

## **S42A Officers Conclusions – update 23.3.21**

I'd just like to provide the panel with my conclusions on the key issues raised in my s42A report and any subsequent updates to these following my read of evidence and what has been raised in hearing. I am happy to address any questions that the panel may have.

Before getting to the key issues, I'd just like to reiterate my view which is noted in my s42A report that in considering PPC12 I believe that a decision on whether it is appropriate to approve the plan change and uplift the deferred residential zoning of Stage 1 of the T2 Growth Cell ahead of schedule, should be based on:

- How well PPC12 aligns with the relevant statutory and policy context;
- Whether there is sufficient existing infrastructure capacity or feasible infrastructure solutions to cater for the early release of Stage 1 of the T2 Growth Cell; and
- Whether there is appropriate integration across the T2 Growth Cell, with the adjacent T1 Growth Cell and with the wider Te Awamutu urban area.

These matters have been addressed in my s42A primarily through assessment of topics 1 and 3 which respond to submissions on the early release of T2 and provision of infrastructure. Also of note is that I accept the Applicant's assessment of the relevant statutory and policy context, and my own commentary on the statutory and policy context relevant to PPC12 has been provided in section 4 of my s42A report.

I'll now provide my conclusions on each of the key issues raised:

### Early release of T2 and Staging

- The early release of the southern portion (Stage 1) of the T2 Growth Cell for residential development is consistent with the planning policy framework within which the proposal must be considered and is supported by higher level planning documents including the National Policy Statement for Urban Development 2020 (NPS-UD) and the Waikato Regional Policy Statement (WRPS).
- The WDP provides for and anticipates the uplift of Deferred Zones (including the T2 Growth Cell) over time and specifically notes that these "are areas that have been identified as being suitable for conversion from the current land use to a new land use". The relevant rule in the District Plan relating to uplift of deferred zoning for T2 is Rule 14.4.1.10. Based on advice received from Council's development engineers around open growth cells and capacity, I consider that the proposal meets the requirements of this rule.
- In principle I agree that the staged release of the T2 Growth Cell is an appropriate approach to balance the supply of residential land and meet the short to medium term demand within Te Awamutu, alongside other open Growth Cells.
- I consider that the proposed structure plan and supporting planning provisions will ensure that the entire Growth Cell is developed in an integrated way and that staging the development will not adversely affect this.
- However, due to stage 2 which is the northern portion of T2, not being as far advanced in terms of detailed design, I have recommended that this portion of T2 remains zoned as deferred residential. I consider that this approach meets the necessary requirements of the WDP and higher order planning documents.
- This approach is supported by the applicant and I note that Mr Olliver in his response to Council's request for further information confirms acceptance of staging the release of the T2 growth cell for development and has offered up a proposed amendment to the rules framework to give effect to staging primarily through the addition of Rule 15.4.2.92. I have reviewed this rule in conjunction with Council's legal representative Mrs Embling, who has advised that it is more legally robust to retain the deferred zoning for stage 2 than to address this by way of a rule. I have therefore recommended in my S42A report that this proposed rule is deleted and that

the deferred zoning is only uplifted for Stage 1. I note that Mr Olliver accepts this recommendation at Page 33, Paragraph 99 of his evidence.

- In regards to Mr Olliver's response to submissions regarding Stage 2 timing of development which is located in the table on pages 37-38 of his evidence, I want to provide further clarification to his commentary. Mr Olliver states that "Any development prior to 2035 within Stage 2 will require a resource consent as a non-complying activity. That is the same as the existing status of the land." This is correct, however I would like to add that early uplift of the deferred residential zoning to residential for stage 2 ahead of 2035 could also occur if an application is made for an additional plan change. Noting that this process may be dependent on the outcome of Plan Change 13 (which was notified yesterday) and any subsequent changes to the rules framework of the District Plan that may result.
- In response to submitter concerns heard today around availability of sections within growth cells, Council can only influence supply through providing appropriate zoning and cannot influence demand and uptake of these sections.

### **Traffic, Safety and Transport Connections**

- I have reviewed the evidence provided by Mr Apeldoorn, and stand by the conclusions made in my s42A report regarding traffic generation, safety and transport connections.
- I agree with Council's Transportation Manager and Development Engineers that the Integrated Transportation Assessment provided as part of the application gives adequate consideration to and provides a relevant assessment of traffic effects. Further to this, Council's Development Engineers have since noted that a range of improvements are proposed to Frontier Road (funded through the Long Term Plan) to further manage the increase in traffic including, kerbing, lighting, shared cycle footpath on northern side of road and lowering the vertical curve at the current urban boundary to improve road safety.
- It is an expectation that further detailed planning will come at the time of subdivision and land use consent, and that Council will recommend conditions of consent to mitigate potential effects.
- Based on the information presented, and the advice received from Council's development engineers I believe that enough detail regarding traffic, safety and transport connections has been provided such that the plan change can proceed.
- Upon hearing submissions today, my conclusions on transportation and connections have not changed and I feel that the concerns raised through submissions have been addressed in this hearing process.

### **Three Waters**

- I have reviewed the evidence of Mr Vink and Mr Murphy and have received advice from Council's development engineers regarding proposed provision of key infrastructure for T2 including stormwater, wastewater, and water supply.
- I note that many submitters raised concerns around water supply and water pressure, and that these are being addressed at present through the detailed design for installation of a booster pump and upgrades to the existing reticulation network.
- The receiving council infrastructure for wastewater was originally sized to cater for both T1 and T2 development and is still deemed adequate for connection. Modelling results have determined that there is sufficient water supply subject to reticulation upgrades and installation of the booster pump.
- I would however like to specifically address issues raised by Fire and Emergency Services New Zealand in relation to provision of water supply for fire fighting purposes.
- In their submission Fire and Emergency NZ state that "the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice)

*is a non-mandatory New Zealand Standard that sets out the requirements for firefighting water and access.” It is my interpretation that non-mandatory means that this Code of Practice is a guide rather than a requirement. This interpretation is also confirmed in the District Plan.*

- The submission made by Fire & Emergency NZ, and letter tabled in lieu of appearing at the hearing, specifically sets out their concerns regarding the proposed water supply network not being able to achieve FW3, which Fire & Emergency NZ state is a requirement for the proposed retirement village and all other structures characterised by a fire hazard category in the Code of Practice. To address this, Fire & Emergency NZ have sought relief through the inclusion of a rule within PPC12 regarding provision of water supply for firefighting purposes. It is noted that no proposed wording of such a rule has been provided by Fire & Emergency NZ, and it is not clear whether they seek amendments to the rules already contained in the District Plan in Chapter 15 which address water supply for fire fighting purposes.
- In response to this, I have sought advice from Council’s consultant engineer Mr Bax who has confirmed that the Code of Practice suggests FW2 is appropriate for residential areas, and that it also suggested that rest homes should have FW3, however generally Waipa is unable to provide FW3 in residential areas, and there are numerous areas in the district where this is so.
- Mr Bax has further stated that if a retirement village is built, it will require building consent. Therefore the care home and community buildings will need to meet both the Building Act 2004 and the Building Code (which is contained in the regulations under the Building Act) and these will most likely require sprinklers. Higher water flows through fire hydrants in the roads are generally not needed as sprinklers will put out or reduce the fire to enable residents to be evacuated.
- The District Plan requires fire hydrants and the Regional Infrastructure Technical Specifications sets the means of compliance (FW2). Furthermore the District Plan in chapter 15 sets out rules relating to the provision of water supply for fire fighting purposes. It is Mr Bax’s view that the issue raised in the Fire & Emergency NZ submission is therefore not a matter for consideration under this plan change. I concur that this is more appropriately considered at the time of consent.
- In regards to wastewater, in my S42A report at paragraph 5.8.13, I raised that potential effects of locating the wastewater pump station near to the indicative playground and reserve area will need to be carefully considered and mitigated through detailed design during the consenting process.
- I note that Mr Murphy in his evidence at paragraph 26 has responded to my concerns, and I thank him for the further information provided regarding reasons for siting the pump station in that location and potential mitigation measures regarding odour and amenity. Council’s development engineer Mr Bax, AND ANNA has also reviewed this response and notes that whilst it is not ideal to have a pump station near an active reserve area, potential effects can be mitigated through the consenting process.
- In conclusion, I consider there are no in principle infrastructure concerns associated with the future development of the T2 Growth Cell, and I believe that the concerns raised in submissions today have been adequately addressed through this hearing process by the relevant experts.

## **Ecology**

- In regards to ecology, I have reviewed the evidence provided by Mr Bellingham, and have nothing further to raise. I agree with the conclusions drawn in this evidence, and stand by the conclusions made in my S42A report that any potential adverse effects can be mitigated by way of consent conditions at the time of consent.

### **Heritage - refer to response earlier today, stand by my conclusions**

- Isla Bank is a heritage listed house within the District Plan and is located within Stage 2 of the T2 Growth Cell. I note that Heritage NZ originally sought to amend the listing in the District Plan through this plan change process to provide further protection, specifically around including the curtilage of the house in the listing.
- In my s42A report I have stated that I concur with the applicant's assessment that the District Plan has already addressed effects on heritage items on a District-wide basis. Given that stage 2 is recommended to be deferred until 2035, there are likely to be fundamental changes to the planning framework in New Zealand, notably through the RMA reforms proposed under the current government. It is therefore reasonable to consider that within this timeframe there will likely be a future District Plan review. For these reasons it is my view that expansion of the heritage listing for Isla Bank may be more appropriately considered through these impending processes rather than through PPC12.
- In response to my s42A, in their tabled letter Heritage NZ appear to have accepted that their request to extend the listing for Isla Bank in the Heritage Schedule of the district plan is outside the scope of the current plan change process.
- Also of note, I state in my s42A that I agree with the applicant that there is no need to implement any site specific rules in PPC12 to protect Isla Bank. However, upon consideration of the letter tabled by Heritage NZ, and receipt of legal advice, I would like to shift my position on this.
- I now consider that it is within scope of this plan change to consider the request by Heritage NZ for amendments to Design Measures in applicant proposed Appendix S23.4 which would assist in the recognition of the setting of Isla Bank in the District Plan.
- Furthermore, I agree with the wording proposed in the tabled letter, noting that this wording was included as a recommendation in the Landscape and Visual Effects Assessment prepared by Boffa Miskell for the applicants and included as Appendix C of the application. Although I do note that it was not picked up in the applicant proposed amendments to the District Plan as part of PPC12.
- To assist with the protection of Isla Bank, Mr Olliver in his evidence suggests the inclusion of a notation on the structure plan identifying the Isla Bank Heritage Listing. I agree with this inclusion.
- In regards to all other conclusions made in my S42A report regarding archaeology and heritage, I still stand by these.

### **Addendum read this morning 23.3.21**

- I'd just like to reiterate my view on heritage protection and what is in or out of scope for consideration of this plan change regarding Isla Bank. I agree the expansion of the listing for Isla Bank within the district plan to amend the description of the heritage item is out of scope. As an aside, should this be re-considered at a future point in time through the next District Plan review or other planning process, I would expect that further information would need to be provided around the importance of the setting for Isla Bank, that is information we currently do not have.
- I would like to clarify as I'm not sure it was clear in my response yesterday, as part of PPC12, Heritage NZ are not proposing to amend or add any rules to Section 22 of the District Plan to protect Isla Bank, what they are proposing is an addition to the design measures which are an appendix of the structure plan for the T2 Growth Cell. In my opinion, this is within scope for consideration as part of PPC12.
- In response to the question from Commissioner Lester yesterday around the size of the parcel of land listed for Isla Bank in the Heritage Schedule of the DP, I can confirm that this is 1.63 ha, and extends to Pirongia Road including the tree-lined driveway. The description of Isla Bank in the District Plan is *Twin bay villa, 1907-1909*.

- I have reviewed the proposed amendment to the design measures in Appendix S23.4 requested by Heritage NZ and amended by Mr Olliver to assist in the recognition of the setting of Isla Bank. This amended additional design measure is now proposed to state:
  - *Design integration of the Pirongia Road boundary treatment with the retention of the entrance gates associated with the heritage item property (Isla Bank Villa)*
- I consider this is an appropriate addition and does not conflict with the listing in the District Plan.

### **Amenity**

- Many submitters raised key concerns regarding loss of views, and effects on amenity resulting from development.
- I have reviewed the evidence from Mrs Soanes and agree with the assessment provided in respect to visual effects on landscape amenity.
- Staff have reviewed the issues raised by submitters in relation to, viewshafts, vistas and amenity and construction effects such as noise, dust, earthworks, and effects on surrounding residences and are of the view that these matters should be more appropriately addressed at the detailed development stage, through relevant resource consent processes.
- I concur with this assessment and further note that the proposed PPC12 planning provisions include design objectives, design measures and rule requirements to ensure that comprehensive landscape design, including the consideration of vistas, will be part of the development of the Growth Cell.
- I have heard the concerns raised in hearing today and my conclusions here still stand.
- Effects on amenity and character will be addressed at the time of resource consent, growth cell has been earmarked for development so changes to the landscape are anticipated. In terms of Council providing a plan to grow the town upwards rather than outwards, that is outside the scope of this plan change.

### **Vital services and pressure from growth**

- In regards to pressure on vital services (schools and medical centres) this is outside the scope of this plan change. I note that the Ministry of Education is open to ongoing consultation with Council.

### **Climate change, retention of biodiversity and pressure from growth**

- In response to Mr Houghton, I note that the points raised around climate change and retention of biodiversity through creating a vision for forest parks sit more within the spatial planning framework and are outside of scope for consideration in PPC12.

### **Conclusion**

In conclusion, I believe that the requirements for uplift of Stage 1 of the T2 Growth Cell to residential zoning have been met, and that it is in accordance with the direction set in the statutory and policy framework.

### **Recommendations**

Accordingly, I recommend that PPC12 be approved with modifications as set out in my s42A report, noting the subsequent addition to the design measures at Appendix S23.4 as set out

in the letter tabled by Heritage NZ, and the minor amendment to the structure plan to include a notation regarding the location of Isla Bank.

I would like to further add to these recommendations to note that with the change to northern portion of T2 Growth Cell remaining deferred residential zone there needs to be some subsequent amendments to the applicant proposed rules for section 2 and 15 of the District Plan. These are to remove the reference to Pirongia Road to reflect correct rule provisions for the deferred zoning. I agree that this is an acceptable amendment for consideration by the Panel.