

Under: Schedule 1 to the Resource Management Act 1991

In the matter of Proposed Porirua District Plan – Northern Growth Development Area

Between **Porirua City Council**
Local Authority

And **Pukerua Property Group Limited**
Original Submitter 59

STATEMENT OF PLANNING EVIDENCE OF BRYCE SELWYN HOLMES

FOR

PUKERUA PROPERTY GROUP LIMITED

24 FEBRUARY 2023

Section A – Introduction

Name, qualifications and experience

- [1] My full name is Bryce Selwyn Holmes. I am a Director and the Principal Planner at Land Matters Limited based in the Kapiti Coast. I co-founded Land Matters in 2008/2009.
- [2] I hold a Bachelor of Resource and Environmental Planning (with Honours) from Massey University, majoring in Economics.
- [3] I am a Full Member of the New Zealand Planning Institute. I have 22 years of experience as a planning and resource management professional in New Zealand.
- [4] I have worked in local government (Regional and District Councils) and private practice. I have been involved in plan changes and plan development in many regions of New Zealand. I have prepared and assessed resource consent applications for various projects for greenfield residential developments, commercial activities and large-scale projects. I have appeared before the Environment Court and High Court for resource management matters.
- [5] I have read the *Officer's report: Part B – Northern Growth Area* prepared by Rory Smeaton and dated 10 February 2023 and my evidence in part responds to that report.
- [6] I have provided planning and resource management advice to a number of landowners in the Northern Growth Development Area (**NGDA**), including the Neil Group, John Carrad, Pukerua Property Group Limited (**PPGL**) and others.

Expert Code

- [7] While this is not an Environment Court hearing, I have met the standards in that Court for giving expert evidence.

[8] I have read the Code of Conduct for expert witnesses issued as part of the Environment Court Practice Note 2014 (Part 7). I agree to comply with the Code of Conduct. I am satisfied that the matters addressed in this statement of evidence are within my expertise. I am not aware of any material facts that have been omitted or might alter or detract from the opinions expressed in this statement of evidence.

Scope and purpose of Evidence

[9] My statement of evidence relates to the submission made by PPGL proposing changes to Rule DEV-NG-R1, Objective DEV-NG-O2 and Policy DEV-NG-P2, both in relation to the NGDA.

[10] In general, I consider the provisions for the NGDA to be a positive approach to enabling residential and associated development in the Northern Growth Area. However, it is my view that certain provisions of the NGDA are overly prescriptive and limit the flexibility required to achieve good resource management outcomes.

Section B – Rule DEV-NG-R1

[11] PPGL seeks an amendment to Rule DEV-NG-R1 to read:

Activities (excluding subdivision) that are permitted activities in the underlying zone.

Activity status: Permitted

Where: The activity is ~~in accordance~~ consistent with DEV-NG-Figure 1: Northern Growth Development Area Structure Plan.

[12] I consider the current wording of the rule to be ambiguous and subject to interpretation. This is not appropriate for a district plan rule. Quality Planning advice on writing rules says:

Rules should be worded clearly enough to enable the plan user to judge the meaning and effect of the rule at face value without having to resort to using explanations or seeking advice from those who wrote it.¹

- [13] Mr Smeaton justifies the use of *'in accordance with'* over *'consistent with'* through a comparison of the terms' frequency of occurrence in the RMA. In my view, frequency of occurrence is of little relevance to a term's suitability in the wording of a rule.
- [14] Structure plans are high level guidance documents and are not intended to be replicated exactly in development proposals. The NGDA Structure Plan is at a 1:10,000 scale and Rule DEV-NG-R1 applies to all activities other than subdivision.
- [15] In my experience with other District Plans, rules requiring activities to be in accordance with high-level structure plans lead to protracted and difficult-to-determine disagreements between applicants and consent officers regarding applicability. This will particularly be the case for a permitted activity rule relating to all activities other than subdivision.
- [16] In my view, the term *'consistent with'* better reflects the high-level nature of structure plans. Perhaps Council should clarify what it is trying to achieve with the rule. For example if it is to avoid dwellings where a roading corridor is shown on the structure plan, then it may be best to clarify that. Regardless of the wording, I consider the current rule to read more like an assessment criteria attached to a Restricted Discretionary Activity (RDA) rule rather than a permitted activity.

Section C – Objective DEV-NG-O2

- [17] PPGL seeks an addition to clause 5 of Objective DEV-NG-O2 to read:

¹ *Writing Effective and Enforceable Rules* <https://www.qualityplanning.org.nz/node/611>

Subdivision, use and development in the Medium Density Residential Zone and Neighbourhood Centre Zone of the Northern Growth Development Area achieves:

...

5. Housing (including ~~A~~medium density housing) with a variety of housing types, sizes and tenures;

...

- [18] This matter is addressed in paragraph 261 of the Officer’s Report.
- [19] The National Policy Statement on Urban Development May 2022 (**NPS-UD**) is not directive in its approach to the provision of housing density. Policy 3 requires district plans to enable of urban form, not to enforce it.
- [20] The Boffa Miskell *Urban Design Assessment* prepared specifically for the NGDA variation (July 2022) addresses the housing types appropriate for the NGDA in paragraph 1.6.1 of the report:
- While medium density residential zoning is to be applied across the majority of the site, it is likely that a range of densities and housing type will be delivered over time based on building feasibility and housing demand, particularly considering topography.*
- The range of proposed housing types enabled through a MRZ zoning includes standalone houses, detached / duplex housing, terraces, and low-rise apartments. Existing PDP provisions also enable the development of retirement villages on the site as a restricted discretionary activity.*
- [21] The current wording of the clause (*Medium density housing with a variety of housing types, sizes and tenures*) is contradictory. A ‘*variety of housing types*’ will not be achieved through a policy requiring only medium density housing.

[22] The officer's report recommends amending the wording as follows:

~~Predominantly m~~Medium density housing with a variety of housing types, sizes and tenures

[23] I agree that this better reflects the intent of both the NPS-UD and the Boffa Miskell Urban Design Report. However, both the original and the proposed wording in the officer's report do not reflect the scale at which it is appropriate for medium density housing to be 'predominant'.

[24] The officer's report refers to Strategic Objective UFD-01 and Policy MRZ-01 to justify the proposed wording. However, both objective and policy relate to a significantly larger area than the NGDA. Whilst a predominance of medium density housing may be appropriate across the Medium Density Residential Zone (**MRZ**) at a macro scale, at the more micro scale of the NGDA, housing requirements need to reflect the amenity values of the area and market demand.

[25] I understand PPGL are providing a submitter statement on the importance of flexibility in housing types for the successful development of a community.

[26] The proposed wording in the PPGL submission better reflects the flexibility required whilst achieving the intent of the NPS-UD, the Boffa Miskell report, Strategic Directive UFD-01, MRZ-01 and the other provisions of the NGDA.

Section C – Policy DEV-NG-P2

[27] PPGL seeks an additional subclause to Policy DEV-NG-P2 to Clause 8 relating to earthworks and infrastructure for urban development in Freshwater Management Areas. This matter is addressed at paragraph 283 of the Officer's Report.

[28] The addition of Urban Development clause 45C (Restricted discretionary activities) to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 now provides a consenting pathway for earthwork activities for the purpose of constructing urban development.

[29] PPGL's submission on this matter was intended to accommodate this very eventuality and is therefore appropriate given the recent change to the regulations.

[30] Mr Smeaton highlights that the proposed addition in the submission is confused between intent and outcome. I agree that, in the way proposed in the submission, the addition appears confusing but was an attempt to capture the subject matter.

[31] Picking up on Mr Smeaton's valuable point, I consider the intent of the submission would be better achieved through redrafting the addition as follows:

8. Demonstrates that use and development, including earthworks for infrastructure and reserve networks where necessary and appropriate for urban development, within the Freshwater Management Areas identified on the Structure Plan:

- a. Considers regional plan provisions and the regulations in the NES-F;*
- b. Is consistent with Water Sensitive Urban Design principles and Wellington Water's 'Water Sensitive Design for Stormwater: Treatment Device Design Guideline' (Version 1.1, 2019) for the design of any relevant stormwater treatment devices;*
- c. Recognises and provides opportunities to enhance freshwater ecology, public access to and along freshwater bodies, and resilience to flood risk;*

[32] It is my view that the proposed addition better reflects the amendments to the regulations and better achieves the purpose of the RMA accordingly.

Section J – Summary and Conclusion

[33] At paragraphs 240, 242-244 of the Officer's report, Mr Smeaton recommends changes to the Freshwater Management Area section. I agree this is an appropriate recommended change and reflects the content of the Boffa Miskell *Ecology assessment* for the Northern Growth Area (27 July 2022).

[34] I consider that the purpose of the RMA will be better achieved by incorporating the proposed amendments to the NGDA provisions detailed in my evidence.

Dated 24 February 2023



Bryce Selwyn Holmes