the TDA.
- 2.10 While the application site contains small areas of the flood hazard ponding, this will be mitigated to provide flood free building areas on all allotments and the design responds well to the requirements of the national freshwater documents as evidenced by the granting of consent from the Regional Council.
- 2.11 At a Council meeting on 24 March 2022, a report on a draft intensification plan change was presented. This report identified that the District's population is projected to grow by at least 30,000 people over the next 30 years resulting in a shortfall of approximately 8,400 dwellings.
- 2.12 As outlined above, the site is within an area identified as being able to provide 2,100 dwellings. This is one quarter of the anticipated need over the next 30 years. There is no other area within Priority Group 2A identified as being able to provide this capacity.
- 2.13 The proposed subdivision has the potential to remove capacity from the area identified as OH-1 to provide maximum yield in meeting the predicted housing shortfall and with less anticipated capacity available, the wider OH-1 Area could drop on the priority list of areas to consider for intensification.
- 2.14 However, with the lot sizes proposed, there is also the potential for further subdivision and development to occur should Council proceed with the direction established by the Boffa Miskell assessment given infrastructure will be installed as part of this application, should consent be granted.

2.15 In May 2022, Council also adopted a Housing Strategy arising from the Long Term Plan consultation, identifying that Council have a larger role in affordable housing.

2.16 The Housing strategy identifies eight Focus Areas each with associated actions which include implementing the Growth Strategy.

3. Paragraph 5c of Minute 2 sought detail of the proposal in respect to proposed Intensification Plan Change (draft plan change 2)

3.1 Proposed Plan Change 2 (Intensification) was notified on 18 August 2022. There are no changes proposed to the application site zoning or standards under this Plan Change. It is considered that this is due to the potential constraints identified within the Boffa Miskell Kapiti Coast Urban Development Greenfield Assessment classification of the site as Priority Group 2A although there is no specific detail on this provided in the Greenfield Assessment and the timing central government imposed with respect to the Medium Density Residential Standards.

3.2 The application site is not within/does not adjoin the metropolitan centre zone, a walkable catchment, neighbourhood centre zone, local centre zone or town centre zone and therefore it is considered that Policy 3 of the NPS-UD has limited relevance at this time.

3.3 Plan Change 2 proposes changes to Objective DO-O3. The additions are highlighted and underlined, and deletions shown with a ~~strikethrough~~:

To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas, ~~which can and to provide for the development of new urban areas, and provide for the development of new urban areas where these can~~ be efficiently serviced and integrated with existing townships, delivering:

1. *urban areas which maximise the efficient end use of energy and integration with infrastructure;*
2. *a variety of living and working areas in a manner which reinforces the function and vitality of centres;*
3. *an urban environment that enables more people to live in, and more businesses and community services to be located in, parts of the urban environment:*
 - a. *that are in or near a Centre Zone or other area with many employment opportunities; or*
 - b. *that are well serviced by existing or planned public transport; or*
 - c. *where there is high demand for housing or for business land relative to other areas within the urban environment;*
4. *resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;*
5. *higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;*

6. management of development in areas of special character or amenity so as in a manner that has regard to maintain, and where practicable, enhance those special values;
7. sustainable natural processes including freshwater systems, areas characterised by the productive potential of the land, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
8. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; ~~and~~
9. management of the location and effects of potentially incompatible land uses including any interface between such uses; and
10. urban environments that support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change.

3.4 Plan Change 2 proposes changes to Policy UFD-P1. The additions are highlighted and underlined, and deletions shown with a strikethrough:

New urban development for residential activities will only be located within existing urban areas and identified growth areas, and will be undertaken in a manner which:

1. supports the District's consolidated urban form;
2. maintains the integrity of the urban edge north of Waikanae and Ōtaki;
3. manages residential densities by:
 - a. enabling medium density providing for a variety of housing types and ~~focused infill housing in identified precinct areas that are close to centres, public open spaces, and public transport nodes;~~
 - b. retaining a predominantly low residential density densities in the General Residential Zones ~~Zone~~;
 - c. avoiding any significant adverse effects enabling increased housing densities:
 - i. in, and within a walkable catchment of the Metropolitan Centre Zone; ~~subdivision~~
 - ii. within a walkable catchment of the train stations at Paekākāriki, Paraparaumu and Waikanae; and ~~development~~
 - iii. in special character areas identified in GRZ-P3 and adjacent to the Town Centre Zone and Local Centre Zone;
4. avoids urban expansion that would compromise the distinctiveness of existing settlements and unique character values in the rural environment between and around settlements;
5. can be sustained within and makes efficient use of existing capacity of public services and infrastructure, or strategic is integrated with the planned capacity of public services and infrastructure; ~~and~~
6. promotes the efficient use of energy and water.

- 3.5 Plan Change 2 proposes changes to Policy UFD-P4. The additions are highlighted and underlined, and deletions shown with a strikethrough:

The density of subdivision and development will be managed through an area-specific approach to achieve an appropriate range of housing types across the District, as set out below:

1. *the highest densities, including apartments as part of mixed use developments, will be located within ~~and in immediate proximity to~~ centres;*
2. *medium higher density housing development, including multi-storey apartments, will be ~~limited~~ provided for within a walkable catchment of the Metropolitan Centre Zone, train stations at Paekākāriki, Paraparaumu and Waikanae, and adjacent to specific precinct areas within walking distance of the ~~centres~~ Town Centre Zone and Local Centre Zone;*
3. *~~focused infill~~ a variety of densities will be ~~encouraged~~ provided for in ~~specific areas where there is good access to shops and services~~ the General Residential Zone;*
4. *within the Neighbourhood Development Areas identified in the Ngārara Development Area Structure Plan in Appendix 7, the provision of affordable housing will be encouraged at appropriate locations with good access to shops and services; and*
5. *~~traditional low density residential subdivision will be allowed within the general residential area;~~*
6. *~~overall existing low~~ densities will be ~~maintained in special character areas identified in GRZ-P3;~~*
7. *~~especially low densities will be applied in Low Density Housing Precinct areas (identified on the District Plan Maps) as transitions between rural and urban environments); and~~*
8. *~~in areas where~~ integrated with existing or planned infrastructure ~~constraints exist (such as water, wastewater or roading), densities will reflect those constraints~~ capacity.*

- 5.5 Proposed Plan Change 2: Intensification is also considered to have limited relevance to the proposal as there are no changes to definitions, objectives, policies or rules and standards with respect to the Rural Lifestyle Zone.

4. Paragraph 5d of Minute 2 sought analysis of specific objectives and policies of the District Plan and any associated explanations

- 4.1 Further to item 4 above, in paragraph 6 of Minute 2, the Commissioners sought for a response that draws on advice from Council's District Planning team. This work is ongoing and will be provided as soon as it is available.

5. Minute 3 sought analysis of provisions of proposed Plan Change 1 to the RPS

- 5.1 Policy 55 relates to providing for appropriate urban expansion where particular regard must be given to whether an application for resource consent, or a change, variation or review of a district plan for urban development beyond the region's urban area will contribute to establishing or maintaining the qualities of a well-functioning urban environment, including consistency with any Future Development Strategy, local

strategic growth and/or development framework and including any out-of-sequence development if it would provide for significant development capacity.

- 5.2 Policy 56 relates to managing development in rural areas where particular regard must be given to whether an application for resource consent, or a change, variation or review of a district plan in rural areas would result in the loss of productive land capacity, reverse sensitivity issues, reduction in aesthetic and open space values, minimise demand for non-renewable energy resources, consistency with any Future Development Strategy or local strategic growth and/or development framework or strategy that addresses future rural development or where a framework or strategy is not available if the proposal will increase pressure for public services and infrastructure beyond existing infrastructure capacity.

As detailed within the s42A report, the land is not considered to have any great productive capabilities, the provision of the stormwater and recreation reserves and significant areas of planting at the southern end of the development as well as the retention of dominant dunes will retain open space and aesthetic values.

With respect to power and telecommunications, the Engineering Report prepared by Cuttriss Consultants Limited and submitted with the application includes correspondence with Chorus and Scanpower advising that they are able to provide servicing to the lots and the cost of these works would be paid by the consent holder.

It is demonstrated within the Engineering Report that there is capacity within Council's systems to service the proposed allotments and within the resource consent process, no information has been provided by Council's infrastructure engineers that would conflict with this.

- 5.3 Change 1 amends the urban areas definition to read *the region's urban area include residential zones, commercial, mixed use zones and industrial zones identified in the Wellington city, Porirua city, Hutt city, Upper Hutt city, Kapiti coast and Wairarapa combined district plans.*

- 5.4 Change 1 proposes to include a definition of urban environment which has been taken from subpart 1.4 of the NPS-UD and *means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:*

a) is, or is intended to be, predominantly urban in character; and

b) is, or is intended to be, part of a housing and labour market of at least 10,000 people.

- 5.5 Change 1 amends the rural areas definition to read *the region's rural areas include rural zones identified in the Wellington city, Porirua city, Hutt city, Upper Hutt city, Kapiti coast and Wairarapa combined district plans.*

This would cover the application site which is zoned Rural Lifestyle.

- 5.6 Overall, the changes proposed to the RPS are considered to be those required to give effect to the NPS-UD and with the assessment above of the NPS-UD, no further analysis of Change 1 is considered necessary.

Dated this 1st day of September 2022

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

Marnie Rydon
Consultant Planner for Kapiti Coast District Council

Attachment A

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- a) have or enable a variety of homes that:
 - i. meet the needs, in terms of type, price, and location, of different households; and
 - ii. enable Māori to express their cultural traditions and norms; and
- b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
- d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- e) support reductions in greenhouse gas emissions; and
- f) are resilient to the likely current and future effects of climate change.

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement
- b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - i. may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
 - ii. are not, of themselves, an adverse effect
- c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)
- d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity
- e) the likely current and future effects of climate change.

3.8 Unanticipated or out-of-sequence developments

- 1) This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.

- 2) Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:
 - a) would contribute to a well-functioning urban environment; and
 - b) is well-connected along transport corridors; and
 - c) meets the criteria set under subclause (3).
- 3) Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.

3.11 Using evidence and analysis

- 1) When making plans, or when changing plans in ways that affect the development of urban environments, local authorities must:
 - i. clearly identify the resource management issues being managed; and
 - ii. use evidence, particularly any relevant HBAs, about land and development markets, and the results of the monitoring required by this National Policy Statement, to assess the impact of different regulatory and non-regulatory options for urban development and their contribution to:
 - iii. achieving well-functioning urban environments; and
 - iv. meeting the requirements to provide at least sufficient development capacity.
- 2) Local authorities must include the matters referred to in subclause (1)(a) and (b) in relevant evaluation reports and further evaluation reports prepared under sections 32 and 32AA of the Act.

3.13 Purpose and content of FDS

- 1) The purpose of an FDS is:
 - a) to promote long-term strategic planning by setting out how a local authority intends to:
 - i. achieve well-functioning urban environments in its existing and future urban areas; and
 - ii. provide at least sufficient development capacity, as required by clauses 3.2 and 3.3, over the next 30 years to meet expected demand; and
 - b) assist the integration of planning decisions under the Act with infrastructure planning and funding decisions.
- 2) Every FDS must spatially identify:
 - a) the broad locations in which development capacity will be provided over the long term, in both existing and future urban areas, to meet the requirements of clauses 3.2 and 3.3; and
 - b) the development infrastructure and additional infrastructure required to support or service that development capacity, along with the general location of the corridors and other sites required to provide it; and

- c) any constraints on development.
- 3) Every FDS must include a clear statement of hapū and iwi values and aspirations for urban development.