
BEFORE THE HEARINGS PANEL

In the Matter of: The Resource Management Act 1991

And Proposed Plan Change 51:
Precinct 4 Growth Area

Application By: Manawatū District Council

STATEMENT OF EVIDENCE BY

Michael Duindam

Dated: 7 August 2019

Introduction

Preamble

- 1) My name is Michael Eruera Duindam. I am a Senior Planner with the Palmerston North City Council. I hold the qualification of Bachelor of Resource and Environmental Planning (Massey University) and am an intermediate member of the New Zealand Planning Institute. I have eight and a half years of planning experience in local government. My involvement in Plan Change 51 (PC51) is purely in a private capacity as an interested member of the public and resident of the Manawatū District.
- 2) I have read the Code of Conduct for Expert Witnesses (Section 7 of the Environment Court Consolidated Practice Note 2014) and I agree to comply with this Code of Conduct. This evidence is within my area of expertise, unless I have stated otherwise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 3) I regret that I am unable to attend the PC51 hearing to present my evidence in person. I will instead be acting for Palmerston North City Council in a hearing on Proposed Plan Change C: Kikiwhenua, which is scheduled on the same day.
- 4) I thank the Council for its positive and collaborative approach in dealing with my submission on PC51. Through pre-hearing discussions, I have largely been able to come to agreement with the Council. My statement of evidence is therefore only short. I have organised my statement into the following subject areas:
 - a. Yards
 - b. Fencing
 - c. Specimen Tree
 - d. Tree Height

Yards

- 5) I support the recommended amendments to Rule 15.4.2.d. Yards. This largely addresses my concerns about vehicles overhanging onto footpaths and inefficient use of lots through the requirement of uniform side yard setbacks. I consider that the changes will create a more positive amenity outcome for Precinct 4.

Fencing

- 6) I support the recommended changes to Rule 15.4.3 Fencing and Rule 15.4.7.x & xi. I also thank the Council's consultant planner, Mrs. Harris, for engaging on this matter pre-hearing. I was able to clarify my submission with Mrs. Harris and work through an alternative that achieves the outcomes I was seeking. I consider that the recommendation made is easier to comprehend and implement, especially with the addition of the proposed diagram. I think the proposal strikes a reasonable balance between enabling privacy for landowners, while still providing a positive streetscape contribution and opportunities for landowners to provide passive surveillance in the public realm.

Specimen Tree

- 7) My submission request to require a specimen tree to be planted in the front yard of properties developed in Precinct 4 has not been accepted. I discussed this matter with Mrs. Harris as part of pre-hearing discussions and her reasoning for not supporting my request was on the basis that the permeable surface requirements for Precinct 4 would likely result in future residents using the "no-build" space on their properties to plant trees and vegetation. This seems like a reasonable assumption to make. On that basis, I no longer consider that it is necessary to require a specimen tree to be planted at the frontage.

Tree Height

- 8) The outstanding area of disagreement with the Officer's s.42A report relates to adverse amenity effects on solar access from neighbouring vegetation. In discussions with Mrs. Harris it was acknowledged that the effects of tall vegetation on neighbouring properties could have a negative amenity outcome in terms of limiting solar access. Despite this, I could not reach an agreement with Council on how best this could be addressed, or whether it even needed to be. There is an argument that managing amenity effects of neighbouring trees is a civil matter. However, I argue that there is a strong rationale for Council to regulate this issue, like any other amenity issue e.g. fencing, setbacks, house heights. Inappropriate vegetation on neighbouring properties can have significant effects on amenity, particularly if large, tall vegetation is located on a northern boundary. There is little recourse for affected landowners if an agreement between affected parties cannot be reached, outside of seeking resolution through the High Court. This seems excessive when the District Plan could provide a less

arduous mechanism, with an accompanying framework of what is deemed acceptable by a community endorsed document (District Plan).

- 9) I acknowledge I am not a landscape architect or arborist; however, as a planner, I consider that I am well within my expertise to make general recommendations on how to address amenity effects.
- 10) I consider that there is precedent in the existing plan to warrant a restriction on vegetation height in Precinct 4. *Rule 3.3.1 F) Shelter Belts and Tree Planting* in the Rural Zone restricts the height and setback of trees along the northern boundary of rural sites. While the Rural Zone approach is primarily concerned with managing the effects of large groupings of trees such as shelter belts, the effect that is being sought to be managed is the same. A similar approach could be applied in Precinct 4 and other future growth locations.
- 11) If solar access amenity is to be regulated in Precinct 4, it would be more efficient and effective to apply a solar amenity protection regime before development of the new suburb commences. The impact on private property rights by introducing tree height restrictions would be minimal. It would not prevent landowners from planting a large tree on their property. It would simply require a tree to be planted on an appropriate boundary where shading effects can be more readily internalised. The alternative is to apply the approach which exists in the current Residential Zone (no regulation). The risk of the current approach is that solar access may be impacted by large vegetation. This is evident in many existing Feilding neighbourhoods and need not apply in Precinct 4. With increased interest in solar hot water and solar panels for domestic energy generation, protecting a natural resource such as daylight is important. Applying a solar access amenity protection provision would ideally result in the avoidance of inappropriate planting from the outset of development of Precinct 4. If necessary, it would also provide a more accessible “backstop” option for residents to have the effects of shading addressed through Council enforcement processes. I acknowledge that following up enforcement requests would be a cost to Council, but this would not likely be a significant burden; especially if Precinct 4 was developed with this protection regime in place from the outset.
- 12) In the absence of landscaping evidence to support my submission, I have refrained from drafting a specific method to address solar access amenity. However, I would like to note that

replicating the approach taken in *Rule 3.3.1 F i) a)* could be a potential method for the panel to consider.


Michael Duindam

7 August 2019