

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Hearing of Submissions
and Further Submissions
on the Proposed Plan
Change 3 (Urban Form &
Development) to the
Manawatū-Whanganui
Regional Plan (Horizons
One Plan)

Minute 3:

Follow Up Following Hearing

1. Following the completion of the hearing on 8 February, there are a number of issues that we need to address.
2. First, we note that prior to the hearing, counsel for the Council requested an extension of time within which to lodge his legal submissions for personal reasons. We gave him that leave informally, to allow him to file his legal submissions on 2 February, subject to the precondition that he did not use that opportunity to address the legal submissions filed by any other party. Mr Jessen's submissions were filed within that expanded timeframe and we are satisfied that he complied both with the letter and the spirit of the precondition which we had imposed. Accordingly, we confirm that waiver of our directions accordingly.
3. Secondly, Ms Davies filed a document addressing the submission of the New Zealand Defence Force on 1 February. Although framed as a brief of evidence, it did not indicate compliance with the Environment Court Code, and we have considered it on the basis that it was a non-legal representation. Even then, however, it was over a day late and we asked the Hearing Administrator to advise Ms Davies that we would need to consider whether to receive her representation given that failure to comply with our directions.
4. Accordingly, when Ms Davies appeared by zoom, we invited her to explain the failure to comply with our directions. She provided what we considered to be a sufficient explanation in the absence of any prejudice to any other party and accordingly, the Chair advised verbally that we would waive the non-compliance. We now confirm that verbal advice.
5. Thirdly, at the conclusion of the hearing, we discussed with Ms Shirley and Mr Jessen whether, given the number of issues that had come during the hearing which they would need to address in reply, they needed more time than we had originally provided (to 28 February) to provide the Council's reply. Having considered the question, Ms Shirley asked for another week. As we will make clear in a moment, there are a number of issues on which we need the assistance of the Council team, and we consider that the extension of a week is warranted. We direct that the Council's reply is to be filed by 1pm on 6 March.
6. As regards the contents of the Council's reply, it is of course up to the Council to determine what matters it wishes to address in reply. We would

ask, however, that as part of its reply, the Council consider the following questions and respond appropriately:

- (a) Given Mr Jessen's advice that to the extent PC3 gives positive direction for management of urban development which has potential to have effects on water quality and indigenous biodiversity, measures to give effect to the NPSFM and NPSIB are in scope, should the NPSFM and NPSIB be given effect through amended provisions?
- (b) Can Ms Shirley please explain in greater detail how altering reference to versatile soils in the provisions amended by PC3 to refer to "*highly productive land*" will alter the effect of those provisions?
- (c) Ms Baddock provided us with an LUC Soils map of Horowhenua District. Can Council please provide us with similar maps of the areas around the urban environments in the balance of the Region, and/or provide qualitative comment of the extent to which potentially developable areas around those urban environments impinge on Class 3 soils.
- (d) Is there a valid basis to qualify provisions giving effect to the NPSUD to require consideration of nationally significant infrastructure other than the National Grid (and by extension, nationally and regionally significant industry)? This raises some subsidiary questions that we would appreciate Mr Jessen's feedback on, namely:
 - (i) Is it appropriate to rely on MfE Guidance documents to alter the meaning and effect of the NPSUD in his regard?
 - (ii) Can a purposive interpretation of the NPSUD justify a qualification of the kind described above (as suggested by Counsel for Fonterra)?
- (e) If the only legitimate qualification of provisions directing enabling of urban development relates to the National Grid, how should it be framed? In particular, should it include the qualification ("*to the extent reasonably possible*") in NPSET Policy 10?
- (f) If Objective UFD-03 is retained in essentially its current form:
 - (i) Should Objection UFD-03(1)(f) be expanded to refer to facilities and assets of regional or national importance (as per Policy 3-1(b))?

- (ii) Should the level of direction be softened from “*to ensure*”: e.g. to import the qualification in NPSET Policy 10 as above, or alternatively to adopt the wording suggested by Counsel for Fonterra?
- (iii) Should the wording be amended to make it clear that it is the operation, maintenance and upgrading of infrastructure that should not be compromised?
- (iv) What sort of “*effects*” is the objective focussed on? Does this need clarification?
- (g) Is there a need to review how issues are framed to amend implicit or explicit policy directions? If so, what amendments are recommended?
- (h) Can Council please supply any additional information it can readily source about where the territorial authorities making up the Region are up to in terms of providing for predicted, short, medium, and long-term demand, particularly the territorial authorities who did not appear (i.e. Whanganui District)?
- (i) Should the directive nature of the suggested amendment to UFD-P5 be softened?- ie is “must ensure” too directive given the competing directions of the NPSUD to provide development capacity?
- (j) If Policy UFD-7(2)(b) is amended as recommended, is there a need to provide greater clarity as to what papakāinga is, and when such a provision would apply to it: e.g. is a development undertaken by and/or for iwi and hapū, by and/or for Māori more generally, or alternatively for anyone else?
- (k) Should UFD-P7(1) be amended to refer to iwi and hapū expressing their cultural traditions and norms?
- (l) Is the recommended amendment to Issue I3 to delete “do not worsen” consistent with the NPSFM?
- (m) In that same issue, should the suggested addition at the end of the issue be reframed to express the issues faced by smaller towns and communities more clearly?
- (n) How can UFD-P4(1)(b) address the risk of development solely providing for residential use, with no provision for business use, while also

recognising that in some cases it is impractical to require development to do both e.g. small-scale intensification?

- (o) Is greater clarity required as to how connections for transport modes and to transport corridors are provided for in UFD-P4(2)(c)?
 - (p) Should direction be provided as to what level of resilience is required to the effects of climate change in UFD-P8(1)(c)?
 - (q) Should the words "*through the LTP*" be deleted from the penultimate line of Method 2?
 - (r) Should the anticipated environmental results be amended to provide a link to UFD-P7?
7. As intimated at the end of the hearing, we do not direct Ms Shirley to conference with other planning witnesses (as Ms Whitney suggested) before the Council's reply is finalised. It is of course open to her to discuss the outstanding issues with other witnesses more informally, and we would encourage that to occur if time permits.

Dated 12 February 2024



**Trevor Robinson
Chair
PC3 Hearing Panel**